CANADA

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OFFICIAL REPORT

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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SPEAKER

THE HONOURABLE GILDAS L. MOLGAT

THE LEADER OF THE GOVERNMENT

THE HONOURABLE JOYCE FAIRBAIRN, P.C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STAUNTON

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

PAUL C. BÉLISLE, ESQ.

CLERK ASSISTANT OF THE SENATE

RICHARD G. GREENE

LAW CLERK AND PARLIAMENTARY COUNSEL

R.L. DU PLESSIS, Q.C., B.A., LL.L.

GENTLEMAN USHER OF THE BLACK ROD

COL. JEAN DORÉ, C.D.

THE SENATE

Wednesday, July 12, 1995

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

Prayers.

SENATORS' STATEMENTS

TRANSPORT

REPLACEMENT OF SEARCH AND RESCUE HELICOPTER AT YARMOUTH, NOVA SCOTIA

Hon. Gerald J. Comeau: Honourable senators, I rise today to express my shock and outrage at the decision by the Liberal government to replace the all-weather rescue and surveillance helicopter in Yarmouth, Nova Scotia with a Coast Guard utility chopper. I was even more surprised at this announcement, given that it was only a year ago that the Minister of Fisheries and Oceans was in my area promising that, without question, the helicopter would remain there. In fact, my understanding is that, at that time, he said that the chopper would remain there "until hell freezes over."

I cannot stress enough how important this helicopter is in ensuring the safety of our fishermen who are at risk while at work on the high seas. I know all too well the importance of having an adequate search and rescue helicopter on patrol. In fact, as the Member of Parliament for the area at the time, I was the one who made sure that an all-weather helicopter, the Sikorsky S-76, was finally provided to the fishermen in my area in 1988 by the Department of Fisheries and Oceans. Since then, the chopper has been involved in numerous search and rescue operations at sea and has saved the lives of many fishermen.

It is absolutely unacceptable that the Liberal government should try to rationalize its decision by citing the financial savings of using a chopper from the Canadian Coast Guard. They fail to mention that the BO-105 cannot fly in bad weather, or on most nights, which is precisely the type of conditions which require the use of these choppers. As well, the BO-105 can only fly short distances.

For the Minister of Fisheries and Oceans even to suggest that the savings to be derived from switching helicopters justifies his decision is shocking. What price does this Liberal government put on the lives of fishermen who will be put at risk by this decision?

Although I understand that the merger of the Canadian Coast Guard with the Department of Fisheries and Oceans has played a role in this decision, I call upon the government to halt immediately its plans for replacing the Sikorsky S-76 and reconsider its options. Given the impending announcement of the new search, rescue and surveillance helicopters to replace the Labrador and Sea Kings, I suggest that the government simply extend its contract with Canadian Helicopters for the Sikorsky S-76 until such time as the new helicopters are ready to be put into service.

Only in that way can we ensure that our fishermen are being properly protected with the necessary equipment as they head out to sea, sometimes as far away as Georges Banks. Our fishermen and their families in Nova Scotia deserve no less.

PARKS CANADA

RESTORED FORTRESS AT LOUISBOURG, NOVA SCOTIA—FESTIVITIES 1995

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I should like to take this opportunity to remind the chamber that this summer, both the Fortress and the Town of Louisbourg in Cape Breton will play host to one of the most exciting festivals in North America commemorating, in turn, Fortress Louisbourg's 275th birthday, the 250th anniversary of the first siege of the military installations, and the 100th anniversary of the Sydney-to-Louisbourg railway.

Those of you who have already visited the reconstructed site will know that Louisbourg predates Quebec as a milestone in our history. The fortress town arose from Louis XIV's rather extravagant vision of empire and, at its zenith, was considered to be the mightiest military bastion in the New World, or the Gibraltar of Canada, as some historians have put it.

In fact, the defence works cost so much that the impoverished Sun King, as Louis was known, once swore in frustration that he would awaken in Versailles one morning to see the spires of Louisbourg rising above the western horizon.

At one time, Louisbourg was as important as New York, more populous than any place in Canada, and the only walled city of its kind on the North American continent. Much more than a fortress, it was, in its short lifespan, a metropolitan sea port bulging with trade and intrigue.

In the siege of 1758, the fortified city was completely demolished, and there it remained for over 200 years, a forlorn pile of broken stone and charred wood located on a rocky, misty finger of land on the southeast corner of Cape Breton Island. It was not until the early 1960s that federal initiatives were taken to reconstruct the fortress as a means of putting unemployed miners in Cape Breton back to work. All that in the wake of the recommendations of the Royal Commission on Coal, made in 1960.

• (1340)

I might add, honourable senators, that tourism is close to a billion dollar industry in Nova Scotia, and accounts for close to 35,000 jobs. On Cape Breton Island, this translates into about $200 million in revenues and 7,000 jobs. With the collapse of the fisheries, Parks Canada has become the single largest employer in the area, and Louisbourg is, of course, critical to the big picture.

Today, entering the site is much like entering a time machine. Extensive historical and archaeological research has allowed authentic reconstruction of the principal buildings of the French fortress once proudly designed to protect all of New France.

The capital costs to successive federal governments involved in the almost two decades of restoration have amounted to over $27 million. The replacement value of the present reconstruction is estimated at $71 million, of which $30 million is accounted for by the fortification walls alone.

As part of the festivities this summer, a Grand Encampment will showcase authentic 18th century military camp life, and over 1,400 re-enactors, representing individual regiments from Canada and the United States, will participate. A spectacular Atlantic flotilla of tall ships —

The Hon. the Speaker: I apologize for interrupting the honourable senator, but his time is up. Is leave granted that he may continue?

Hon. Senators: Agreed.

Senator Graham: A spectacular Atlantic flotilla of tall ships will provide an extraordinary and spectacular backdrop in the port and at sea.

Festival organizers have planned a rich tapestry of Cape Breton local colour, outdoor theatre, and unsurpassed musical accompaniment.

I remind all honourable senators that we are pulling out all the stops for Louisbourg '95 this summer. I would invite you to come to our part of the world and have a real holiday for a change. In so doing, enjoy a special taste of the incomparable world-famous Cape Breton hospitality.

Hon. Lowell Murray: Honourable senators, may I be permitted to say a word in support of what Senator Graham has just said?

I am, and have been for many years, a frequent visitor to Louisbourg. It is one of the greatest examples of restoration to be found anywhere in the world, and it is well worth a visit. I should also point out that there are, in the files of the historic parks department, plans for further expansion of that beautiful site, and there is no shortage of unemployed people in Cape Breton these days to undertake the work. Indeed, it has often occurred to me that it would be a far more useful expenditure of public moneys to expand that site than some of the other expenditures we are called upon to examine from time to time.

What we have in Louisbourg is a precious national asset. It is worth a visit by anyone, if only because it is well run by the historic sites and historic parks people and by the local people who are employed there during the summer.

Finally, I reassure all honourable senators that you can get there from Sydney and you do not have to wait for the reconstruction of the Fleur-de-lis Trail.

WEBER-MALAKHOV ARCTIC EXPEDITION

TRIBUTES

Hon. Philippe Deane Gigantès: Honourable senators, one of the most endearing characteristics of Canadians is that they do not stand up at the drop of any hat, massage the left breast and swear allegiance to the flag. We are not given to waving flags too much. We are modest. However, we sometimes forget to sing the praises of our genuine heroes.

Today I should like to draw your attention to one who, on June 15, while we were otherwise busy, completed an amazing feat. I am referring to Richard Weber, who, with a partner from Russia named Mikhail Malakhov, skied from the northern end of Ellesmere Island to the North Pole and back. They were back on June 15, carrying all their own equipment.

To give you a comparison of what it means to accomplish such a feat at 58 below, which was the temperature they faced in February when they started, Rheinhold Messmer, who has climbed all the major peaks of the Himalayas without oxygen, tried it and had to give up after 11 kilometres.

Richard Weber and his Russian partner skied 2,000 kilometres, and then, because it was late in the year and the ice was breaking up, had to rush in order to make it. The last 16 miles took 40 hours, and during the last eight days they slept a total of 18 hours. They stayed in communication with legions of school children via satellite, sending bursts of 64 characters per day so the school children could follow their progress. There was no helicopter to rescue them; no plane to drop them supplies. It is a feat that is superior in human endurance and courage to the first climb of Everest by Sir Edmund Hillary.

Russia is honouring Mikhail Malakhov; we are not honouring Richard Weber. I regret this. This speech is a small substitute for a national honour. He deserves that one lone senator should rise to say that this is a man of great courage, fortitude, strength, and determination. He has honoured our country, and we should all be proud of him.

ROUTINE PROCEEDINGS

CHILD ABUSE AND MORTALITY

NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1), (2) and 57(2), I hereby give notice that I will call the attention of the Senate to the issues of child mortality, child abuse, neglect, deaths (CAN deaths), child abuse and child maltreatment in Canada, including the physical injury of children, parental violence and aggression, child neglect, the "failure to thrive" syndrome, psychological injury to children, parental manipulation of children, and misadventure suffered by children in Canada.

QUESTION PERIOD

CANADA POST CORPORATION

LEASE OF PREMISES IN SYDNEY, NOVA SCOTIA—INTERVENTION OF MINISTER OF PUBLIC WORKS—REQUEST FOR ANSWER

Hon. J. Michael Forrestall: Honourable senators, is the Leader of the Government in the Senate in a position to table the terms of reference of the Price Waterhouse review I asked about yesterday?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I regret that I have not received a response in time for this Question Period. I will continue to try throughout the day and see what I can do for tomorrow.

• (1350)

Senator Forrestall: We have now learned of further allegations involving Mr. Dingwall and a $1.5-million contract awarded to the Business Development Centre in Sydney. Allegedly, tender specifications were altered to suit a specific developer. Other local developers admitted that it would have been a waste of time to bid on this project since it was clear that a Liberal loyalist, Louis Friedman, was in line for the contract. All of this, of course, brings the question of the competitive process into disrepute.

Can the Leader of the Government in the Senate shed some new light on this round of allegations? Since there is no doubt whatsoever on this side of the chamber that Mr. Dingwall perhaps should do the honourable thing and resign, or at least step aside, could the leader tell us what she personally thinks?

Senator Fairbairn: Honourable senators, on this particular question, I am also seeking further information. At the request of the Minister of Public Works, Public Works and Government Services Canada is reviewing the tender process and the allegations that have been made about the lease. I will await to hear the results of that review.

Senator Forrestall: Honourable senators, I gather from the news reports that the minister has issued an instruction to his staff to take a look at these most recent allegations with respect to the business centre. If there happens to be terms of reference that the minister would like to see met, it would be appreciated if it were tabled as well.

My concern is the terms of reference, which I will await and read in some detail. The reference refers only to the first contract, and not the second. How are we to understand the importance of the second contract if in fact the terms of reference for Price Waterhouse do not include the subsequent contract?

Senator Fairbairn: Honourable senators, I will certainly endeavour to clarify that point. It has been made clear to me that a review has been requested in each case. However, I will clarify that as well as exactly who is doing it. I will try to find out as much information as I can for Senator Forrestall.

EXTENSION OF CONTRACT ON LEASES—
REQUEST FOR INFORMATION ON MEMBERS OF CONSORTIUM

Hon. Gerald J. Comeau: Honourable senators, my question is addressed to the Government Leader in the Senate. It is further to my inquiry yesterday regarding the interference by the Minister of Public Works into the contract between Canada Post Corporation's properties and leases division and the consortium of companies.

My sources had indicated Mr. Dingwall had not only instructed Canada Post to extend the contract from three to seven years, but, in addition, demanded that a fourth member be added to the consortium. Can the leader tell us if she has had the opportunity to find out from her cabinet colleague the identity of this new member?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as requested I have contacted the minister's office regarding the questions asked yesterday. Neither his office nor officials at Canada Post are aware of any change in the existing contract for property management. The honourable senator will appreciate that we had our Question Period late last night, and, while I have put in a request for information, it may take a bit longer to receive the answers.

HIS EXCELLENCY DAVID BERGER

SCRUTINY ON VIEWS PRIOR TO HIS APPOINTMENT AS AMBASSADOR TO ISRAEL AND CYPRUS—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, prior to the announcement of Mr. David Berger as Ambassador to Israel, was he asked if he supports the policy concerning UN resolution 338 which demands a complete withdrawal from occupied territories? This has been the policy of Canada through many of its past governments; the Right Honourable Pierre Elliott Trudeau, Kim Campbell, John Turner, and Brian Mulroney.

Everyone has talked about resolutions 338 and 242. The press states that Canada supports 242. When an explanation is given, then we get in trouble. If you just mention the resolution number, you are never in trouble.

Was he asked clearly, "Do you support resolution 242, withdrawal from occupied territories, withdrawal from Golan Heights, withdrawal from South Lebanon, recognition of the Palestinian people?" Did he accept that the statute of Jerusalem will some day be the subject of discussion? Has he been asked these questions? Has he been answering, "Yes, I do accept Canadian official policies that have been well entrenched under successive Canadian governments"?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, obviously I cannot indicate today what conversations may have taken place with Ambassador Berger. I think he would know that certainly the new ambassador should be strongly in support of the Canadian position. It is well known that he has been a strong supporter of the peace process in the Middle East. I do not know the details of any conversations, nor do I know whether I will be able to discover them for my honourable friend, but I will certainly pass on his question to the proper individuals.

Senator Prud'homme: Honourable senators, I have to differ on that point. He has never been a supporter of the peace process. The peace process means recognition of the Palestinian people and their spokesperson. Has he been asked to stay away from the "Butcher of Lebanon," whom he welcomed warmly in Montreal, in the company of a member of the House of Commons who is now a senator, after the invasion of Lebanon? She however is not involved, so I will not mention her name. I did not mind such actions in the past, but now he represents me and the French Canadian people, who have always been sympathetic to the cause of the Palestinian people.

• (1400)

As Canada's ambassador to Israel, he will be under great scrutiny. I have already made calls to the Middle East to make sure that he is welcome there, and that he is shown the true situation. I am doing my duty as a Canadian. I want him to succeed in his new appointment, but he has a long way to go. I want to make sure, as he did, and that is why I am asking that you refer these questions to the appropriate people. That is very important.

Canada has the greatest of reputations in the Middle East. I have just returned from Lebanon and Kuwait. Canada is so highly perceived that the attitude of our ambassador could affect our reputation.

Honourable senators, I will make a motion on the issue of Middle East policy before the departure of this Parliament, but I ask you again, has Mr. Berger been asked these questions? Second, has he been asked to apologize, either privately or publicly — which, to me, would be more appropriate — to me and to the mayor of Bethlehem, one of the most reasonable persons to ever appear here before a committee of the Senate? Honourable senators will have read of the incident in the newspaper where, under the heat of discussion, he is supposed to have said to the mayor that he was "as full of shit" — and I mention the word — as I was. That was to the Christian mayor of Bethlehem, who is the most honourable person to appear before a Senate committee. I hope Mr. Berger was given that kind of instruction, in order to better serve Canada's interests.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Prud'homme has mentioned the regard with which Canada is held for its policies within the Middle East. The new ambassador to Israel will, of course, be carrying Canada's policies in the Middle East strongly with him when he begins his new assignment. There is no question about that, Senator Prud'homme. I will pass on your comments, but let there be no doubt that the new ambassador to Israel will carry the Canadian position to the Middle East with vigour.

AGRICULTURE

CANADIAN WHEAT BOARD—TIMING OF EXAMINATION BY EXPERTS—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, my question is directed to the Leader of the Government in the Senate. In view of the dramatic changes in agriculture, and also of the recommendations made by the trade committee which looked into trade between the U.S. and Canada, the Minister of Agriculture has promised that a committee of experts would look into the work of the Canadian Wheat Board. Does the minister have any indication of timing on this matter? Things are changing quickly in agriculture these days, and the government must move quickly to accommodate those changes.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I appreciate the comments of my honourable friend. I can tell him that the Minister of Agriculture has this item very high on his agenda. He is moving as swiftly as he can. I cannot give the honourable senator an exact time-frame, but it will be very soon.

ORDERS OF THE DAY

GOVERNMENT ORGANIZATION BILL (FEDERAL AGENCIES)

THIRD READING

Hon. B. Alasdair Graham moved the third reading of Bill C-65, to reorganize and dissolve certain federal agencies.

Hon. Eymard G. Corbin: Honourable senators, with respect to Bill C-65, the Government Organization Bill (Federal Agencies), there is a provision in this bill to remove the position of assistant director of the Canada Council. Clauses of the bill refer to salaries and allowances paid to members of the council, including the president, vice-president and the nine other members. Their numbers have been reduced from what they were previously. I believe there were 19 members of the Canada Council. The bill also deals with the remuneration and allowances to be paid to the director of the council.

In March of this year, a reporter from *The Ottawa Citizen* published a story informing us that the director of the Canada Council was receiving a living allowance of $1,300 a month, which adds up to $46,800 for three years. This was being paid to the director in lieu of moving expenses to Ottawa from Montreal.

In my opinion, honourable senators, this is a generous allowance. However, what I find more fascinating in respect to this payment is that the head office of the Canada Council is obviously in Ottawa, or certainly in the National Capital Region. The bill does not state that, but for all practical purposes, that is the general understanding, that the Canada Council operates out of Ottawa. Therefore, for all practical purposes, the director is the chief executive officer of the Canada Council; not the president or the vice-president; none of the other nine members of the Canada Council. It is the director who is the chief executive officer, and he does not reside in Ottawa.

The chronicler of *The Ottawa Citizen* attempted to find out why the director of the Canada Council had not moved to Ottawa to assume his duties. He was informed by a person at the Canada Council that that was a personal matter. The same response was given with respect to other questions.

Honourable senators, I have been attempting to ascertain the reasons why the director of the Canada Council, as expected of him and as was expected of his predecessors, does not reside in Ottawa.

• (1410)

Since my intervention last evening on the presentation of the report from the committee by Senator Murray, I have received some information. However, it is so succinct it can only be considered an illusion of a response. I received an answer dated June 30, 1995. The question was, "Is the Director of the Canada Council in receipt of a living allowance and, if so, why?" The answer was, "The remuneration of Mr. Roch Carrier, the Director of the Canada Council, was fixed by the Governor in Council and a living allowance was also approved in lieu of relocation expenses."

I do not know if this is a new trend. The Commissioner of Official Languages appointed by the previous government also benefits, I believe, from a living allowance in Ottawa where he has chosen not to reside for, I presume, personal reasons.

Honourable senators will recall that two or three years ago, in mid-July, the Senate was called back to revoke a decision it had made respecting the payment of a $6,000 living allowance to senators? Senators were literally ordered back here. A number of my colleagues stood up and reversed their earlier decisions.

Here is an overly generous policy whereby — in view of the position they occupy and the duties they are expected to execute requiring them to reside in Ottawa — these persons are paid an allocation or special allowance not to reside in Ottawa. One must put things in scale and look at them in perspective.

Both the previous government and this government are responsible for this state of affairs. It is basically unfair. I know of colleagues from both sides of the house who could use to their advantage that $6,000 allocation the House of Commons members granted themselves by way of a decision in the back rooms of the House of Commons.

Senator Stewart: Has the Auditor General examined that decision?

Senator Corbin: I am not aware of that, Senator Stewart. Has he?

Senator Stewart: I do not know.

Senator Corbin: The senators attempted to do the same thing because a number of senators were faced with out-of-pocket expenses to meet their living costs in Ottawa. Some still are. Every week that we sit during the summer, senators have to dig into their pockets — not all of them, but a number of them.

On the other hand, we have the government which establishes a policy for well-paid, top civil servants — people who receive well over $100,000 in salary, luxury offices; some have cars and chauffeurs and expense-recoverable trips in Canada, North America and Europe, trips planned as they see fit. Over and above what they already get, these people receive a special allowance so that they do not have to reside in the national capital area.

I find the government's approach hypocritical. On the one hand, it tells senators, "No way, we will not allow you to recover your legitimate living expenses in Ottawa." The government does not say that to members of the House of Commons, and these well-paid, Governor-in-Council appointees also have the same privilege.

I have been fighting the decision of the Canada Council to close the Art Bank. It is incumbent upon us to start examining all aspects of the operation of the Canada Council. I am a supporter of the Canada Council. Some senators are not, and that is fine. However, I am prepared to defend my ideas and my views on what art and subsidies to artists and culture are all about. Other people will not agree with my views. Let us have a debate.

There should be a committee to review the cultural policy of the Canadian government. The time is right for that, in view of what is going on currently in the Canada Council.

We realize that what is happening is in the cost-cutting context of government budgets. Agencies and Crown corporations are requested to do the same. Indeed, parliamentarians are requested to do the same, and we have been doing that. Our income has been frozen for some time. I have been here over 26 years. It is not the first time that I have had my salary frozen. It is at least the third time. I am sure Senator Prud'homme could elaborate if he so wishes.

How can the government of the day or the previous government say one day that parliamentarians must set an example, must show the way, and then the next day say that it has made concessions to highly paid servants of the state? I do not buy it.

I may be anticipating comments Senator Simard wishes to make on another bill a little later. Those are the facts of the case.

I am inclined to move a motion to refer Bill C-65 back to the committee. I will not do it because there are other ways to tackle this problem.

It has been suggested that a committee be set up to examine the total context of the Government of Canada's cultural policies and those of its agencies. We seem to do it in bits and pieces. One committee looks at the CBC, another looks at something else. In the meantime, the agencies pretty well do what they want.

The Canada Council, in one stroke of the pen, has said the Art Bank will go. One of the richest collections of art spanning over 30 years will be disposed of one way or another.

You are preparing to put the axe to me, Your Honour, and that is fine, but do not take Senator Corbin for granted. I have not been given satisfactory answers in committee, and the follow-up has not been satisfactory. I will, if not in the next sitting of the Senate, certainly in the next session, take initiatives to put some order into that area.

• (1420)

I look forward with great anticipation to what Senator Simard will tell us on the matter of pensions for members of Parliament.

Motion agreed to and bill read third time and passed.

WEBER-MALAKHOV ARCTIC EXPEDITION

TRIBUTES

Leave having been given to revert to Senators' Statements:

Hon. Philippe Deane Gigantès: Honourable senators, Richard Weber, who skied to the North Pole and back, with only one companion, and carrying all his equipment, is being named Hero of Russia. We have not given him one flower.

[*Translation*]

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham moved the third reading of Bill C-85, to amend the Members of Parliament Retiring Allowances Act and to provide for the continuation of a certain provision.

Hon. Jean-Maurice Simard: Honourable senators, I have only a few comments and do not expect to exceed the 15 minutes usually allowed at this stage. If I do, it will be because I was pressed for time and did not have a chance to prepare a more structured speech than the one you are about to hear.

In fact, I will need more time than I intended because I will have to refer to three or four documents.

Honourable senators, since the fall of 1993, there were many months when the Senate did not sit because the Chrétien government failed to plan and to proceed with its legislative agenda in an orderly and efficient manner. That was, unfortunately, the government's decision.

Similarly, we are now seeing one of those not necessarily mortal but most certainly venial sins committed by the Liberal government.

Suddenly, we are faced with an avalanche of bills, and the Senate is being asked to approve this legislation without full and detailed consideration. Well, honourable senators, it is our duty. It is my duty to consider Bill C-85, for instance, the bill to amend the Members of Parliament Retiring Allowances Act, and Bill C-91, which was rushed through yesterday — and I will get back to this, if you will allow me to digress somewhat later on — the bill to continue the Federal Development Bank and to give it new powers and new capital. The same applies to Bill C-104, an act to amend the Criminal Code and the Young Offenders Act, which concerns the use of forensic DNA analysis.

The Senate did not spend and will not spend any time on these bills unless, a few hours from now, enough senators vote against one or two or three of these bills.

In other words, the Senate does not have enough time to do justice to these bills, to important legislation that will have a major impact on the lives of Canadians in a variety of ways. We really have no time to proceed with a serious analysis of these measures.

If the government were really doing its job, it would have introduced this legislation much sooner. At the very least, in the case of these three bills, for instance, the government could — as repeatedly requested by senators on this side, by Canadians, editorial writers and leaders of public opinion, each in their own way and with their own resources — have postponed final approval of some of these bills and scheduled third reading in the fall.

To get back to Bill C-85, there are several reasons why I feel this bill should be reviewed by our senators. First of all, as you know, the bill deals with the employment benefits of members of Parliament. The bill was passed by the members of the House of Commons.

This government told us through its minister, the President of the Treasury Board, on June 29 when the Senate, represented by the committee so ably chaired by our colleague Senator Murray, spent only one hour on the bill, perhaps an extra two minutes, but not more than 62 minutes. I do not think that is what Canadians expect from the Senate. However, 62 minutes is still 50 minutes more than the House of Commons, whose committee examined the bill and spent a grand total of 12 minutes on clause-by-clause consideration of Bill C-85. Now that is outrageous.

Now I want to get back to Bill C-91, on which my colleague Senator Sylvain commented yesterday, and I imagine my colleague Senator Corbin may have a few things to say about the bill later on. Referring to Bill C-91, the government told us through its minister in committee that the bill had to be passed as soon as possible. It could not be sent back to the House of Commons. What the government should have said was that the Liberal government and Liberal members did not want to go back to the House to receive any amendments the Senate might propose. It would have been more truthful, more logical and more sensible to admit they did not want to come back.

Canadians will recall that this bank was more or less a creation of the government. It was given almost unlimited capital and the power to lend money to all the banks' customers. The bank was given considerable powers, unlimited capital, and borrowing authority.

I wanted to make these comments because this bill illustrates the strategy of the Liberal government. For several years, Canadians have witnessed attempts by provincial governments and the federal government to privatize. In some provinces, hospitals are being privatized. Highways are being privatized. A few weeks ago, New Brunswick started to privatize its prisons. Meanwhile, in 1995, while others are privatizing, this government creates new public banks.

• (1430)

I can tell you that I find no comfort in the statement made the other day by Mrs. Sinclair, Chair of the Canadian Bankers' Association, who told the committee that her association had no objection to letting another competitor enter the market.

The government is going in all directions, and this is true on social, economic, and other areas. The government privatizes, deprivatizes, creates, abolishes, et cetera.

Let me get back to Bill C-85. In the four minutes I was given in committee, I tried to find out if this legislation could be delayed until the fall. Minister Eggleton gave us this answer: No, during the election campaign, as well as in our Red Book, we said that we had to put an end to double dipping and change the minimum age for retirement. More importantly, the minister told us that all these measures were required because the government wanted to reduce the deficit.

Honourable senators, if the government had been serious, as the minister claimed, it could have tabled this bill in the spring, summer or fall of 1994, or even in 1995. In any case, it should have ensured that this legislation arrived here maybe one and a half or two months ago, so the Senate could give it the thorough review it deserves.

However, the government did not do that. Minister Eggleton justifies his haste in pressing the Senate to pass this incomplete piece of legislation by saying that this is something which he promised to Canadians. This is fine, but it is no excuse because, in February 1994, Elsie Wayne, the Progressive Conservative member for Saint John, tabled a private member's bill which would have had the effect of raising to 60, as opposed to 55, the minimum age for retirement. That legislation would have put an end to double dipping.

What was Mr. Eggleton doing then? Was he still unaware, in February 1994, of the disastrous state of Canada's public finances? If so, then the situation is even worse than I thought. We have last minute converts.

Let us not forget that the Progressive Conservative Party in February 1994, with Jean Charest and Elsie Wayne, tabled this private member's bill.

With respect to Bill C-85, during the time allocated to the review of this bill, the minister took 40 minutes to repeat those fine-sounding words and quote excerpts from the Red Book, et cetera. Of course, there are also parts of the Red Book which he would rather not talk about to Canadians, since the commitments made there were not fulfilled.

However, if the minister had been serious then, and if he were serious today, he could have done better than make Canadians save $3 million per year, as he claims will be the case with these amendments. I hope that, like me, a majority of senators will vote against the bill at this time, so as to give us three or four extra months to review it.

To look at what? At privatizing this members of Parliament retirement fund among other things. That can be done. Why not? The government has not considered that option. It is not because the senators' pensions will be unaffected by Bill C-85, if passed, as we were reminded by the minister and by some of our fellow senators here — because the accrual rate will remain at 3 per cent and our contribution rate at 7 per cent.

Of course, for the House of Commons, the accrual rate will be reduced from 5 to 4 per cent, and the contribution rate from 11 to 9 per cent. That is one of the reasons why, in a system where one can qualify for a pension after six years, the minimal pensionable age will be set at 55.

The minister boasts that this bill will save Canadian taxpayers $3 million.

The Hon. the Speaker: I must inform the honourable senator that his time is up, but with leave from the Senate, he may continue.

Some Hon. Senators: Agreed.

Senator Simard: Thank you, honourable senators.

If the minister and the government had been responsible, they might have given us a chance to consult the public and the experts and study this bill over the summer and into the fall. What is the hurry? Why not take the time to really consider this legislation? We should first look into privatizing and possibly raising the minimum pensionable age not to 55 but rather to 60. They would probably have saved more than $3 million that way.

Why not look at equity at the same time? The members of both Houses of Parliament are paid the same: $64,000 per year. However, there is a discrepancy between the House of Commons and the Senate. I just gave you the contribution and accrual rates. Why not have parity in that respect as well? Why should MPs be entitled to full pension after 19 years and senators after 25? Why not agree on 20, 10 or 25 for everyone?

Minister Eggleton was in a hurry. He was in a hurry because, as he said, we are under pressure. If you are going to do something —

[*English*]

• (1440)

— why botch the operation? Why not take the necessary time and do a good job?

Although the National Citizens Coalition is not my favourite organization, their recommendation to look at the total MP compensation package — salary, benefits, and tax-free allowance, to which my colleague Senator Corbin alluded earlier — makes sense to me and to many other Canadians.

The previous government, and the government previous to that, the Trudeau government, said that senators only exist to finalize their work and live according to the Constitution. They believe that they can send us bills as late in June as they wish, and we will rubber stamp them according to their wishes.

The Trudeau, Mulroney and now Chrétien governments do not bother with senators unless it is time for us to pass their bills. They do not consider our problems or the inequities of the system, whether those problems involve tax free allowances, salaries or other matters.

Certainly, we need to control our deficit, but there are better ways to do that than those shown by this government in Bill C-85. With this bill, the government has botched the operation. The minister tried to justify the early passage of this bill because people were concerned about this issue, and it was controversial. The pensions of members of Parliament have been controversial for a long time, and they will continue to be as long as the government continues to shirk its responsibility to do things properly.

I invite colleagues on both sides of the house to vote against this bill, as I will. Rather, let us do the job properly and have a complete, detailed and serious study of this issue.

Hon. Eymard G. Corbin: Honourable senators, Bill C-85 deals with pensions for members of the House of Commons and the Senate. It also lays down rules, chapter and verse, for former members of either house with respect to double dipping.

The government of the day is using double standards, as have previous governments, with regard to public policy. It says, with the approval of both Houses of Parliament, that former members who take other employment for which they are remunerated more than $5,000 will not have access to their pension benefits from the members of Parliament pension account.

We are set up on a pedestal, illustrating the morality and the righteousness of this policy. We are supposed to applaud ourselves for voluntarily committing our principles toward that noble aim.

However, governments never apply that policy to their employees. There is a basic unfairness with respect to the way the government deals with taxpayers' money. Of course, our pensions are, in part, paid from the general revenue of Canada; from tax money. However, that is the case as well with the pensions of the RCMP, members of the Canadian Armed Forces and other civil servants of all shapes and colours who can move from job to appointment to job under the umbrella of the federal government, without ever having to forgo a pension earned in a previous occupation in the government. That is what I call a basic unfairness.

We are set up as models of what fiscal responsibility is all about, but it does not go beyond the Senate and the House of Commons. No consideration is given to future impacts or effects, many of them negative, that this could have on former members of the Senate or the House of Commons. We are not all in the same fortunate position when we leave this place or, indeed, when we come to it. I am one of the rare senators who can say that I have no other source of income but what I earn here.

Senator Prud'homme: Me, too.

Senator Corbin: That is fine. Let us all get up and join in the chorus. I welcome you.

[*Translation*]

Senator Hébert: I am poorer than you are, Senator Corbin.

Senator Corbin: It may be so. Poverty knows no limit.

You distracted me for a moment, but what I mean is that members and senators are being used —

[*English*]

— former members of the House of Commons and former senators. I realize that with regard to senators, it rarely happens, but in terms of the House of Commons it does happen currently.

The thrust of my intervention today is that that sort of policy consideration is never applied to civil servants, and especially top civil servants, the highest paid in the country. They can retire and serve under contract with the government thereafter, and continue to benefit from income from the government. They can retire from the Armed Forces and work in another department of government while continuing to receive their pensions.

In fact, someone comes to mind right now who is well known to all honourable senators. After serving Canada overseas, he got another job in Canada and, subsequently, a third job in Canada. All three jobs were with the government. He is now collecting three pensions. Over and above that, since his retirement from his last job, he does contract work with the government while collecting all three pensions. Where is the basic, primitive, elementary justice in that kind of policy?

• (1450)

We, as senators or members of the House of Commons, either earn our pay and our pension or we do not. If we earn it, we are entitled to it, the same way that any civil servant in this country is entitled to it. I find it and I have always found it — and I will use a term which may be exaggerated — rather two-sided to send someone to the Federal Court, or other such position, after he or she has been a member of the House of Commons, from which they will collect very good pay and receive a pension on top of that. I am not opposed to putting some respectable order into that area, but when will the government apply the policy that it imposes on former members of Parliament to its own employees? That is the question.

We are talking about fiscal responsibility and budgetary restraint. The one area where the government could save significant amounts of money is the area of multiple pensions collected by extremely wealthy people in the service of the Government of Canada.

I think it behooves the government of the day to look into that matter and to present a proposal to Parliament that will apply to those people the same policies it wants to impose upon members of Parliament. Otherwise, it loses its credibility. It is as simple as that.

Hon. J. Michael Forrestall: Honourable senators, I have remained somewhat silent and outside of this matter. Senator Corbin talks about uniqueness. I have something unique about my situation as well. I relate it only to draw attention to it in the hope that in the next round of amendments it is seen as a deficiency in the act and is corrected. While, to my knowledge, it affects only me, it could very well affect all or any of us now and in the future.

I paid into the parliamentary pension program from 1965 until 1988. I am not — and this is important to bear in mind— a member of the Senate pension plan. I cannot pay into it. You say, "Well, your pensions are paid up in full from your past service." Yes, that is true, and there is no doubt about it. If I were to leave here tomorrow, I could draw a full pension fully indexed.

Hon. Marcel Prud'homme: Only if you are over the age of 60.

Senator Forrestall: You know how old I am. You know I am old enough to enjoy that benefit, Senator Prud'homme.

If the honourable senator, who is my dear friend, wants to make a speech, I suggest he go ahead and make one. I want to make a point because on two occasions in the past he has misinterpreted my position in this matter. Indeed, he is one of the reasons I felt it necessary to get on my feet today to try to set the record straight.

My problem is this — and I hope it will be corrected: Should I retire and draw my pension, that would be fine, and there would be no problem at all. Should I die — I am a widower now; my last wife passed away some four or five years ago — my pension is paid up. Should I remarry, however, my new spouse will not be entitled to that pension should I die. I cannot pay into the pension here. If I were able to pay into the pension here in the Senate and remarry, my spouse would be entitled to the pension and all the benefits. Because I would have married her after I had finished fully paying up my pension, she would not be entitled to reach back. Only those spouses who participated in the development of that plan are eligible to participate. There were two and one, God rest her soul, passed away. Presumably, the other one, under existing law, is entitled to 100 per cent of that pension, and in fact we separated and divorced some 20 years ago.

I cite this because it is not fair. Should I remarry, I cannot offer a spouse any pension protection. When I die, my estate will be credited with whatever is due me in one year. The government then takes back their share with interest and everything else. What is left over goes to my estate. It is taxed in the year of death — that is, being dead, I cannot reach forward or back so it is taxable in that year. I will lose half to the government and another half of the half to the government through income tax. In any event, then there is the little bit of cash left that goes into the estate. That, presumably, would go to my beneficiaries.

Do honourable senators see the little loophole that is left? I cannot offer a spouse the protection of a pension. I think it is a God awful thing. For those in the press who love to crow about this golden handshake we get, I invite them to take a look at my situation. I paid into the plan for 25 years or so. If I stay here to age 75, how much longer will I live after I get it? I will only draw a minuscule portion of the amount I paid into the plan. That is fine because I did not pay it in to draw it down when I got older; I paid it in to protect myself when I needed earning protection, as well as to aid my widow and my family.

I have tried to pinpoint a deficiency that I hope will be corrected. I hope my honourable friend understands that my position is slightly different from a lot of others, although there may be others with the same problem.

Senator Prud'homme: Honourable senators, first, I should like to say to my good friend Senator Forrestall that I have no disagreement with his position. That has been my position all along.

Early in the 1980s, I was the chairman of the House of Commons Members' Services Committee. All those new members who came after me who wanted the glory of the press for their stance on double dipping never did anything about double dipping — they only talked about it. I did something about it. I made recommendations to the House of Commons in a report dealing with double dipping. I hear now that those recommendations form the foundation of the present bill, some 10 years after my recommendations were submitted.

I have never been credited by the press, or *The Hill Times*, or anyone else for having done that work, but it is now part of the bill before us today. It is a recommendation which was made a long time ago. I say that to set the record straight.

Yes, I have doubts about that situation. Now I see that I may eventually have some success here in the Senate. I have listened to Senators Corbin, Simard and Forrestall. Since I arrived here I have been asking for an open discussion on all the questions of double dipping — not the double dipping of the members of Parliament or the pension plan of the members of Parliament, while this immense bureaucracy hides behind us and says, "Look at those people." The entire question of pension plans should be looked into. What a good area of study for a committee of senators!

• (1500)

I am very taken by this because one senator who did not know anyone in Ottawa and who lives far from here fell ill, and I was available to take him to the military hospital. Again, we have the demagogy. I hope that someday *The Hill Times* will write about that because everybody should know about it.

We eliminated all the VIPs who were hiding behind members of the House of Commons and the Senate. Members of both Houses who come from across Canada do not have a medical doctor in Ottawa. However, the privilege was abused. You would know the importance of a bureaucrat or his wife or children by whether or not he was allowed to go to the military hospital.

It reminds me of the War Measures Act. You were known to be important if your spouse could have a young military escort while shopping at Loblaws. People who had never shopped at Loblaws before started shopping there with their escorts to show they were more important than their neighbour in Rockcliffe. That was in 1970. You were important if you had military protection; you were not if you had none. Imagine the big talk on the cocktail circuit in Ottawa.

Members of the House of Commons and senators are being deprived of a service they should expect. If you defend that view, who will be on your side? One should be able to defend a good cause. If it is indefensible, of course one should stay quiet.

As I look around this chamber, I can name all of those senators who live in Manitoba, British Columbia and other regions of Canada outside Ottawa. When they become ill, they are immediately taken to the military hospital. That same treatment was extended to top-level civil servants. That medical program then became a VIP program and was extended to encompass more and more people. Honourable senators, the reason it is being eliminated is because it became too big and too expensive to provide.

We have never talked openly about this situation, but the time has come to do so. Senator Graham always listens to what I say. I should like him to know that I share the opinion of Senator De Bané. Senator De Bané, who is a better informed person than I, having been a minister of the Crown, understands the implications of this measure, and he asked very pertinent questions of Mr. Eggleton when he appeared before our committee. I urge honourable senators to read those interventions.

I should like to draw the attention of honourable senators to another matter. It has to do with pensions. At times I feel that those who are most interested in pensions are those who live in a common-law relationship. I will explain.

I am concerned about widows who will, more and more, serve in the House of Commons and Senate. My concern does extend, however, to bachelors, like myself, and divorced people. I am appalled at what goes on in the lives of those who enter into common-law relationships.

Let us take the example of a member of Parliament who has been married for 25 years. In the old days, a good wife would support her husband and rejoice the first night her husband was elected as a member of the House of Commons. They faced the prospect of a sharing a new life together. Who created that member of the House of Commons? It was the so-called "good wife" at home with the children who could combine family life and at the same time be involved in the political life of her husband.

Let us look at what can happen in a situation such as that. The husband, after becoming a member of Parliament, may spend 10 years in the House of Commons. During that career, he may leave his wife and enter into a common-law relationship. I want honourable senators to consider what will happen to his pension in those circumstances. What happens, in fact, is that the woman with whom he has entered into that common-law relationship will be entitled to one-half to three-quarters, or even more, of his pension.

There is now talk in the House of Commons of including those involved in same-sex relationships being entitled to all the pension benefits that accrue to those who have shared traditional relationships. That question will be raised all across the land.

I remember one night in the House of Commons being called to vote at around eleven o'clock in the evening on amendments to the pension plan for veterans. I was a young member then. I thought it was not fair. I am talking about politicians being aware of the human side of an issue. Who built his career around his family life? Who gets drunk on the proceeds from the pension plan? The veteran who risked his life for his country is entitled to an adequate pension.

I remember having discussions with Marcel Lambert at night over long dinners. I remember an exchange between him and Bégin. It was not the best exchange, so I dare not to repeat it here. She objected, and he called her "une cocotte."

Honourable senators I ask you: Is it fair that a woman need only be involved in a common-law relationship with a veteran for one year in order to be entitled to be receive his pension? The lady who waited, cried and agonized during the war for 10, 20 or 30 years finds herself at the end of his career eliminated from a pension by the new spouse.

My father told me about the greatest word in the English language when I learned English at university. That word is "fair." He said, "Remember that word. It is an important word. When you talk to people, look them straight in the eyes and say, 'Is it fair to treat people that way?'"

I share the opinion of Senators Forrestall, Corbin, and Simard. Something should be done. Seeing that no one is interested and not many people are listening, we will pass the bill, but I will vote against it just on principle. However, I need someone else to stand up with me to ask for a count. I will vote against it. It is something that should be studied. Let me put it this way: I will think about voting against it.

Pass the law if you want, but let us have a commitment that the Senate will look into it, because the Senate has the ability to show gentleness and kindness and patience to deal with such matters. It is not given to demagogy like we have seen in the House of Commons. Peacefully we can study the question of the First Nations, and peacefully we can study the pension plan. That is what the Senate does best.

Can you imagine the House of Commons studying euthanasia as the Senate has done with Senator Carstairs and others? Can you imagine the House of Commons doing that study across Canada and the demagogy that would be involved? That is why it is important that the Senate should deal with these questions.

If honourable senators read the bill carefully, they will be surprised at what they may learn. There are many little surprises in it. I do not think they are fair.

I have no fear about that. I contributed to the plan in the House of Commons. When I came from the House of Commons to the Senate here, I was not a defeated candidate. I was already a candidate. I am the only one who did not believe I could be elected, but everyone said I would be the first or second to be elected. My salary went down, but I am not complaining.

• (1510)

That was my choice, but I lost $40,000 a year in income by going from the House of Commons to the Senate. Why should we not say that to the public? Forty thousand dollars less to do the same work that I did in the House of Commons.

With respect to my pension, as Senator Forrestall said, "Big deal." I will receive my pension at age 75, and it will start to be indexed at 75. That is no big deal when you are 60. I am not complaining; I am just reporting the difference.

Do honourable senators know — and I hope *The Hill Times* will report this fact — that we are paying for the pensions in the House of Commons? Check the facts. How many people survive the Senate after 75? Where does that money go? It goes to the general fund. There is not one fund for the Senate and one fund for the House of Commons.

No one answers these questions, honourable senators, and yet we will pass another bill. There was no study in the House of Commons — at least not a serious one. The members there were told to hurry up before the summer recess so that they would not be embarrassed by difficult questions during the summer. That was the problem. It was the same with other bills. When you start going to picnics in the summer, you may be questioned by people. I ask honourable senators to stand up and speak on this subject. That is what I am doing.

I ask Senator Fairbairn to consider some of my proposals. The time may have come to bring an end to this misapprehension among the Canadian population about the pensions of members of Parliament. Hundreds of thousands of people hide behind us, happy that the debate is about us and not about them.

POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. Perhaps honourable senators would allow me to put a question to the Leader of the Government in the Senate, or to the Deputy Leader of the Government.

I noticed that neither the Leader of the Government nor the Deputy Leader of the Government in the Senate rushed to their feet at the end of Senator Prud'homme's speech. However, a number of senators — namely, Senators Simard, Forrestall, myself, and Prud'homme — have raised a number of points and issues concerning policy considerations. There is a disposition today, at least by most of us, to let the bills proceed through third reading and on their way to Royal Assent.

Honourable senators, I believe serious and valid points have been raised. In view of our willingness to help the government pass this legislation, it would be reassuring if we could have a commitment — perhaps that is too powerful a word — or a guarantee that the matters raised by the aforementioned honourable senators will be taken up at the table of power, and at the council of ministers, as an expression of our serious reservations about loopholes in the law, and about too loose a policy as it applies to pensions and other matters. That is all we want.

Honourable senators, we are not here to play political games. Indeed, if we so wished, we could force a vote on the issue. That is not our intention, but I think we have performed our duties in the brief period of time allotted for us to do so.

Some of these matters were raised in prior sittings of Parliament. It seems that we are speaking to those paintings on the wall. Nothing ever happens.

Can we have a commitment today from the Leader of the Government in the Senate that these will not remain dead words?

Some Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, in reply to Senator Corbin and other senators, I can certainly give a commitment that these will not remain dead words. As senators know, an active and probably public debate will be carried on with respect to some of these issues in the months ahead.

I say to Senators Corbin, Prud'homme, Forrestall and others that I will transmit some of these suggestions to colleagues who are considering the broader issues at this moment.

I can assure honourable senators that I have watched the legislative process as it has developed in a slightly different way in the last two years in the House of Commons, which is fine. However, in this same period of time, we have also witnessed that the backlog has not been eased, nor has the process been streamlined.

I am sure that Senator Murray, ahead of me, often made this suggestion: Can we not introduce some of this legislation in the Senate? Obviously, some matters cannot be introduced in this place, but others can. This is something I have been discussing, and I am quite prepared to do so even more vigorously.

In the first week of this Parliament, two initiatives have turned out to be landmark efforts. One was the Special Senate Committee on Euthanasia and Assisted Suicide headed by Senators Neiman and Lavoie-Roux, and the other was the special reference to the Standing Senate Committee on Aboriginal Peoples of the long overdue question of aboriginal veterans' pensions.

In any event our standing committees are adequately set up to deal with some of these issues and present the kinds of reports that provide a body of evidence and also an opportunity for Canadians to bring forward their ideas. It is a proposition that I am enthusiastic about, and I will carry it forward as best I can.

Hon. Marcel Prud'homme: Honourable senators, I know there are things we can do. Senator Fairbairn pointed them out. I, for one, will take the words of the Leader of the Government in the Senate, and I will be satisfied when I see something coming. We have the authority if we want to use it. All we need is the leadership. I cannot exercise such authority by myself. I cannot even find someone to second my motion. However, if other senators rise, I would second the motion that this matter be sent to the appropriate committee.

If need be, we will strike a special committee solely for the purpose of looking into the question of pensions and double dipping. This would demystify for the Canadian population what this issue is all about. It would show them what double dipping means, who receives it, who should be deprived of it. Why should we, in the interests of Canada, continue to allow double dipping for someone who would otherwise not offer their services to Canada?

• (1520)

I would be more than happy to know that the minister concurs in this line of thinking, and to have her commitment that we need not refer this matter back to cabinet. She may refer everything back to cabinet, but then she will refer it back to us again, saying that the message has been sent but that there is not much action.

We can act here. I was watching all senators while I was speaking. Senator Fairbairn, you may be surprised at the number of people who will see you privately to comment on this matter. I suspect that this same opinion is held by a few members of your own party, a few members of the official opposition, and others. I must call myself an "other."

Senator Fairbairn: Honourable senators, to restate the point I made, the initiatives on euthanasia and on aboriginal veterans' pensions were commenced in the Senate, and they were welcomed by the government.

The Hon. the Speaker: It was moved by the Honourable Senator Graham, seconded by the Honourable Senator Stanbury, that this bill be read a third time now.

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

Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read third time and passed, on division.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-92, to amend the Canadian Wheat Board Act.

Motion agreed to and bill read third time and passed.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved third reading of Bill C-72, to amend the Criminal Code (self-induced intoxication).

Motion agreed to and bill read third time and passed.

OLD AGE SECURITY ACT
CANADA PENSION PLAN
CHILDREN'S SPECIAL ALLOWANCES ACT
UNEMPLOYMENT INSURANCE ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-54, to amend the Old Age Security Act, the Canada Pension Plan, the Children's Special Allowances Act, and the Unemployment Insurance Act.

Motion agreed to and bill read third time and passed.

[*Translation*]

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

REPORT O COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on Legal and Constitutional

Affairs (Bill C-69, motion of the Honourable Senator Graham, seconded by the Honourable Senator Hébert), presented in the Senate on Tuesday, July 11, 1995.

Hon. Gérald-A. Beaudoin moved the adoption of the report.

The Hon. the Speaker: The Honourable Senator Beaudoin, seconded by the Honourable Senator Tremblay, moved that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker: Carried.

Senator Beaudoin: Honourable senators, on Monday, July 10, 1995, the committee —

The Hon. the Speaker: You are making a speech on this bill.

Senator Beaudoin: Is it too late?

The Hon. the Speaker: Honourable senators, if Senator Beaudoin had a speech to make, then the report would not have been adopted. The report was adopted in the usual way, but the procedure was interrupted. You have a speech to make on this issue.

[*English*]

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, Senator Beaudoin clearly indicated when he rose that he wanted to speak to this order, and perhaps the Honourable Speaker missed the fact that he was on his feet.

Senator Berntson: He changed his mind. It is too late.

Senator Oliver: He does not need to speak now.

Senator Beaudoin: I will respect the rules. What do the rules say?

The Hon. the Speaker: Honourable senators, the normal procedure is that when I place the motion before the house, if no one gets up, I say, "Adoptée. Carried." But if someone gets up at that point, then the speech proceeds.

Senator Beaudoin: I always follow the rules.

The Hon. the Speaker: The speech can proceed. That is the normal practice.

Hon. Lowell Murray: Honourable senators, I do not know the intention of my friends opposite. However, I sit fairly close to the Speaker's chair, and I do not think anybody could have misunderstood what was happening. The report of the Standing Senate Committee on Legal and Constitutional Affairs was called. Senator Beaudoin, the chairman, stood and said, "I move the adoption of this report." The Speaker put the motion very clearly and asked if it was the pleasure of the house to adopt this motion; we said "Yes" and he said, "Adoptée. Carried."

Did my friends opposite miss all that?

Senator Graham: No, we did not. Honourable senators, we clearly did not miss it because Senator Carstairs would like to speak as the sponsor of Bill C-69. However, out of courtesy obviously, because there was an indication from the chairman of the committee that he wanted to speak on this order, she waited to hear what the chairman had to say. That clearly was his intention. I watched him very carefully and he was rising to make his speech and, out of courtesy, Senator Carstairs waited; otherwise, she would have been on her feet.

Clearly, we have been waiting for the chairman of the committee to follow his intentions, that is, to speak on his motion to adopt the report.

Senator Murray: Honourable senators, again I have to say this: Others may have a different view, but in my opinion the moment has passed. Senator Beaudoin moved that the report be adopted. The Speaker put the motion clearly. "Is it the pleasure of the Senate to adopt the motion?" We said "Yes," and we were about to move on to the next item.

There was no noise in the chamber at the time. There is no reason to believe that senators could not hear the motion being put. The moment has passed.

Senator Hébert: We saw him.

An Hon. Senator: He said he would go by the rules.

Senator Murray: I am sorry, honourable senators. My friends saw what happened, and it did not happen in great haste. Senator Beaudoin moved the adoption of his report.

Senator Hébert: He started his speech.

Senator Murray: The Speaker put the motion. It was not done in great haste. I think the moment has passed. The report has been adopted.

Senator Graham: Honourable senators, there are various ways to skin a cat. Obviously, a bit of parliamentary trickery is being suggested here.

Senator Oliver: The Speaker put the question.

Senator Graham: I would like to ask, as an honourable gentleman who presides over the Legal and Constitutional Affairs Committee with great distinction, whether it was the intention of Senator Beaudoin to speak on his motion?

Senator Oliver: He does not have to answer the question. He is not on the stand.

Senator Hébert: He will not answer.

Hon. John Lynch-Staunton (Leader of the Opposition): First, he does not have to answer. This is not Question Period. Second, the Speaker himself ruled that the report had been adopted. It is not a decision of our side; nor is it a decision taken on the government side. When Senator Beaudoin rose, the Speaker reminded him that if he wanted to speak, he would need leave because the report had already been adopted.

Therefore, Your Honour, the report has been adopted. Can you clarify that for us?

The Hon. the Speaker: Honourable senators, I did not rise to ask for leave. The normal procedure is that I put the question; if I do not see anyone standing, I say, "Adoptée, Carried." However, I am sure honourable senators will all agree — and we have always agreed — that if someone stands even after that, they are allowed to speak. I was certainly prepared to allow Senator Beaudoin to speak. Indeed, I asked him if he wished to speak on this motion, at which time I sat down and he rose. I am following our normal practice here, which is that we do not cut off an honourable senator arbitrarily simply because I have called a motion, if someone rises at that point.

• (1530)

Senator Lynch-Staunton: Your Honour, did you not only call it but declare it adopted?

The Hon. the Speaker: I did. However, I have done that on previous occasions, as I think have previous Speakers. If someone rises at that point, he or she will be heard. My view is that if Senator Beaudoin wishes to speak, he is entitled to speak.

Senator Oliver: Not without leave.

Senator Prud'homme: Honourable senators, I rise on this point.

Hon. Sharon Carstairs: I should like to speak on this point as well.

Hon. William M. Kelly: Honourable senators, I should like to rise on a very brief point of order.

I take exception to the statement that we are looking at political trickery. I think that is beneath anyone here. There is no trickery. We have a procedural argument. Everyone understands procedural arguments.

I take exception to the reference to political trickery. It is hard to imagine any motive for doing that.

Senator Carstairs: Honourable senators, it was my understanding this afternoon that Senator Beaudoin was to speak to this committee report. It was my intention to respond, after hearing his remarks.

I have introduced bills for second reading in the past. I must say, the procedure in this chamber is foreign to me — one introduces second reading, moves it, adopts it and then speaks to it. Why we do this, I do not comprehend.

In the chamber from which I gained my experience, you would move second reading but certainly never adopt it. Yet, consistently, that is what happens when I stand to speak at second reading. Everyone speaks on it. Therefore, I am assuming that that same procedure is in effect here. I have been waiting to hear from Senator Beaudoin and then I would speak.

[*Translation*]

Senator Prud'homme: Honourable senators, I am one of those people who often find themselves in a situation similar to the one we are seeing today. Since I am pretty far back, by the time you notice I am on my feet, you have practically said the word "carried." I realize that as the Speaker, it is your job to recognize those who wish to speak, and if no one wishes to speak, the motion is carried.

I have noticed that for a long time, both under the speakership of Senator LeBlanc and your own, which have both been excellent, I may say.

[*English*]

I want to be sure that I am understood. Senator Carstairs is absolutely right. Very often, Your Honour, you do your duty, but you do it too fast. Yesterday, I said that I wanted to speak on this bill and I expected to speak on it last night. Last night I indicated to Senator Graham that I wanted to speak on it. I am sure that Senator Carstairs was of the same feeling. It was quite a surprise to me to see such an important bill passed so suddenly.

I wish to repeat what Senator Corbin said about Senator Beaudoin last night, when I think Senator Beaudoin's dignity was hurt: His committee has done almost 50 per cent of the work of the Senate in the last year and a half.

I am sure he was ready to speak.

Senator Gigantès: He was on his feet.

Senator Prud'homme: Honourable senators will understand that from where I sit I cannot see everything. I am sure he was ready, so much so that he asked Your Honour, "What is your ruling?" Why would he ask about your ruling, Your Honour, if he had no intention of speaking?

He said that he would abide by what Your Honour said. That means he intended to speak on his own report. He would not have said that if he had no intention of speaking.

[*Translation*]

My father taught me the rudiments of logic. According to simple logic, it is obvious that he was about to speak. If he does not speak, there are other senators who wish to be recognized, including Senator Carstairs and myself, since I have been on this bill since it was first tabled.

[*English*]

In a spirit of amicability, I suggest we withdraw all the names. I did not like the word "trickery" either. Let us have good spirit in this chamber before the summer break.

Knowing Senator Graham, I am sure he did not mean to say "trickery." Senator Murray is a stubborn man, we all know. I think we should have the debate and proceed in an orderly fashion.

Some of us had intended to speak on this issue.

The Hon. the Speaker: Honourable senators, we are reaching the end of a session, when the atmosphere always warms up. Let us think back to other occasions, even earlier than today, when I called a vote and Senator Prud'homme rose after I called it wanting to speak. I think the standard practice has been that even when the Speaker says, "Adoptée, Carried," if someone gets up prior to our moving to another item, then that person is recognized and allowed to speak.

Therefore, Senator Beaudoin is entitled to speak if he wishes to do so at this point.

Senator Lynch-Staunton: Your Honour, I am not one to challenge a Speaker's ruling. I want to be careful of my wording. Your Honour did say, "Adoptée, Carried," after which you resumed your seat and Senator Beaudoin got up to speak and you allowed, having said "Adoptée, Carried," that he would need leave to revert to the item. We have left the item and are ready to proceed to another one.

You are now telling us that, on occasions, saying, "Adoptée, Carried" does not mean what we think it means. I do not want to go any farther than that. I hope that if we accept that description we are not setting a precedent to the effect that the same words will mean different things on different occasions.

By going along with your suggestion, Your Honour, I fear that we may ignore the real meaning of the words "Adoptée, Carried."

Senator Beaudoin: Honourable senators, it is true that I intended to speak on this matter. There is no doubt about that. However, if it is said that what is important is the words that are pronounced in terms of the record of the house and, if you said "carried," then it is carried. However, if you want to go back to this question of speeches for Senators Beaudoin and Carstairs, then, obviously, we have to have the leave of the house to do so. That is pure logic.

If it is the wish of the house, I will speak. I understand that Senator Carstairs will also speak. However, we have to have the permission of the house to do so.

The Hon. the Speaker: Honourable senators, I can assure you that that has not been the practice.

In future before I call for the vote I will ask, "Does any honourable senator wish to speak?" It will slow the procedure, but it may prevent problems of this nature in the future. I will no longer automatically say, "Carried, Adoptée." I will ask: "Does any other honourable senator wish to speak?," after which I will call for the vote.

If we had moved to another item the case would be different. In this case we have not yet moved to another item. The practice has certainly been to hear any senator who rises, even though I have repeated a second time, after the speeches, "Carried, Adoptée."

Senator Lynch-Staunton: Your Honour, in the spirit of cooperation and because we are not the ones who are bogged down by narrow definitions and narrow legal interpretations, as we have been subjected to, we will certainly abide by so-called tradition and allow the item to be called and discussed.

This is a controversial item. Obviously, we feel strongly about it. However, controversial or not, we do hope that Your Honour's suggestion that you will add the words "Does any honourable senator wish to speak" before actually declaring the item carried will avoid a repetition of this circumstance in the future.

• (1540)

Perhaps before we proceed Senator Graham would like to suggest to the editors of Hansard that they misunderstood two particular words and he really meant to say something else.

Senator Graham: I would be happy to withdraw.

[*Translation*]

Senator Beaudoin: Honourable senators, on Monday, July 10, 1995, the committee heard testimony from the Honourable Herb Gray, Solicitor General and Leader of the Government in the House of Commons, and from Mr. Jean-Pierre Kingsley, Canada's Chief Electoral Officer. The Honourable Herb Gray was accompanied by his Parliamentary Secretary, Peter Milliken, by Mary Dawson, Counsel, and by Professor Beverley Baines of Queen's University.

Mr. Gray said that the Electoral Boundaries Readjustment Suspension Act — former Bill C-18 — ceased to have effect on June 22, 1995, in accordance with its sub-section 2(2). One purpose of Bill C-69 is to repeal that statute and the Electoral Boundaries Readjustment Act, R.S.C. 1985, ch. E-3. Bill C-69 aims at establishing a new procedure for the readjustment of electoral boundaries. It contains no date for coming into force.

Professor Baines stated that the courts do not become involved in the passage of legislation, as confirmed by the decision in *Native Women's Association of Canada v. Canada* (1994) 3 S.C.R. 627 and Reference *re* Canada Assistance Plan (B.C.) [1991] 2 S.C.R. 525. She corroborated the minister's statements and expressed the view that Bill C-69 is still on the Order Paper. The courts interpret statutes on the basis of their wording.

Jean-Pierre Kingsley, Chief Electoral Officer, underlined potential difficulties should there be an overlap between the current readjustment regime, as set out in the Electoral Boundaries Readjustment Act, and Bill C-69, if the bill were to be passed later, in the fall.

Because of the wording of clause 35 of Bill C-69, he did not rule out the possibility of legal proceedings against decisions he may have to make in this regard.

In light of this testimony, the committee feels that some issues remain obscure, specifically: 1) the legislative process that led to the debate on Bill C-69; 2) the intention of the government expressed in the House of Commons and the Senate in May, June and July of this year; 3) the repeal of earlier statutes by Bill C-69; 4) the nature of the validity of action taken under the previous legislation and the scope of section 43 of the Interpretation Act; and 5) the possible effect of Bill C-69 on section 51 of the Constitution Act, 1867.

These are very important issues, which certainly deserve further clarification, and committee members said as much at our meeting on Tuesday.

For instance, there was a discussion on the various aspects of the Interpretation Act. Professor Baines, who accompanied Minister Gray, understandably asked for more time to think about her answers to certain questions, as did Ms Dawson, a senior official from the Department of Justice.

The committee is therefore well advised to continue its work.

Honourable senators, that is why the committee recommends that these issues be examined in depth and that the Standing Committee on Legal and Constitutional Affairs hold further hearings.

[*English*]

Senator Carstairs: Honourable senators, I rise to speak to this report because I think the committee did not do justice to the message from the House of Commons in this report. I think, quite frankly, that we are trying to further obfuscate the issue of Bill C-69.

I wish to spend a few moments on the history of what has happened. The question before the committee yesterday was really on whether Bill C-69 was a legal act and whether, therefore, we should be voting on it. The testimony given was clear and absolute: Bill C-69 is a legal entity in Parliament at the present time. Of that there was no question. No witnesses said that Bill C-69 was not a legal entity and was not part of this parliamentary procedure.

In order to understand the full debate, it is necessary to know the history. Approximately one year ago, this chamber passed Bill C-18, which suspended until June 22, 1995 the Electoral Boundaries Redistribution Act on the statute book as E-3. There was only one purpose to Bill C-18: It suspended the EBRA in order to allow the development of a new process of redistribution. That new bill is Bill C-69.

As to the legal status of Bill C-18, it is clear that it has none. When the Honourable Herb Gray appeared before us, he said it is spent. When Professor Baines of Queen's University was asked, she said it was not operational. She went on to say that it is, however, still on the statute books, and will remain there until it is repealed, which is one of the things that Bill C-69 provides for. No witness argued that Bill C-18 had any force and effect. Nor, as I said earlier, did any witness argue that Bill C-69 was dead. To the contrary, both the minister and the legal expert argued that it was very much alive.

Throughout our hearings, Senator Lynch-Staunton legitimately drew the attention of members to the intention of Bill C-18. He quoted a number of individuals, none of whom argued that the government would not be able to introduce a further piece of legislation, which is what Bill C-69 is. They simply argued, and rightly so, that if Bill C-69 was not passed by June 22, 1995, the earlier process, the EBRA known as E-3, would be in force and effect and would remain so until it was repealed. That is exactly what Bill C-69 does.

The Chief Electoral Officer, Mr. Kingsley, appeared before us and argued very vehemently that that which we were about to present to him was the worst possible scenario because, with the EBRA presently in force and effect, and Bill C-69 presently being debated in the Senate, he would have two electoral processes in place at the same time.

• (1550)

That became particularly dangerous on or about November 20 when the maps from the present EBRA were distributed and made official and declared. Meanwhile, Bill C-69 was still being debated. What we have at the present moment is a committee report which, in my opinion, will allow the Chief Electoral Officer's nightmare to continue.

Honourable senators, we have heard much about an act that was passed in 1963, which established, for the first time, an independent process for the development of electoral boundaries in Canada. However, it has been an evolutionary process. There have been changes to that act, as there have been suspensions each time there has been a census in this country. The last changes, having been put into effect in 1987, resulted from a suspension when the Conservatives formed the government of this country. There were amendments to the EBRA as a result. However, at no time has there been a full review of the act. It is that review of the act that brings about Bill C-69.

Honourable senators, the questions raised in the Senate committee and in this report based on section 43 of the Interpretation Act and section 51 of the Constitution do not in fact deal with Bill C-69 because, if Bill C-69 were passed, it would not conflict with either section 43 of the Interpretation Act or section 51 of the Constitution. It is specious.

Section 51 of the Constitution requires that after a census, taken every 10 years, the process would be triggered to bring about and institute new electoral boundaries. For example, the census in 1971 established a process. That process was begun. However, it had not finished in time for the 1972 election, so the process continued. It had not finished for the 1974 election, so the process continued. It was not finished until the 1979 election. No one questioned that section 51 had been violated because it was clearly recognized that a process was in place and was proceeding.

In 1995, we actually have two processes going on. We have one under the EBRA and we have another under Bill C-69. No one, in my view, can reasonably say that section 51 of the Constitution has not been attended to. It has been clearly attended to.

Let us look at what would be the effect. The earliest possible date in which new boundaries could be proclaimed and have effect under the present law would be November 20, 1996. If Bill C-69 were passed, the earliest date would be June 10, 1997, some seven months later. Are those seven months, between November of 1996 and June of 1997, critical? What are the chances of the government holding an election in that period of time? If one looks at the history of parliaments in this country, not very likely. Every majority government in Canada has gone a minimum of four years and three months. This government will not reach four years and three months until November 1997, considerably after the boundaries put into place by Bill C-69 will have had force and effect.

Senator Nolin, in committee, raised an important question: What if there is a snap election as a result of the referendum? Interestingly enough, neither the present legislation nor Bill C-69 would be in effect. We would have to fight the election under the boundaries established as a result of the 1981 census. That is not, therefore, a legitimate question in the sense of "we must leave the thing alone because then it would put the boundaries immediately in place." It cannot put those boundaries immediately in place, the earliest date being November of 1996.

Having lost all of the legal arguments, the opposition members of the committee then of course made reference to the problems with Bill C-69. The two provisions which seem to provide the greatest amount of difficulty are the ones with respect to the 25 per cent rule, the variance plus and minus 25 per cent, and the new role of the Speaker.

Honourable senators, if we do not pass Bill C-69 and we use the present process for boundary redistribution, it has a plus or minus 25 per cent rule. In other words, nothing has been achieved. If that is what Conservative senators wish, a change in the 25 per cent rule, they will not get it by tossing out Bill C-69, because they are left with a process in which there is already a plus or minus 25 per cent rule.

What about the role of the Speaker? Well, honourable senators, the role of the Speaker at the present time is that he or she comes up with proposals for individuals who will be representatives on the boundary commissions. Theoretically, according to the law, he need consult with no one. Balderdash! He, of course, consults with the party of which he or she is a member.

There is no guarantee that the Speaker will consult with the other parties in Parliament. What this act does is to insist that he do that — a positive, progressive, democratic process. If he does not do that, then he can be challenged, and no Speaker wants to be challenged. It will not be the majority who will challenge him; it will be the minority. They may not win the vote, but they will embarrass the Speaker.

Senator Lynch-Staunton: That is right.

Senator Carstairs: The Speaker will not want that to happen; therefore, the consultation will take place. Far better that process than the present one in which members of the House of Commons can sit around after the fact, after the maps have been drawn and the boundaries established, and say, "Oh, but I do not like my boundary." If you do not think that has not worked, speak to Mr. Kingsley, and he will give you, chapter and verse, the number of times that members of Parliament have effected changes to the legislation and to the boundaries.

This process that Bill C-69 puts into place, I suggest to you, is far more protective of the needs of ordinary Canadians than the bill that is presently the law of this land.

What is really happening here, in my view, is that the majority in the Senate is using the committee process to prevent a bill being voted on in the Senate. They are preventing members on both sides from participating in this debate by putting it into committee where only 14 members, 8 on one side and 6 on the other, get the opportunity to participate in the debate. If the majority had any intention of allowing a new process, why did they support Bill C-18 in the first place a year ago? If they honestly did not want a new process — which is a legitimate point of view and one that Senator Murray has expressed — then why did they set up this false body, if you will, a year ago and suggest that Bill C-18 would allow that process to take place? Why did they go to the House of Commons, in essence, and say "Draw up a new bill and spend a year discussing it, developing it and communicating it"? What was the purpose of this whole year if they were not legitimate about voting on Bill C-69? At least that would have been clean, neat and honest. Wrong, but at least honest.

• (1600)

Instead, they let the bill come to us on May 2. They kept it in this chamber until June 8, some 37 days later. They sent it back to the House of Commons. When it came back to us, they sent it to committee. Fair enough. However, it has now been in committee and come out of committee, and they still do not want to vote on it. Honourable senators, I do not think that is the honourable thing to do.

This bill has been before committee twice. It need not go back a third time. It is the right of honourable senators to vote as their conscious dictates, and I suggest they do so. If they do not like this bill, then vote against it, but do not hide behind some committee. Get it out. Let us not pretend that this committee is some judicial body that can somehow or other come up with a judicial decision on section 51 of the Constitution Act, 1867. Let the Supreme Court decide that, if need be, sometime in the future. We are not equipped to do that as members of the Senate.

Stop fudging. Stand up and be counted.

MOTION IN AMENDMENT

Hon. Sharon Carstairs: Therefore, honourable senators, I move, seconded by Senator Cools:

> That the fourteenth report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended by striking out the sixth and seventh paragraphs and replacing them with the following:
>
> However, as the Honourable Herb Gray noted, any potential difficulties would be rendered moot by the early passage of Bill C-69.
>
> Consequently, the Committee recommends that a message be sent to the House of Commons to acquaint that House that with respect to its message to the Senate dated June 20, 1995, regarding Bill C-69, the Senate does not insist upon its amendments to which the House of Commons has disagreed.

Hon. John Lynch-Staunton (Leader of the Opposition): I should like to ask Your Honour if a member of this chamber can amend a committee report, or whether we are not limited to returning the report to the committee for amendment. I ask for a ruling on that. Can a report of a committee be amended by a member of this chamber?

The Hon. the Speaker: My advice is that it has been done in the past. There are precedents for doing so, although I do not have the precedents at hand.

Senator Lynch-Staunton: Then I will speak to the amendment. I will not speak to some of the comments made by Senator Carstairs because they are not only embellishments but gross exaggerations of our attitude on this bill.

Obviously, we are against Bill C-69. It is a step backward. We were quite in favour of suspending the Electoral Boundaries Readjustment Act when the proposal first came up, but we must remember why the government requested a suspension period to bring so-called improvements to it.

There was no widespread or even "narrowspread" demand anywhere in Canada for improvements to the act. The current act has worked well over the last 30 years. It needs fine tuning; there is no question about that.

What sparked what has become Bill C-69? It was a request by certain members of the Liberal Party, particularly from Ontario, who had just been elected in 1993. Having seen the revised maps, which had been published, they were terrified that if the maps were adopted, at the next election they would be running in ridings completely different from the ones in which they were elected, and their chances of being defeated would rise accordingly.

I am not making this up. This was admitted by members of the caucus themselves. Let me quote one of them. On May 5, 1994 on a CBC *World at Six* report on the Senate's approach to Bill C-18, the reporter, Jean Carter, said:

> Many Liberals won seats for the first time in last October's election. They don't want to fight the next election on new turf. Other MPs like Sarkis Assadourian from Toronto worry about their ridings disappearing altogether.

Then Sarkis Assadourian, the member from Don Valley North, says:

> I worked twenty years to get here. Within two months I lost my seat, which is not fair.

That is exactly what prompted the Government of Canada to come to Parliament and say, "We must revise the act. Not only must we revise the act, but it will take us two years to do so, which will guarantee that whenever the next election is held, it will have to be held on the boundaries which are already in place based on the 1981 census." If Bill C-69 had gone through, an election to be held in 1996 or 1997 would be based on population figures of 15 or 16 years before, something never before done in this country.

Not every election has been held on the freshest census figures. For instance, it was impossible for the 1972 election to be held on the 1971 figures. However, in every decade there has been an election based on the census figures computed at the beginning of that decade.

Bill C-18, in its original form, would not have allowed that. The dispute was not on the revision of the act. The dispute was on the suspension period. Not only that, the act was to abolish the commissions; to dissolve them. We sent the bill back and said, "No, that is wrong. We feel that is not respecting section 51, which indicates that once the census figures are known, we should get moving on the readjustment of the boundaries."

We suggested a date of February 3, 1995 as the outside limit. The government, with reason, pointed out that their calendar of parliamentary sittings was such that they would not be able to meet that, so we agreed on June 22, 1995. It was understood until June 22, 1995 — to be more exact, midnight June 21 — that once the suspension period came to an end, if there were no revisions given Royal Assent by the deadline, the old act came into force once again. Nothing was said, as is being said now, after June 21, of, "Well, yes, we passed the suspension period, but the deadline was not really as significant as we told you between March, 1994 and June 21, 1995. What it really means is that the bill is still on the Order Paper." We accept that legally it is still there. In fact it is off, but legally it is still there, so the government maintains that Bill C-69 can go into effect any time after it receives Royal Assent, a contention we dispute.

By the way, I mentioned Sarkis Assadourian, and I am sorry to see what will happen to him if the maps which have been tabled go into effect, because his riding of Don Valley North disappears. It will be absorbed by Willowdale and Don Valley East. He has a problem, but that is one of the inevitable results of any revision.

• (1610)

The United Kingdom has a similar system. Perhaps ours was largely based upon theirs. There are four electoral boundaries commissions, one each for England, Wales, Scotland and Northern Ireland. Their guidelines are similar to ours. They have tolerances and they do not believe in the American system of "one citizen, one vote." They do it based on the concept we embrace here. Some ridings are overpopulated, and some are underpopulated compared to the quotient.

According to the most recent maps, some senior cabinet ministers will lose their seats, including Norman Lamont in London, a person who is not an insignificant figure in the Conservative Party. However, not one member in that country has gone to his caucus and asked that the act be revised in order to retain the old maps. They accept the inevitable, which is that after every revision, someone will be hurt and someone may be favoured.

It is not the future of 295 members which should concern us; it is the equality, as much as possible, of one citizen, one vote which should preoccupy us at all times. If that means affecting sitting members, that is what is known as "rough justice" and that is something which they must accept.

Certain members of the Liberal Party of the Ontario caucus would not accept that. For some reason, which I am sure it must regret, the government went along with their request, and that is why Bill C-18 was introduced.

This bill was not the result of perceived or recognized flaws in the current act. The current act has worked well. The commissioners have been well selected and have been highly respected. Over all, they have done a good job. Members of the House of Commons were able to intervene in the process before the maps were tabled and will have an opportunity to intervene in the process prior to the maps being confirmed.

The reason we have Bill C-18 is simply to answer the complaints of a limited number of members of one caucus.

Senator Gigantès: You voted for Bill C-18.

Senator Lynch-Staunton: We voted on Bill C-18 bearing in mind the deadline and with the assurance that once the suspension period came to an end, the commissions would continue their work and not have to be revived. We made the assumption that the act would be improved. We also made the assumption that some of the delays — such as the provision that a year must expire before the final proclamation order is confirmed — could be shortened.

When Mr. Kingsley came before the committee, he told us that, with the experience of the last 30 years, with new technology and knowledge, the time necessary for the whole process could be shortened. We agreed that would be beneficial.

We never thought, as Senator Carstairs has admitted, that we would see a bill where the Speaker of the House of Commons would be compromised. He is made part of the process in such a way that his hands are tied.

Under the present system and under the proposed system, there are three members for each electoral boundaries commission in every province and the Northwest Territories. The chairman is named by the Chief Justice from amongst the judges in his jurisdiction. The other two are named under the current act by the Speaker of the House of Commons.

Nowhere does it say in the act that he must consult. I am sure that Mr. Fraser consulted. I am sure that Madame Sauvé consulted. I am sure they must have first consulted their own political parties. But no matter who they consulted or did not consult, their choices were final and could not be appealed. The Speaker was given his own choice in the long run. Whether a minority or majority party agreed, there was nothing they could do about it.

In the proposed bill, the Speaker must consult because the appropriate clause says "After consultation, the Speaker will...." With whom will he consult? Of course, he will consult with all the parties. However, he will have to not only consult but get the approval of the government party. That is because if 20 sitting members of the House of Commons are unhappy with any one or many of his choices, they can move a motion in the House of Commons challenging them.

The government is suggesting that, whereas now the Speaker is independent of political pressure in making his final choice, he will henceforth become subject to it; otherwise, his choices will no doubt be challenged.

It is all very well to say that was included to allow the minority parties to at least express their dissatisfaction.

Senator Murray: That was the explanation given by Mr. Milliken: real politics. They wanted to get their hands in at the front end.

Senator Lynch-Staunton: Exactly. The minority parties may well make representations and make a motion if 20 of them are so inclined, but we know that it is the majority which can decide, and the majority will certainly decide. In particular, if the minority parties are unhappy with the choices, the majority government party will vote the motion down.

Senator Thériault: What about your caucus?

Senator Lynch-Staunton: They will vote it down. Rather than having sitting members who have a vested interest in the process intervening directly during the end of the initial map-making process and intervening a second time before the end of the map-making process, they would intervene right at the beginning so that, in effect, the government would name two of the three commissioners in each jurisdiction, right off the bat.

I have yet to be convinced that this is an improvement in the law. This is regressive. The whole purpose of the current act was to get rid of gerrymandering. Allowing the government to name two of the three commissioners is an encouragement to gerrymandering. Surely, this is one practice we want to stop.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: Where do we stand now? The new maps, which had been held in abeyance by Mr. Kingsley until June 22, have been tabled in the House of Commons. We are now approaching the end of the process. The calendar is as follows: MPs must respond to the map; and file their objections or comments, if any, by July 22.

When the House of Commons returns on September 18, a parliamentary committee will listen to these representations, after which they will be referred, by October 17, to the Chief Electoral Officer. Then, the Elections Canada re-examination of the parliamentary committee's report must be completed by November 16.

These dates can vary by one or two days but, certainly, around November 21, if this calendar is followed, particularly if the House of Commons meets on September 18, a draft representation order will be proclaimed. Whatever the effect of representations made by MPs, those maps, as determined by the commissions on November 20, 21 or 22, will be confirmed. They are final.

We are only a few months away from the end of a process which, to date, has cost taxpayers nearly $6 million dollars. That is not an insignificant figure considering the government's financial posture. Every penny counts. We are being asked to throw aside $6 million, scrap a good process and replace it with one which is regressive and politically charged. It would cost another $6 million and we would not have as much of a guarantee that the next election could be held on the boundaries determined by the 1991 census.

The current process would allow the boundaries based on the 1991 census to come into effect any time after November 1996, whereas the new process in Bill C-69, were it given Royal Assent tonight, would take 23 months to come into effect which would mean we would have to wait until June 1997. Think of that. Those are key months.

Yes, we do object to Bill C-69. Yes, we admit that the five points in Senator Beaudoin's report will occasion a delay in coming to a decision on Bill C-69. We welcome that because we know, as does the government, that time is on the side of a better process, the one which is in effect now.

• (1620)

Depending on what we decide today, by the time we come back in September, we may be less than two months away from the conclusion of the current process.

I cannot believe that a process which has not been seriously challenged, and where the individuals involved in its implementation have only been criticized because of the results of that implementation, which is perfectly natural, deserves to be scrapped at any time.

After every readjustment, there are complaints. That is completely natural. That is the only so-called flaw, if it can be called that. That is good. It means that the commissioners have done their jobs even though, as a result, some sitting members will be affected. Otherwise, if they want to satisfy members — which the proposed bill would allow, since they would control the commissions — then the readjustments would be just cosmetic.

I cannot believe that if we get to September without passing Bill C-69, the government would not come to its senses and say, "We cannot afford to scrap this. We have come this far, and we will not pass a new bill and waste $6 million, start the whole process again and delay the application of the 1991 census boundaries another seven or eight months."

What the government should have done is, first, accept our amendments, although we do not dispute their right not to accept them. At least they could say, "The current process is in place. It is nearly completed. It will be completed, hopefully, in November. Let Bill C-69 go into effect after that for the next revision." At least guarantee completion of the current process — which, again, I emphasize, is a good one.

We have not heard anywhere — either in the House of Commons or during the committee hearings over there, in our chamber or before our committee — any criticism of the process itself. We have never heard any criticism of any individual commissioners. We have only heard criticisms from members and candidates and political parties who feel that certain readjustments are detrimental to them. However, that is natural, that is normal, and that is healthy, because it means the commissions have done their job.

Honourable senators, the point of all this is that we reject the amendment of Senator Carstairs. We maintain that the report should be returned to the committee and that it take all the time needed to study the five points in it. When the committee comes back with its final report — whenever that might be — hopefully by that time, the government will have realized that E-3, the current act, is a good act and should run its course. If it wants to change the rules, do not change them in the middle of the game, change them for the next game.

Hon. Richard J. Stanbury: Honourable senators, I want to persuade you that it is important to Canada and to the Senate that this question be resolved now. Will we or will we not pass Bill C-69, the Electoral Boundaries Readjustment Act, 1995, into law?

Senator Lynch-Staunton always makes an impressive, emotional speech. The only problem is that if he were to give effect to it, he should be sitting in the government seats in the House of Commons. These are all policy questions, which have already been determined in the House of Commons by the elected representatives of the people of Canada. It is normal for us to have important, and sometimes heated, debates about legislation that is before us. We must, however, always try to look at the subject dispassionately to see whether we can get agreement as to how best to serve the Canadian people.

To a certain point, we were dealing with this legislation on that kind of objective basis. When we dealt with Bill C-18, my colleagues opposite were concerned that the suspension of the redistribution process provided by Bill C-18 would result in the next election being held in constituencies the boundaries of which would not be based on the 1991 census figures. However, they did not propose that there be a new act.

The opposition made proposals for shortening time periods and asked that the proposed new legislation be completed as quickly as possible. They suggested that the new legislation be drafted, passed through the House of Commons and the Senate and become law by February, 1995.

Mr. Herb Gray, as Government Leader in the House of Commons, was quite amenable to changes to address those concerns. As a matter of fact, I do not recall — and I suspect that senior senators on the other side would agree — in my parliamentary experience of over a quarter century any government house leader of any previous government who has shown such a desire to cooperate with the Senate in accommodating their concerns.

Mr. Gray accepted the opposition's proposal to shorten periods of time in the process. However, he wisely suggested that it was unrealistic to expect that Parliament could produce the new legislation by February 1995 and suggested that it probably could be done by the end of the session in June. That is how the June 22 date got into Bill C-18.

Agreement was reached and Bill C-18 was passed into law. We all knew that a new Electoral Boundaries Readjustment Act would be forthcoming. Pursuant to Mr. Gray's undertaking, the House of Commons committee was given instructions to proceed immediately to prepare a new draft bill. They did so under the leadership of Mr. Peter Milliken. At the government's request, the House of Commons committee laboriously drafted a complete bill, as was anticipated by the Senate. That was Bill C-69.

The government accepted the bill produced by the committee and introduced it into the legislative process. It went through the full legislative process in the House of Commons and was forwarded to the Senate for approval. Mr. Gray was as good as his word. He supervised the legislative process which provided the Senate with a bill which had been adopted by a large majority of the elected members of the House of Commons. There was no breach of faith on the part of the government.

The reason for delay was that the Senate committee decided, as it had every right to do, to propose amendments, which amendments, by and large, would have superimposed the judgment of the Senate on certain policy matters already considered by the elected members of the House of Commons. That step required a return of the amended bill to the House of Commons. That took time because the House of Commons had to consider again those policy questions.

They did so, and they confirmed their original judgment, sending the bill back to the Senate in good time for the Senate to record its normal reaction — that is, time to send a message to the House of Commons saying that, in view of the careful reconsideration by the House of Commons of the policy questions, the Senate did not insist upon its amendments.

Why do I say that that would be the normal reaction of the Senate? May I cite you some authorities? Senator Murray said in July 1986, when he was government leader in the Senate:

> The modern role of the Senate...is one of persuasion rather than resorting to the majority in the Senate when the elected majority in the other place, after reflection, has taken a different position.

In committee when I used that quote Senator Murray said, "after reflection," but surely there is no doubt about there being reflection in this case. The amendments were sent, reconsidered and returned.

In June 1986, he said:

> There is no justification in the world, except mischief and partisan politics, for delaying this bill any further.

In October 1987, he said:

> The 19th century rights of the Senate to defeat legislation coming from the elected house have fallen into disuse and this is happily so in a democratic country.

In March 1990, Senator Beaudoin, the chairman of the Standing Senate Committee on Legal and Constitutional Affairs, and an acknowledged constitutional scholar, said:

> In our system of responsible government, the House of Commons must have the final say. Within that house, the government, when it has the confidence of the house, has the final say.

• (1630)

Finally, Senator Duff Roblin, former premier of Manitoba, former candidate for leadership of the Progressive Conservative Party, former leader of the government in the Senate, said in September, 1987:

> How can a body which is not democratic in respect of responsibility, or representative of the parliamentary system, presume that it can have its way, no matter how misguided it may think other people are?

Of course it is open to the Senate to deal with that message in any way it deems fit, provided it does its work conscientiously and expeditiously, but it does not lie in our mouths to say that the government has not acted in cooperation and good faith with the Senate in producing the proposed legislation as it promised and as honourable senators expected.

However, when the amended bill came before the Senate for action, the opposition raised the question of the continued validity of Bill C-69. The message was referred to the Standing Senate Committee on Legal and Constitutional Affairs, to resolve the question of whether the expiry of the suspension date mentioned in Bill C-18 had the effect of killing Bill C-69. The committee had 12 days to study that question.

Finally, on the second last day available, the committee met, heard clear evidence that the bill is still alive, and it heard no evidence to the contrary. The purpose of the reference to the committee had been fulfilled.

However, then some members of the committee managed to find two or three other issues which gave them the excuse to recommend that the matter remain in committee. Had the committee met during the first 10 days available to it, it would have heard the evidence that it heard on the last day and would have had plenty of time to get additional advice, if it sincerely required it.

However, the report of the committee clearly states that Bill C-69 is still alive and on the Order Paper. The only issue mentioned in the report that is based on the evidence heard is the question of uncertainty caused if there is delay in the passage of Bill C-69. If there is no delay, there is no issue.

If the committee had been interested in the constitutional or other issues mentioned in the report, those could have been tackled at any time during the substantial period the committee had the bill. There is no valid legal issue contained in the request of the committee for an undetermined and probably endless — and this is confirmed now by what Senator Lynch-Staunton has said — delay, supposedly to discuss legal issues.

In this case, foot dragging is the equivalent of attempting to kill the bill without taking the responsibility for doing it openly. We are not acting in good faith if we do not fairly and expeditiously deal with the message from the House of Commons. We must deal honestly with the legislative initiative which was developed in accordance with the expectations of the government, passed by the elected members of the House of Commons, and anticipated by the Senate during the discussions and negotiations which were carried out when we were considering Bill C-18.

Honourable senators, I urge you to accept Senator Carstairs' amendment.

Hon. Lowell Murray: Honourable senators, there is ample precedent, as recently as the last Parliament, for the Senate to amend bills two and three times and send those messages back to the House of Commons. It is perhaps not surprising that Senator Carstairs, as a new senator, might find this rather peculiar, even scandalous, but I must say it is very surprising that Senator Stanbury, who has a long memory for these matters, would have expressed such shock and, indeed, that he would have the temerity to invoke my name in taking his position this afternoon. After all, we have been invited by Senator Carstairs, and implicitly by Senator Stanbury, to defeat the bill.

First, the question of defeating the bill is not before us. What is before us in the amendment of the Honourable Senator Carstairs is, essentially, Senator Graham's original motion: namely, that we do not insist on our amendments. If we defeat that amendment, what will be the effect? The effect will be that a message to that effect will go forward to the House of Commons. Under some circumstances, that would be not only a normal thing to do but would be a welcome opportunity for us on this side.

The problems we face now are indeed problems of timing. Senator Carstairs has alluded to the testimony of Mr. Kingsley, and Senator Lynch-Staunton, the Leader of the Opposition, has described, I think quite accurately, our situation.

If we insist on our amendments and send the motion forward to the House of Commons, even if the House of Commons and the government reconsider and accept our amendments, they would not be able to do so, under the present schedule, until September or October. The result would be that we would have a vastly improved process over Bill C-69, but 23 months would ensue before maps would be ready for a general election.

Clearly, because of what we have said about the bill, we do not want to vote in favour of Senator Carstairs' motion and not insist on our amendments. We do not want that bad law on the books, and the public interest in that respect is not served by our insisting on our amendments at this time.

I have no interest in defeating Bill C-69 and, as a matter of fact, I should like to see an amended Bill C-69. I should like the government to reconsider its position on some or all of the substantive amendments we proposed and to which the government gave the back of its hand.

I agree with the Leader of the Opposition that we should allow the present process to go forward. The committee should do its work and, some time later in this calendar year, I for one would be very happy to take up Bill C-69 again. I would want the government to take another look at our amendments, and I would want an improved Bill C-69 in place to take effect after the 1996 quinquennial census. That, I think, is the way in which we can best assure that the next election will be fought on the basis of the 1991 census. It is the way we can best ensure that a vastly improved process will be in place for the future, and we will thereby have served the cause of electoral democracy and of the Canadian public interest.

Honourable senators, I intend to vote against the amendment of Senator Carstairs and in favour of the motion of Senator Beaudoin.

Hon. Marcel Prud'Homme: Honourable senators, from day one, when I saw much hesitation on this side with regard to tackling Bill C-69 because of the uncertainty of public opinion and perhaps other reasons, I showed my total displeasure with playing with the way we redistribute seats, which has worked so well in the past.

• (1640)

Second, I am not at all of the opinion expressed by the very well-liked Senator Roblin or the very distinguished Senators Beaudoin, Murray and others when they say that the Senate should bow to the House of Commons. If you say that at all times the Senate should bow to the wishes of the House of Commons, there is no reason for the existence of the Senate. It makes no sense to me. Why is there a Senate? All the members of the House of Commons have to do, then, would be to say, "Let the Senate have fun for a while because they are reluctant at the end of the day to vote against us." I do not understand that thinking. However, I was in the other House, and maybe that helps me to better understand the process.

When I was in the House of Commons, it was a difficult time for Mr. Mulroney beccause the exchange between the Liberals and Conservatives was vigorous. I always said that as long as the Senate exists, it has a constitutional duty to exercise. I was always proud to defend the Senate, never believing that some day I would end up in the Senate. My wish was to be Minister of Foreign Affairs.

You may laugh. You can laugh loud and clear now, but I was deprived of that great opportunity.

The Senate has a duty. Some people were very upset when the Senate exercised its authority killing a bill concerning abortion. Mr. Mulroney was full of displeasure. That is what I call the Senate at its best. However, we must not ahead of time say that we shall bow to whatever comes from the House of Commons. I will not be part of that.

With respect to Bill C-69, I find some senators — I do not want to say "flip-flopping." Some senators hesitated from day one by making amendments to the bill. I am talking to Senator Murray and others. When they made amendments to the bill, they knew they would delay the maps. If the opposition amendments had carried, the new process would have started and new maps would have been drawn up. Now, nothing will be ready before June 1997 and expenses will be doubled. The $6 million will be thrown overboard, and another $6 million will be found.

What would have happened had we kept the process that worked so well in the past? I keep repeating that I believe in that process. I went to the commissions. I lost. The best part of my seat was taken over by the Honourable André Ouellet. I worked hard, but I lost what I had worked for. Four times I changed. I did not complain; I did not cry. I went to the commission.

I am arranging for people to go to the committee of the House of Commons collectively to make one last presentation. I suggest they do the same in Winnipeg. It makes no sense in Winnipeg to split the seats on the Red River. What is happening in New Brunswick makes no sense.

I share the opinion of the commissioner who is the only minority commissioner in Canada in this report. I read them all.

Tell your members of Parliament that they have until July 22. Any 10 members of the House of Commons can table a motion with the clerk of Mr. Milliken's committee saying, "We, the undersigned, wish to make the following presentation." There is no reason why some of them could not win, because in the past many of them have been successful. That is the process.

I find myself in very good company with the *Gazette*. I have been spoiled by the Montreal *Gazette*. That may explain why I was elected so many times.

Imagine William Johnson. Who does not know William Johnson? He was a great speaker at a dinner for *Cité libre*. In a July 7 article in the Montreal *Gazette* entitled "A bad bill: Senate should stand up to Commons on redistribution," Mr. Johnson wrote:

> The Senate is our only recourse against MPs intent on making life easier for themselves at our expense.
>
> If ever the Senate has a justification for its existence, this is the time.

For 30 years, I kept saying to my colleagues, "Do not gerrymander this issue." It was bad, but it was corrected over the years by Mr. Pearson and Mr. Trudeau. The process worked. As a Liberal, I was happy to follow the process. I do not mind the process in which members will have the last say between September 19 and October 19. That is the process; that is the law.

Of course, the government had to come up with a bill like Bill C-69. It makes sense. They had to justify why they dropped the other bill. They came up with three maps, and now the Speaker will be involved officially in doing what he always did. Believe me, the Speaker always consulted privately with political parties. I was consulted. Is that clear enough? So were others. We were consulted, and the system worked.

This country is full of exceptions. My esteemed colleague Senator Beaudoin was absolutely astounded to hear about the grandfather clause. People say 15 per cent should be the case, not 25 per cent, but it is impossible to apply the provision across Canada simply because this country is full of exceptions. Saskatchewan should have 10 seats, but it has 14. Quebec should have 71, and it has 75. That is the grandfather clause. Manitoba should have 11, but it has 14. Nova Scotia has two too many, but one is protected by the grandfather clause. What can I do if I do not agree with the amendments? I cannot say to the House of Commons that I will bow because if I bow to the House, that means I accept their Bill C-69.

• (1650)

I will not abstain. I will let the process continue in the hope that if we continue our study, then the actual process will take its natural course. We will have maps based on the 1991 census for the next election. Come the next election, we could have another bill like Bill C-69.

The Hon. the Speaker: It was moved in amendment by the Honourable Senator Carstairs, seconded by the Honourable Senator Cools:

> That the Fourteenth Report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended by striking out the sixth and seventh paragraphs and replacing them with the following:
>
> > However, as the Honourable Herb Gray noted, any potential difficulties would be rendered moot by the early passage of Bill C-69.
> >
> > Consequently, the Committee recommends that a message be sent to the House of Commons to acquaint that House that with respect to its message to the Senate dated 20th June, 1995, regarding Bill C-69, the Senate does not insist upon its amendments to which the House of Commons has disagreed.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Honourable senators, if there is no agreement on time, we will follow the rules. The vote will be held at seven minutes to six o'clock.

Please call in the senators.

• (1750)

Motion in amendment of Senator Carstairs negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams
Bacon
Bonnell
Bosa
Bryden
Carstairs
Cools
Corbin
Davey
De Bané
Fairbairn
Gigantès
Grafstein
Graham
Haidasz
Hays
Hébert
Hervieux-Payette
Kolber
Lewis
Losier-Cool
MacEachen
Marchand
Neiman
Olson
Pearson
Perrault
Petten
Riel
Robichaud
Stanbury
Stewart
Stollery
Thériault
Watt—35.

NAYS

THE HONOURABLE SENATORS

Andreychuk
Atkins
Balfour
Beaudoin
Berntson
Bolduc
Buchanan
Cochrane
Cohen
Comeau
DeWare
Di Nino
Doody
Doyle
Eyton
Forrestall
Grimard
Gustafson
Jessiman
Kelleher
Kelly
Keon
Kinsella
LeBreton
Lynch-Staunton
MacDonald (*Halifax*)
Meighen
Murray
Nolin
Oliver
Ottenheimer
Phillips
Prud'homme
Rivest
Roberge
Robertson
Rossiter
Simard
Stratton
Sylvain
Tkachuk—41.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil.

• (1800)

MOTION IN AMENDMENT

Hon. P. Derek Lewis: Honourable senators, I should like to move, seconded by Senator Stanbury:

> That the Fourteenth Report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended by adding immediately after the words "further hearings" the following:
>
> > And that it present its final report to the Senate on the message from the House of Commons, dated June 20, 1995, and the motion of the Honourable Senator Graham dated June 28, 1995, no later than August 8, 1995.

I make this motion because when you look at the fourteenth report of the committee, the last part of it simply recommends that the issues be examined in depth and that the committee hold further hearings. In other words, it is completely open-ended and the matter could go on indefinitely. The amendment is to make it clear that the committee should report by a fixed date.

As Senator Carstairs has said, the Chief Electoral Officer, Mr. Kingsley, is in a quandary because he does not know under which process he should proceed. I was hoping that the matter would be cleared up one way or the other, that Bill C-69 would be passed or rejected. I suggest that we should set this date to clear the air and so that we know where we are going.

I would suggest that if the opposition is sincere in their allegations and not delaying, they should agree to this motion. Previously we have been told that the opposition is not in opposition to the bill. As a matter of fact, this is shown by the fact that they said they wanted to improve it, and they actually caused amendments to be made to the bill which showed their wish to see the legislation go through. It is not until today that we hear from the Leader of the Opposition that, in fact, they now say they are in opposition to the bill.

I feel that this motion should be passed in order to make it certain as to when the committee will report, and then the bill can be dealt with one way or the other with no further delay.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to make the opposition's position on Bill C-69 quite clear. We think that the amendments we proposed improve it considerably. Bill C-69 as it presently stands is regressive compared to the process presently in place. We are not prepared to accept Bill C-69 in its present form.

We will not accept this amendment because we do not feel that the present process, which is coming to an end, should be interrupted. We feel the government should accept that. There is $6 million already invested in the current process, which is working well. I will not repeat what I said earlier. That is the main thrust of our argument. There is nothing wrong with the current process. It should only be improved upon, and no one can disagree with that.

Bill C-69 should be set aside until after the draft representation order has been confirmed, and then the boundaries based on the 1991 census can be applicable to the election which will take place anytime after November 1996. Bill C-69, after the draft representation order is proclaimed in the fall, can then be brought back, fine-tuned, and we will be happy to support the government in seeing that an improvement over the present process is put into place.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have listened to the debate this afternoon with some concern and some regret; concern because Bill C-69 is a very important bill which ultimately has fundamental implications for those, unlike ourselves, who seek to be elected to the House of Commons, and also implications for the people of Canada; a sense of regret because something is happening with this piece of legislation, and perhaps other bills, which has troubling implications for the way we do business in the Senate.

I will not take up the time of the house again in outlining the path which has led us here over the past year in terms of the effort on the part of the government to legislate changes in electoral boundaries redistribution laws. Senator Carstairs has placed firmly on the record the merits of and the necessity for this bill.

In the past, under a similar process, there has been debate and critical appraisal in the Senate, and legislation has been adopted without amendment, including when the majority was held by the Liberal opposition during the tenure of the former Conservative government.

Once again, I wish to remind honourable colleagues of the assessment of our role as senators on this kind of issue — not on broad and general issues, but on this kind of issue — by a former leader of the government and opposition in this place, a former Minister of Justice, the Honourable Jacques Flynn, when he was sponsoring a government redistribution bill back in 1985, Bill C-74.

I know that some senators opposite, particularly Senators Lynch-Staunton and Murray, become impatient when we remind them of Senator Flynn's words. They say they do not apply today. However, honourable senators, they do indeed apply with great resonance to the situation in which we find ourselves this afternoon. When Senator Flynn was urging this house to adopt his government's bill as expeditiously as possible, he said, and again I quote:

> ...I would say this is an area that almost exclusively concerns the House of Commons, and I think that we as a non-elected chamber and as appointed legislators are hardly in a position to tell the members of the House of Commons how they should proceed to draw the boundaries of their electoral districts.

• (1810)

That was fairly harsh stuff from Senator Flynn. I would say, honourable senators, that this house, through its majority, has in fact been dealing very aggressively in the past year with the redistribution process, and not just in terms of offering advice.

The Senate has sent back to the House two bills with amendments: Bill C-18 last year and, most recently, Bill C-69. The amendments have been substantive, not just technical. The government has been both responsive and respectful of the Senate's legislative role.

It would appear now, however, that instead of wishing to engage with the House of Commons in a serious way in the legislative process, opposition senators are creating a dialogue between the two Houses with something completely different in mind.

On June 20, we received from the House of Commons a message on our amendments. On June 21, my colleague Senator Graham moved that the Senate not insist on those amendments. Rather than concur, as we all know, Senator Murray moved the adjournment of the debate knowing full well that this would mean that the provisions of Bill C-18, which had suspended the current electoral commissions, would take effect at midnight that day because the new legislation, namely Bill C-69, would not be in place. We all knew that.

To ensure, however, that such passage of Bill C-69 would be impossible, Senator Kinsella, the opposition whip, deferred the vote on Senator Murray's motion until the next day, June 22. On that day, the current redistribution commissions were reactivated as provided by law.

Opposition senators maintained the bill and continued to maintain, I suppose, that Bill C-69 was a dead letter, to use the words of colleagues opposite. We on this side have strongly maintained its legality. The Standing Senate Committee on Legal and Constitutional Affairs took up the issue at the insistence of the opposition and this week heard a series of expert witnesses, as urged by Senator Lynch-Staunton.

It has been noted, and I will not make too big a point of it, that the committee did not meet at all last week, although that would have provided more time to ask the questions it was developing.

However, on Monday of this week, the committee heard from the Honourable Herb Gray, Solicitor General of Canada, Government Leader in the House of Commons, and his parliamentary secretary, Peter Milliken, who is the chair of the House of Commons Standing Committee on Procedure and House Affairs which committee produced Bill C-69. Mary Dawson was here, the Assistant Deputy Minister in the Department of Justice, as was Professor Beverley Baines from the Faculty of Law at Queen's University.

All of those witnesses testified that Bill C-69 was legally and properly before us and the only significance of the passage of the June 22 deadline was the lifting of the suspension on the current electoral boundaries commission process, which has occurred. That, honourable senators, was the critical question. It was dealt with in committee.

Honourable senators opposite then began to delve into other questions, hypothetical questions, as to what might be the legal and constitutional situation if Bill C-69 were not passed before November when the representation order would be issued under the current process.

The witnesses were prepared to deal with the validity of the bill now, and they were thrown a curve. Opposition senators raced right past the testimony and asked about five months from now — not today, not next week not three weeks from now, but what about five months from now?

Mr. Gray made the obvious point that, if the Senate passes the bill now in order to respond to the urgency of having a new process, which would ensure an election could take place under new boundaries in June of 1997, then what might happen next November is moot. It is not relevant.

To wait five months, honourable senators, to see what might happen is a very novel way for the Senate to deal with legislation of this nature. It is at this point that one reaches again for the wisdom of Senator Flynn. What exactly is the Senate doing with this bill? Are those who obviously want it to be a dead letter prepared at any point to permit a final vote in this house? Yes or no? Or are we seeing a new process developing, whereby prolonged delay in itself, in the confines of a committee of the Senate, governed obviously by a majority, prevents the rest of the senators in this house from making their own choice and registering it with a vote?

A committee is being used to effectively sidetrack bills that the opposition does not wish to see proceed, but also that they apparently do not wish to openly defeat in a recorded vote. So, in a sense, they are trying to achieve the same end by different means.

The Standing Senate Committee on Legal and Constitutional Affairs received Bill C-69 on May 2, 1995. This was 50 days, honourable senators, from the June 22 deadline, a date that was well known to everyone in this house.

The committee held five meetings and heard from five different witnesses before releasing the bill back to the Senate with amendments 37 days later which, I would suggest, is quite a leisurely pace. That did not give the House of Commons a great deal of time to deal with the amendments, but it managed to do so, sending back a message to us just prior to the June 22 deadline. I admit that is about as tight as you can get.

The opposition sent that bill to committee to examine whether it was a dead letter. When that line of concern failed to produce any fruit, the opposition suggested that it be returned to committee to examine what might happen if it is held up for another five months in the Senate.

Honourable senators, through our Deputy Leader, Senator Graham, we offered to have witnesses testify on this issue immediately, yesterday or today. They were ready to come, but we did not receive a favourable response. Having listened today very carefully to Senator Murray and Senator Lynch-Staunton, we now know why. They really have no intention of proceeding with Bill C-69 in its present form.

Senator Murray wants to give the government another opportunity to consider his amendments. However, honourable senators, as my colleague Senator Stanbury said this afternoon, that time, in our view, has passed.

We have tried today, through Senator Carstairs' motion, to achieve a definitive result on Bill C-69. All of us can count. The opposition majority has defeated that proposal. We are now faced with the prospect of further committee study.

• (1820)

We on this side strongly believe that this is not necessary but, should it go forward, it should not go on indefinitely. Therefore, through Senator Lewis, we are proposing a timetable for the committee which will allow it ample opportunity to conduct and complete its work.

We are confident that the evidence that committee will hear on the subjects that have been raised will support our view that this bill should be passed as quickly as possible, without any further amendments. Under our proposal, this bill could be given Royal Assent by early August.

Contrary to some views of members of the opposition, we firmly believe that the improvements contained in this bill more than justify its quick passage to pave the way for a new redistribution.

Honourable senators, having said that, I have no hesitation in suggesting to colleagues on both sides of the house that Senator Lewis's amendment is reasonable and I would hope it will receive support in this chamber.

Some Hon. Senators: Hear, hear!

Hon. Marcel Prud'homme: Honourable senators, I do not understand this yelling. We are paid to do a job and I intend to do mine. Frankly, I resent people who complain because some participate in debate more than others. I do not decide how people will work. I enjoy my daily work.

There are a few matters that cause me some concern in connection with this bill.

I would politely point out to the Leader of the Government in the Senate that I do not consider myself to be an opposition member. I am a member of the Senate. Someday I will vote — if I feel as strongly as I do on this bill — with the government, if it is called for. However, I totally agree with Senator Carstairs that we should have voted this bill down.

Any proposal to tamper with the usual process should have been stopped immediately. It was not; and I regret it. Only now does public opinion seems to be having an impact. I regret that this side does not seem to be willing to defeat the bill. That is their choice, but do not put me in any one group of people. I have opinions that may differ from theirs.

It is unfortunate that we did not stop it right away. The right of the House of Commons should be primordial, but they should have amended the process prior to the publication of the legislation. It is their right to present proposed legislation. There would have been nothing wrong in having produced a bill which stated that a new map should be issued every five years, and that the Speaker of the House of Commons would play a role in the whole process. However, those provisions were only put forward after displeasure was expressed upon seeing the first map. That is the message I have been trying to convey.

I disagree with an esteemed old friend of mine whom I met when he was the Speaker of the Student Parliament at Laval University. That is where I met Senator Meighen. They were all Tories, but I was defending the pillar of the Liberal Party. I met Brian Mulroney, Senator Meighen, Mr. White, and two others in the late 1950s. That is a long time ago. We debated against each other. I have not changed my opinion. I am independent, and I believe that I have the right to say that I do not agree with these senators who say that senators should bow to the House of Commons and should always announce their compliance with the House. There is no justification in that.

I am defending you, honourable senators. There is no justification for you and me to sit if at the end of the day we say, "Members of the House of Commons, do not worry. We will bow down to you and do whatever you say."

If Canadians decide to have a new kind of institution, that will be their decision. In the meantime, there are two Houses: one called the House of Commons; one called the Senate. We have a constitutional duty to perform, but we have to exercise discretion. However, I agree that we should not abuse our right just to be unpleasant.

On this issue, the leader quoted — and she is perfectly able to do so, but I have another quote — that members of the House of Commons are the ones who have inflicted this upon themselves. I say that one of the issues where members of the House of Commons should not be involved is in the question of redistribution. I say that particularly after having seen the first map.

I say to the Honourable Senator Beaudoin, who is a great constitutionalist; to Senator Roblin, a great, fine gentlemen; to Senator Flynn, and to others who believe what they believe, that they should — and I say this politely and with great humility because they are great authorities — reassess their thinking of what the Senate is all about. There may be times in the future when the Senate will have to oppose the frivolity of some of the measures proposed by the House of Commons.

I would quote William Johnson, National Affairs, again, in an article in the Montreal *Gazette* on July 7, 1995. He stated:

> A bad bill. Senate should stand up to Commons on redistribution.
>
> It's true that senators are non-elected, which detracts from their democratic legitimacy.

That is up to Canadians to decide.

Mr. Johnson goes on to state:

> But the elected MPs...

There again, a great journalist like him should say "the elected Members of the House of Commons," so as not to confuse the readers because I am a member of Parliament, too. He meant to say "Members of the House of Commons have served their own convenience by this bill in which they have a blatant self-interest." He went on to state:

> The senators, with no personal interest at stake, can stand up and defend the public interest, the interest of all citizens, against the narrow self-interest of the MPs.

Again, that should have stated "Members of the House of Commons." He goes on to further state:

> The Senate is our only recourse against MPs intent on making life easier for themselves at our expense.
>
> If ever the Senate has a justification for its existence, this is the time.

Once again, the first paragraph should have read "Members of the House of Commons," not "MPs."

I will carry that precious article in my pocket for many years. I will keep that article next to me so that when the press start talking about the nuisance of the Senate — how we should abolish the Senate; how it should be elected; and how it should disappear — I will be able to reply that this is very strange. When we make you unhappy, you want us to disappear, but when you think we may be able to defend the public interest, then you come to us and say, "Please do something."

This article should be kept by all of you. I will send you a copy of it, even though I have no staff at the moment because we are reducing our expenses. Why do not we say that publicly? We do not have money to replace staff who are on vacation. Yet we are ready to spend $6 million on this proposed legislation. We do not have money to change the carpet now. I opposed changing the carpet. Look at it. It is a shame for visitors to see. But I am glad that I said, "Do not change it. Show them that we are screwed around here." Nevertheless, we are prepared to spend $6 million.

What I am saying seems to be entertaining to some of you. That is my way of trying to convince people, but I know that you cannot be convinced.

An Hon. Senator: Button him up!

Senator Prud'homme: You are not having fun at my expense. I know that the way I express myself entertains you. I have always spoken in this fashion, and for 30 years I was popular in the national Liberal caucus. Every time I ran for office in an open battle, I was defeated; in a secret ballot, I won every election in the caucuses of Quebec and the national caucus. That says a lot. I was speaking up for those who did not want to speak up.

Honourable senators, you have a golden opportunity before you today. I am not trying to sit on both sides of the fence. People seem to say, "It seems we have more support now, so we will delay the process."

• (1830)

I have not liked the process from day one, and I said so in committee. I am proud to be a senator and I do not care about the biggest authority in this country telling us that we should bow to the House of Commons. Canadians will decide when it is time to bow to the House of Commons or to the wishes of members of the House of Commons, but in the meantime Canadians accept that there is a Senate in this country. They accept that Senator Thériault can stand up in the Senate, as he courageously did two years ago when public opinion was in favour of him voting against the $6,000 raise, and vote as he sees fit. He made a remarkable speech at that time. That is what people expect from senators and that is what I am trying to give to them.

The Hon. the Speaker: Honourable senators, I do not want to interfere in the debate, but I assume it is the wish of the Senate that I not see the clock.

Hon. Senators: Agreed.

The Hon. the Speaker: The motion before us is that of Senator Lewis, seconded by Senator Stanbury:

> That the Fourteenth Report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended by adding immediately after the words "further hearings" the following:
>
> And that it present its final report to the Senate on the message from the House of Commons, dated June 20, 1995, and the motion of the Honourable Senator Graham, dated June 28, 1995, no later than August 8, 1995.

Is there any other senator who wishes to speak?

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Is there an agreement on time?

Senator Kinsella: We have agreed on a five-minute bell.

The Hon. the Speaker: The vote will then be held at 21 minutes to seven o'clock.

Please call in the senators.

• (1840)

Motion in amendment of Senator Lewis negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Hervieux-Payette
Bacon	Lewis
Bonnell	Losier-Cool
Bosa	MacEachen
Bryden	Marchand
Carstairs	Neiman
Cools	Olson
Corbin	Pearson
Davey	Perrault
De Bané	Petten
Fairbairn	Riel
Gigantès	Robichaud
Grafstein	Stanbury
Graham	Stewart
Haidasz	Stollery
Hays	Thériault
Hébert	Watt—34

NAYS

THE HONOURABLE SENATORS

Andreychuk	Keon
Atkins	Kinsella
Balfour	LeBreton
Beaudoin	Lynch-Staunton
Berntson	MacDonald (*Halifax)*
Bolduc	Meighen
Buchanan	Murray
Cochrane	Nolin
Cohen	Oliver
Comeau	Ottenheimer
DeWare	Phillips
Di Nino	Prud'homme
Doody	Rivest
Doyle	Roberge
Forrestall	Robertson
Grimard	Rossiter
Gustafson	Simard
Jessiman	Stratton
Kelleher	Sylvain
Kelly	Tkachuk—40

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, we are now back to the main motion.

It was moved by the Honourable Senator Beaudoin, seconded by the Honourable Senator Di Nino, that the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-69 be now adopted.

Does any honourable senator wish to speak?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, if no other senator wishes to speak, with leave, I move that the result of the vote on Senator Lewis' motion be applied in reverse to the vote on the main motion.

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

Hon. Senators: Agreed.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

Motion agreed to and report adopted on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Keon
Atkins	Kinsella
Balfour	LeBreton
Beaudoin	Lynch-Staunton
Berntson	MacDonald (*Halifax*)
Bolduc	Meighen
Buchanan	Murray
Cochrane	Nolin
Cohen	Oliver
Comeau	Ottenheimer
DeWare	Phillips
Di Nino	Prud'homme
Doody	Rivest
Doyle	Roberge
Forrestall	Robertson
Grimard	Rossiter
Gustafson	Simard
Jessiman	Stratton
Kelleher	Sylvain
Kelly	Tkachuk—40

NAYS

THE HONOURABLE SENATORS

Adams	Hervieux-Payette
Bacon	Lewis
Bonnell	Losier-Cool
Bosa	MacEachen
Bryden	Marchand
Carstairs	Neiman
Cools	Olson
Corbin	Pearson
Davey	Perrault
De Bané	Petten
Fairbairn	Riel
Gigantès	Robichaud
Grafstein	Stanbury
Graham	Stewart
Haidasz	Stollery
Hays	Thériault
Hébert	Watt—34

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, we anticipate Royal Assent tomorrow at 12:30. With leave, therefore, I move that all motions, reports of committees and inquiries stand.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

> That when the Senate adjourns today, it do stand adjourned until Thursday, July 13, 1995, at ten thirty o'clock in the morning.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 10:30 a.m.

THE SENATE

Thursday, July 13, 1995

The Senate met at 10:30 a.m., the Speaker in the Chair.

Prayers.

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, before I call for statements, I should like to draw your attention to some distinguished visitors in the gallery.

[*Translation*]

Honourable senators, it is our privilege to welcome to the Senate gallery Senator Maganga, the First Secretary of the Senate of Congo, and Mr. Sziengue, the Executive Secretary of the Speaker. We are happy to greet them.

[*English*]

THE HONOURABLE JOAN NEIMAN

TRIBUTES ON RETIREMENT

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I take this opportunity today to say goodbye to our dear friend and colleague Senator Neiman. I do so with great reluctance and sadness. Though it is difficult to imagine, Senator Neiman retires from this place on September 9, and I bid her farewell today in case we are not assembled together before that time.

I do this obviously with mixed feelings. While I welcome an occasion to honour Joan, I also know that her presence in the Senate will be greatly missed by both sides, and particularly by myself.

Hard working, dedicated, sensitive, tough, with a great sense of humour, Senator Neiman has been a true credit to this institution. She has been a champion of the Senate and the importance of its place in our democratic system. She has led always by example within and outside this institution in the work she has done throughout this country and internationally, particularly in her leadership role over the years in the Inter-Parliamentary Union.

It is quite fitting, and in no small measure indicative of Senator Neiman's character, that her service in this chamber should culminate in the tabling of a thorough, reasoned, and well-received report on the daunting question of euthanasia, literally life and death. Senator Neiman has never shied away from tackling some of the more difficult issues which we as Parliamentarians are required to debate and legislate. Indeed, the very first speech she made in this chamber was on the subject of capital punishment. In rising, she said:

> I listened to the many eloquent and informed speeches which have been made on a wide range of topics and became convinced that I should not speak until I had something worthwhile to say. That criterion might have sentenced me to a life of silence.

Might I say, honourable senators, that we are glad she tossed aside such inhibitions and forged her own directions in this place.

Senator Neiman's energy and determination were clearly evident throughout her life. Early on, after finishing high school in Winnipeg and studying English at Mount Allison University in Sackville, New Brunswick, she joined the Women's Royal Canadian Reserves. She served with them for four years, retiring at the rank of Lieutenant Commander. She then attended law school at Osgoode Hall in Toronto, married Clem, and had three children: Dallis, Patricia, and David.

Before her appointment to the Senate, Senator Neiman practised law and kept involved politically, including running in the Ontario general legislations of 1963 and 1967. She has served the Liberal Party and the values and traditions it represents with vigour and commitment.

When Senator Neiman was appointed to the Senate in 1972, I believe there was a total, including herself, of eight women in this chamber. Now there are 20. That is a long road to have blazed a trail on, Senator Neiman. Since those days in 1972, this woman has been a full-time senator in this chamber and its committees. Her assignments have included the Senate committees on National Finance, Aboriginal Peoples, Foreign Affairs, Social Affairs, Science and Technology, and a Special Joint Committee on the Constitution of Canada.

• (1040)

However, her participation in the Legal and Constitutional Affairs Committee has been her central commitment for many years as a member from 1972 to 1995, as chair from 1980 to 1986 and 1986 to 1988. It was there that I, as a new senator, came to know her best and to record her exhaustive commitment to very difficult issues with admiration and tremendous respect.

Honourable senators, this committee has embraced not only technical, legal and constitutional legislation, it has been at the heart of sensitive social issues from child abuse to the rights of Indian women, aboriginal women, divorce laws, correctional justice and immigration. It led Senator Neiman to what has been a truly passionate concern as co-chair of the Special Senate Committee on Euthanasia and Assisted Suicide.

This week, honourable senators, she spoke with wisdom, candour and emotion in moving adoption of that report. It is a landmark document for this Parliament and for the country in providing a solid foundation for the further exploration and decisions that this subject will demand.

The name of Joan Neiman and all the colleagues in this chamber who served on that committee will be synonymous with an outstanding report.

In her maiden speech in November 1973, Senator Neiman said that she hoped she would be able to make some effective contribution to her province and to her country through this chamber, in which she was proud to serve. Honourable senators, in response, 22 years later, I would simply say: Joan, you have done much more than that for your province and for your country. The Senate is proud to have had you as a member. All of us offer our thanks and best wishes to you and your family for a happy, healthy and, we know, very active future.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the Leader of the Government has so ably given us the outstanding background and experience of Senator Neiman and her many contributions both in Parliament and outside that there is nothing left for me to do — and I do it with great pleasure — but to join with her to express to Senator Neiman our great appreciation for having given so much of her life to the service of her country.

Much is made about a parliamentarian's maiden speech. Senator Fairbairn correctly focused on the speech made in 1973 by Senator Neiman because it was on the always delicate and controversial topic of capital punishment. She spoke eloquently and convincingly as an abolitionist. However, much must be made of her last speech made here on Tuesday last when she moved the adoption of the report of the Special Senate Committee on Euthanasia and Assisted Suicide. It confirms that we have had in our midst over the last many years — but not enough years — a person whose concerns and sensitivities have always remained unchanged and which have earned her much deserved admiration.

Her retirement again proves that those who imposed a mandatory retirement age on this place did not think it through thoroughly.

While we will miss her when she leaves us in September, I know that the best wishes of my colleagues are with her in the many active years which are ahead.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, someone once said that you do not learn seamanship in calm weather. I do not have to tell honourable senators that Joan Neiman has steered the course through many rough waters in her time in this place, never hesitating to explore new channels with her well-known sense of adventure and her equally well-known courage and personal integrity.

It has been mentioned by our leader that Senator Neiman learned all about seamanship when she served with the Canadian navy. Equipped with a gifted legal mind, she has charted new courses in the Standing Senate Committee on Legal and Constitutional Affairs by conducting widely applauded hearings into the controversial areas of euthanasia and assisted suicide.

Whenever Senator Neiman speaks, whether in this chamber, in caucus or elsewhere, she is listened to very carefully and attentively, because when she speaks she has something important and worthwhile to say. Those are lessons and examples we can all take to heart in this chamber.

Most importantly, I want to thank Senator Neiman, my seat mate in the early years here, for her friendship, in good times and in bad. Of all her qualities, it has been her good cheer, her warmth and unfailing loyalty that I will always remember and cherish.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words about the remarkable contribution made by Senator Joan Neiman to the Senate. I have been in the Senate for seven years, and I have seen Senator Neiman at work in this house, on the Legal and Constitutional Affairs Committee and, for 16 months, on the Special Senate Committee on Euthanasia and Assisted Suicide.

A lawyer by profession, she has always had a keen interest in legal issues, criminal law, the Canadian Charter of Rights and Freedoms, federal law generally and, of course, the Canadian Constitution.

Personally, I have always set great store by Senator Joan Neiman's opinion when dealing with bills to amend the Criminal Code of Canada, and heaven knows, we have quite a few of these bills before the Legal and Constitutional Affairs Committee, where the senator's experience and expertise have always been more than welcome.

For 16 months — as the chair of the Special Senate Committee on Euthanasia and Assisted Suicide — she dedicated her time, energy and capabilities to solving problems and making recommendations. I have seldom been involved in such an interesting and indeed important committee.

[*English*]

Senator Neiman and I usually agree on many things — in fact, nearly all things. On the two points where we disagree — that is, on euthanasia and assisted suicide — I must say that her reasoning has always been very strong, respectful and impressive.

Honourable senators, in the field of law, it is impossible to agree all the time. I have always enjoyed a good exchange of views in the field of law. Law is social engineering. It is the civilized way to solve problems in a democracy.

Senator Neiman has proved beyond any reasonable doubt how useful the Senate is in our political and constitutional system. I hope that, on very important subjects, other special senatorial committees will continue to be regularly established. They may follow, and derive many advantages from, the example set by Senator Joan Neiman.

[*Translation*]

Honourable senators, I wish Senator Neiman a long and happy life. Her contribution to the Senate has been outstanding, and I am sorry to see her leave the Senate. She is truly the best.

[*English*]

• (1050)

Hon. Sharon Carstairs: Honourable senators, as was pointed out by our leader, when Senator Neiman came to this place, she was only one of eight women senators. Those of us women who have chosen political careers have had few role models to follow. No matter what our sphere of political activity was, Joan Neiman has been such a role model.

I also have a Manitoba connection and an Alberta connection with Joan Neiman. She lived in Manitoba as a child, where her father practised medicine and where she is still well known for some of her activities in Lac du Bonnet in her early childhood ventures.

When I first moved to Alberta and became active in the Alberta Liberal Party, lo and behold, one of her close personal friends, Hope Pickard, became a close friend of mine. I learned of their service in the armed forces together. I learned of Joan's political activity, and I began to watch with interest her activities as she campaigned and later became a member of this chamber.

Then I found myself sitting in this chamber with her on the Special Senate Committee on Euthanasia and Assisted Suicide, which she chaired. There I learned firsthand of the capacity of her intellect, of the warmth of her humanity and of her understanding of the human condition.

Honourable senators, by a strange quirk, if the fates allow, I, too, will have 23 years in this chamber, as Joan has had. If in that time I can contribute a very small portion of what Joan Neiman has contributed, then my service will be of value. How proud she must be of the magnificent contributions that she has made to this chamber and to this country.

Hon. Senators: Hear, hear!

Hon. Richard J. Doyle: Honourable senators, the tributes to Joan Neiman's contributions to the recent study on euthanasia and assisted suicide should never be allowed to obscure the great body of work that passed through this chamber while she was at the helm of the Standing Senate Committee on Legal and Constitutional Affairs.

It was my good fortune to be sent to that committee by Senator Roblin 10 years ago. I very quickly was seized with the thought that no just God would saddle one committee with hoards of immigrants, droves of juvenile delinquents and assorted constitutional crises at precisely the same moment in a country's history. Judge Nathan Nurgitz and our colleague Senator Beaudoin will understand what I mean. She was, as we are all aware, equal to those challenges. The preeminence of the Legal and Constitutional Affairs Committee owes much to her stewardship. I am one of her fans and I will remain so as she takes up her next career.

Hon. Raymond J. Perrault: Honourable senators, it is often said on the occasion of a senator's retirement from this chamber that he or she was an "adornment" to the place. Joan Neiman has been something more than an adornment in the Senate. She has been an active, working, inspirational force in this chamber and she will be very badly missed.

Senator Neiman has made an enormous contribution to Canada through her activities in the Senate. Her work has given the lie to those mindless critics out there who say that senators simply sit around and collect their per diems and other indemnifications for serving in this place. She has been active and dedicated. She has made friends in all parts of the country. In my own area of British Columbia, Joan Neiman is respected and well known. The quality of her work is recognized.

Honourable senators, as I have stated on such occasions before, I wish we had the position of senator emeritus so that individuals such as Senator Neiman could continue to contribute despite this ridiculous formal departure date at age 75.

On behalf of the people of my province, I wish her well, and every happiness in the future. Joan, please keep in touch with the Senate.

Hon. Lowell Murray: Honourable senators, in listening to the well-deserved tributes being paid to Senator Neiman this morning, my thoughts go back to another former colleague whose name was mentioned a few moments ago by Senator Doyle, namely, former Senator Nathan Nurgitz.

During much of the time that the Conservative government was in office, Senator Nurgitz, as the senior Conservative on the Legal and Constitutional Affairs Committee, and Senator Neiman, as its chair, enjoyed an excellent working relationship to which I can personally testify. Divided as they were by party loyalties, they were nevertheless united as one in their devotion to the law and in their concern that legal principles and the best legal and constitutional traditions be upheld in all our legislation.

During most of that time, the Conservative government was in a minority position in this chamber and in its committees. I do want, however, to record the fact that while Senator Neiman always did defend, as the Leader of the Government has said, the values and the traditions of the Liberal Party, her approach as chairman of that standing committee throughout was, without exception, thoroughly professional and eminently fair.

I want, therefore, in presuming to speak for former Senator Nurgitz, as I think I can, to express his appreciation and to add my own and that of the former government, even at this late stage, to my honourable friend for her excellent contribution to the legislative process during those years.

In a personal way, I wish her continued good health and good fortune in her retirement from this place.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, I would also like to take this opportunity, as a parliamentarian, to extend my best wishes to Senator Neiman. I had the privilege of working with her on the Special Senate Committee on Euthanasia and Assisted Suicide, and I was impressed by the determination and zeal with which she approached these issues and led the committee's proceedings.

Whenever problems arose in committee, and they did, Senator Neiman always managed to keep calm, no matter how stressful the situation. I think one of her outstanding traits is her ability to relax in moments of stress and take the time to clarify both sides of the issue.

Our experience as members of the Special Senate Committee on Euthanasia and Assisted Suicide has been unforgettable, and I think most of the credit for this should go to Senator Neiman. She always stayed calm. Setting aside whatever had happened during the day, she would sit down with us and talk about our personal concerns and other matters. She was able to maintain a businesslike atmosphere and, despite the seriousness of the topic, to do so with the occasional burst of humour.

I agree it is too bad that a person with her intellect should have to leave us at this time of her life. As I happen to sit right behind the senator, I have daily witnessed her interest in parliamentary issues and the dedication with which she reads all the documents she receives. She never skips a line, and I have been watching the senator for all these months and years.

I hope that if circumstances permit, she will feel free to share her opinions with us, even if she must leave us today.

[*English*]

• (1100)

Senator Neiman, you must go, however you will remain in our hearts.

Hon. H.A. Olson: Honourable senators, I want to associate myself with all of the comments made about Senator Neiman's career over the last 23 years here in the Senate. Whatever has been said has been well said but, perhaps, understated, even in regard to the contribution that she has made to this chamber. This is why I want to associate myself with all those kind words.

Perhaps on a somewhat more personal basis I may be permitted to say that both Senator Murray and I owe her even more than he indicated. I have had the good fortune of having Senator Neiman sit behind me, both on this side of the house and on the other side of the house when we were in opposition. There were some days during Question Period when Senator Murray, who was then Leader of the Government, was particularly annoying, should I say, or something to that effect. Senator Neiman agreed a long while ago, mostly while we were on the other side of the house, that she would be my guardian, and cool me down when we had those Question Periods to which I just referred. I think you should know, Joan, that both Senator Murray and I are grateful for your contribution in this respect.

We will miss you for the reasons that have already been adequately described. I join with all of those who wish you well in whatever you intend to do with what I am sure will be many more productive years. We hope you will be involved in interesting matters, and that you will also remember that there comes a time when you should rest a little bit from all of your hard work and take advantage of a very well-deserved, quieter time, if I may call it that.

[*Translation*]

Hon. Philippe Deane Gigantès: Honourable senators, let us not forget that Senator Neiman has never denied anyone in this house her friendship, a friendship that is very much appreciated. When people ask what the Senate is and why should we have a Senate, all we have to do is describe the senator, and the answer is obvious. People are convinced and they love you.

Hon. Rose-Marie Losier-Cool: Honourable senators, as the most junior senator appointed to this house, I also wish to take this opportunity to pay tribute to Senator Neiman.

At my first committee meetings, I was struck by the integrity and intellect of Senator Neiman and especially by her desire to share a friendship. Now, I should like to wish her a happy retirement.

I was flattered when someone in this house told me that we shared a physical likeness. After the words of praise I heard today, I am doubly flattered. Senator Neiman, I hope that some day my contribution to this house will resemble yours.

[*English*]

Hon. Richard J. Stanbury: Honourable senators, because my leader and others dealt comprehensively with the life and times of Senator Joan Neiman, I wish to restrict my remarks to fond memories of over 35 years of friendship and working together, in politics and in the Senate.

Joan's involvement in community service led her into active politics. Her interest in the social policy of the Liberal Party, both provincially and federally, naturally culminated in her candidacy for election to the provincial legislature, and an important contribution to the effectiveness of the federal party.

She and her husband Clem have had a comprehensive partnership in marriage and in the raising of a wonderful family, in law as the law firm of Neiman and Bissett — which is Joan's maiden name — and in a deep commitment to community service, as well as in their pursuit of politics.

Through the sixties and seventies, a group of us worked to revitalize the Liberal Party in Toronto and Ontario. We were not always successful, but I doubt if anyone ever enjoyed politics more than we did.

In the Senate, Joan has been my mentor. Her great service as Chairman and Deputy Chairman of the Standing Senate Committee on Legal and Constitutional Affairs has been noted and acknowledged by government, opposition and independent senators throughout the years. I learned a great deal by just trying to follow in her footsteps. Her most recent, massive effort as Chairman of the Special Senate Committee on Euthanasia and Assisted Suicide put the icing on the cake of her years of conscientious, intelligent and compassionate service in this chamber.

Senator Neiman's departure will be a sad loss, not only — and particularly — for the government side of this chamber, but for the chamber as a whole. May I add my own good wishes and those of my wife, Marg, to Joan and Clem and their family. To Joan, I wish good health and many years of life in which to enjoy a well-deserved retirement.

Hon. Marcel Prud'homme: Senator Neiman, I wish the very best for you. Everything has been mentioned except for one thing.

I have known you as a result of our association in the Inter-Parliamentary Union, which we have served for so many years. You were chairperson of the Human Rights Commission for many years. Your work all over the world on these issues may not have been known in Canada, or even in the Senate, however just last weekend a female parliamentarian from Geneva, who was aware that you had chaired the Special Senate Committee on Euthanasia and Assisted Suicide, kindly asked me to send her 10 copies of your report. This illustrates that your work is known not only in the Senate and across Canada, but also within certain international institutions. You are well remembered there. You will be well remembered by me. I wish you good luck.

Hon. Jerahmiel S. Grafstein: Honourable senators, Senator Joan Neiman seems so young, so vibrant, so energetic, so intellectually engaged, that I was surprised today to find that her retirement was quickly approaching. I just simply cannot believe it.

I have had the privilege of sitting with Senator Neiman on a number of committees and in caucuses. At all times, Joan's was a voice of moderation, a voice of reason, a voice of great tactical skill, a voice of intelligence and, above all, she was always courteous, even to those with whom I know she violently disagreed, including me.

Having said that, honourable senators, Joan is no angel. My roots in the Liberal Party go back to the early sixties when Joan and her husband Clem were considerable and aggressive political forces. While we shared many views about the Liberal Party and the importance of it, on many occasions we found ourselves on different sides and supporting different personalities. However, throughout that whole period, our personal relationship was good and sound, and always pleasant.

The Neimans were — and are — considerable political activists, deeply committed to the public affairs of Canada at each level of political activity. Theirs is one of those great stories which, as alluded to by Senator Stanbury, is rarely told about the political life of our country and the life of our party.

Joan goes on to a well-deserved retirement, but I do not think it will be a rest. I think it will be the start of yet another, equally new, exciting and energetic career. I want to thank both Senator Neiman and her husband, Clem, for the pleasure of their company.

Hon. Wilbert J. Keon: Honourable senators, I also should like to take this opportunity to wish Senator Neiman well. I had the privilege of spending more time with her over the past year than I would have liked. However, I was truly impressed with her tremendous legal knowledge, her tremendous experience, her tremendous dedication, her tremendous flexibility in bending to other people's strong convictions which were in contradiction with her own, and her ability to listen to witnesses with an objective mind, consequently championing a report which I have had the privilege of presenting in the medical community.

As I mentioned in my previous brief remarks, I had the privilege of presenting the contents of this report across the country in a telemedicine conference to medical schools as well as to many of our health care institutions. All comments I received about the report were very complimentary. I have received several letters requesting copies of it.

We had some very difficult times in the committee trying to keep our scribes on course, and trying to get a working consensus in order to come out with a reasonable result. The success of that report is Senator Neiman's success. It was her ability to hold things together as a chairperson that made it all work.

Senator Neiman, I, too, wish you very well. It was a great pleasure and honour to work with you on this committee. I hope you have a wonderful retirement, and I hope to see more of you.

Hon. M. Lorne Bonnell: Honourable senators, I did not realize what a great seatmate I had until today. I took Senator Neiman for granted until now, and now I hate to see this great and dynamic person leave. Everything we heard about her today is true. Senators do not lie.

Joan, I will miss you. You have been a great companion, although we did not always agree.

With regard to the report of the committee on euthanasia, which she chaired so well, I was prepared to give her a hard time about it because I thought she would recommend that we start killing people, which I was dead against.

As Senator Prud'homme said, Senator Neiman was the chairman of the Human Rights Committee of the parliaments of the world. She has often raised the issue of the imprisonment of parliamentarians around the world. She fought to have them released. She worked at that for many years and did an excellent job of it.

In light of her work in that area, I told her that if she wanted to recommend that we start killing people, I would give her a hard time. Thank God that my doctor friend, Senator Keon, after working so hard to save lives, would not recommend that we start to kill people. I wish to congratulate Senator Neiman for her hard work on that committee.

More important than all of that are the times we had together in the parliamentary dining room. We generally dined there at the same time and had some very dynamic discussions at the round table. We did not always agree. Joan's view was often different from my own, and she has a good legal mind with which to argue her position. However, I am quite sure that I influenced some of her actions in the committee, and may have influenced her to bend somewhat, as Senator Keon has said that she did.

I will miss you, Joan. I hope that my next seatmate will be as young and as beautiful as you, and as easy to get along with. We will all miss you. May you have a very happy retirement.

Hon. Senators: Hear, hear!

Hon. Joan Neiman: Honourable senators, I thank you for all the lovely bouquets. I will press them in my memory book and trot them out for my children to read every Mother's Day.

George Burns said that you can tell that a man is getting old when he bends down to lace his shoes and wonders what else he can do while he is down there. I gave up high button shoes a long time ago, so this date is coming as a bit of a shock to me, I must say.

When I think back over the years that I have been here, I realize how much this chamber has changed. Senator Olson and I were talking yesterday about how different the chamber is, and how differently we conduct our business today.

When I arrived here, I was perhaps only the seventh or eighth woman senator to have been appointed. This room seemed to be filled with white-haired people, overwhelmingly male. They were courtly; many of them were portly; a number of them were very good speakers, in fact orators.

They were so kind to me as a new member. They taught me. Senator Choquette, who sat in front of me, prided himself on his command of the English language. He used to listen to me very carefully, and correct me if I was not using proper grammar at any time. He would then give me a little lecture about how we really should not read our speeches. Unfortunately, that is still a bad habit of mine.

• (1120)

Mr. Fortier, a wonderful man, was the Clerk of the Senate at that time. He not only knew his rules, he knew parliamentary history. He loved to chat about what had gone on here. He reminded me so much of Senator Forsey who came along a little later. Senator Forsey became my great friend and mentor. From time to time, we did get into some rebellious actions. He stimulated exciting thought and controversy in this chamber. It was a pleasure to have served here with Senator Forsey.

When I was first appointed to this place, our committee meetings were run somewhat differently. As Senator Olson said, in those days we took a rather cavalier attitude to legislation, with a bill sometimes being dealt with in one day. Obviously, there was not as much controversy then as there is today. The opposition at that time was very small; and only a few committees had any permanent staff.

My committee beginnings were on the Standing Senate Committee on Legal and Constitutional Affairs and on the Special Senate Committee on Science and Technology with Senator Lamontagne as the chairman. It was an eye-opening experience because my training and interests had been in the humanities field. It was a wonderful experience to be on that committee with Senator Lamontagne and to realize, in the end, what a special study in this Senate could accomplish. That study certainly changed, immeasurably, the national and government institutions, and indeed the progress of science in Canada.

To be a member of the Legal and Constitutional Affairs Committee under Senator Goldenberg was a wonderful learning experience for me. I thoroughly enjoyed being a member of that committee all the years I was here.

Honourable senators, as parliamentarians, we have many opportunities in the Senate to accomplish things outside the legislative field. I decided early on that I would confine myself to one parliamentary committee, and that was the Inter-parliamentary Union. That involvement provided me the opportunity to learn about and understand people around the world. I was especially fortunate to become active in the human rights field.

One of my greatest feelings of accomplishment stems from my travels to Malaysia and Indonesia as a representative of the Human Rights Committee. Two of us went there to persuade the heads of those countries to release political prisoners, one of whom had been in prison for over 20 years. It was a delicate and difficult mission. It gave me a great deal of satisfaction when all those people were released over the next couple of months.

Honourable senators, it is progress on difficult issues such as that that I believe the Senate can accomplish. Senators have tremendous opportunities to realize significant goals, not only as part of their parliamentary functions, but also outside their duties in parliament for the good of Canadians and the peoples of the world.

Of course, there are frustrations. I have been frustrated more than once in my time here. I can recall within six weeks of being here that I mentioned to Senator Connolly that I thought I would make a speech one day on the reform of the Senate. He said to me, "Now, Joan, just sit back for a little while and listen to what is going on and you will begin to understand that this business is a little more complicated and harder to untangle than you think it is right now." That was good advice. We are still struggling with that issue.

Honourable senators, I hope there will be changes. I always hoped that I would be here when there were some significant changes made, not only to the Senate, but to the parliamentary system. I hope this government will find the will to go ahead with some of them.

Honourable senators, I am happy that my career in the Senate did end with the report of the Special Senate Committee on Euthanasia and Assisted Suicide being adopted. It was a marvellous experience to work with the people I served with and to hear what I did. I am most grateful to the members of that committee for their outstanding effort, because it took all of us, in a truly concerted effort, to produce the kind of report we finally hammered out.

Honourable senators, one mission remains unaccomplished. It relates to a request by my husband from whom I received 23 roses the other day in commemoration of my years here. Each one of the 1,000 trips he made to drive me to the airport was stressful because I could never organize myself in time to leave for the airport. I always promised I would be organized and ready the next time, but I was never able to do it. We covered the 20 miles with my husband muttering to himself, "You know I have a heart condition. You know this stress might cause an ulcer. You promised me last time we would not do this," but it happened on every occasion, right up to the very last trip.

The roses and the memories mean a lot to me. I regret, for his sake, that I did not manage this one last undertaking he requested of me. He wanted me to introduce a motion in the Senate to study ways of loosening the ties with the monarchy. He said it would be a great contribution to initiate that debate in the Senate. However, I kept putting it off. I promised that if we managed to complete our committee report in good time, I would see what I could do about it. Honourable senators, I can just imagine the controversy that subject-matter would have caused. Perhaps it is just as well that I am leaving when I am.

Honourable senators, I do not want to leave without thanking all the members of the Senate, the table officers, the Gentleman Usher of the Black Rod, and all the staff. Every employee here whom I have had anything to do with has been kind and courteous all these years. It has been a pleasure to be here and work with you all, every one of you. I thank you again.

Hon. Senators: Hear, hear!

THE SENATE

TRIBUTES TO PAGES AND TO STAFF

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I would like to take a moment to thank the four pages who have served in the Senate with such dedication over the last two years and who are now leaving us to pursue their various educational and professional interests.

Carol Taylor is moving to Montreal to teach music and will be publishing an autobiography sometime in the fall. Catherine Berger will pursue her fourth year at Ottawa University to obtain a specialization in mathematics and computers. Natalie Slawinski intends to continue her studies at Carleton in political science and history. Yannick Hébert pursues his studies in the summer at Ottawa University to complete a Bachelor of Commerce with specialization in accounting, and he has been hired by a private Ottawa firm to start work in September.

No one, honourable senators, ever expressed the love of Parliament more beautifully than Sir Wilfrid Laurier when he said:

> This cathedral is made of marble, oak and granite....It is the image of the nation I would like to see Canada become. I want the marble to remain marble, the granite to remain granite and the oak to remain oak.

I believe that Laurier meant that Parliament symbolized our unity and diversity, and I hope Carol, Catherine, Natalie and Yannick will always remember this place in that way. I hope further that you will remember that, no matter what road you seek in life, you will always be, in your own special way, the marble, and the granite and the oak from which the Canada of the future will be shaped.

I hope you have learned something of value in this place. We are all grateful for your many kindnesses and your unfailing courtesy. You have served this chamber in the best tradition of the hundreds of pages who preceded you, those who remain, and surely those who will follow for many years into the future. Congratulations, good luck, and God bless you all.

Hon. Senators: Hear, hear!

Senator Graham: As we approach the summer break, may I also express our gratitude to each and every member of the Senate staff, both in the chamber and outside, for their outstanding work and continuing dedication to this place.

Hon. Noël A. Kinsella: Honourable senators, on behalf of colleagues on this side of the chamber, we join with the words of the Deputy Leader of the Government in expressing our gratitude to this group of pages who are leaving us and to all those who support the work of this chamber in various capacities as we enter the summer period.

We express a special vote of thanks to Carol Taylor, Catherine Berger, Natalie Slawinski, and Yannick Hebert, the pages who are leaving us at this time.

Honourable senators, the competition that is conducted by the Senate when seeking pages across Canada is a highly competitive program. In many ways, I think it is true to say that we get the cream of the crop. I hope the pages who are selected to come and serve in this chamber will share their experiences with many others through the various careers that they will pursue in a symbolic and a real way, for it is but a small number who get to serve here out of the many who seek to serve.

In closing, I say to Carol Taylor, who will be pursuing a career in music, that, while everything she heard in this chamber may not have sounded like music, she take guidance from the great patron of music, Saint Cecilia, rather than from what she may have heard in this chamber.

I say to Catherine Berger, who I understand is going on to specialize in mathematics, Senator Hébert and I, who try to keep numbers straight, might have to appeal to her mathematical skills, and we wish her well in that field.

Natalie Slawinsky is carrying on in the field of political science and history, and I am sure that we will hear from her in a variety of capacities. The political experience gained here might be of help to her.

Finally, to Yannick Hébert, who is completing his Bachelor of Commerce degree with a specialization in accounting, I trust that the work of the chamber and the work he may have seen flowing from the National Finance Committee will be of some profit to him in his career.

On behalf of the members of the opposition, we wish God speed to those pages.

Hon. Senators: Hear, hear!

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

July 13, 1995

Sir,

I have the honour to inform you that The Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 13th day of July 1995, at 12:30 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Anthony P. Smyth
Deputy Secretary, Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

ROUTINE PROCEEDINGS

FIREARMS BILL

PRESENTATION OF PETITION

Hon. Leonard J. Gustafson: Honourable senators, I have a petition to Parliament assembled on Bill C-68, the Firearms Act.

We, the undersigned citizens of Canada, wish to protest the following provisions in Bill C-68:

1. The universal registration of long guns.

2. The requirement of a Firearms Possession Certificate to replace the Firearms Acquisition Certificate.

3. Registration and controls on the purchase of ammunition.

4. Provisions that will ban the purchase and use of .25 and .32 caliber handguns and handguns with a barrel length of less than 4.14 inches.

5. Regulation by Order in Council.

Therefore your petitioners humbly pray and call upon Parliament to refrain from passing Bill C-68 as it presently stands with the above-mentioned provisions.

• (1140)

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have several delayed answers. I have a response to a question raised in the Senate on May 3, 1995, by the Honourable Senator Pierre Claude Nolin, regarding discussions with provinces on Manpower training; a response to a question raised in the Senate on May 23, 1995, by the Honourable Senator Forrestall, regarding the Federal-Provincial Strategic Highway Improvement Program; another response to a question raised in the Senate on May 24, 1994, by the Honourable Senator Forrestall regarding the Federal-Provincial Strategic Highway Improvement Program; and a response to a question raised by the Honourable Gerald J. Comeau on May 24, 1995, regarding the Federal-Provincial Strategic Highway Improvement Program.

I also have a response to a question raised in the Senate on May 25, 1995, by the Honourable Senator Comeau, regarding the Federal-Provincial Strategic Highway Improvement Program. I have a response to a question raised in the Senate on May 25, 1995, by the Honourable Senator Forrestall, regarding the Federal-Provincial Strategic Highway Improvement Program. I have a response to a question raised in the Senate on May 25, 1995, by the Honourable Senator Lowell Murray, regarding the Federal-Provincial Strategic Highway Improvement Program; a response to a question raised in the Senate on June 5, 1995, by the Honourable Senator Di Nino regarding the protest over granting a visa to a Taiwanese official; and a response to questions raised in the Senate on April 5, 1995, and June 6, 1995, by the Honourable Senator Lowell Murray regarding remarks by Senator Stollery on Mexico.

I also have a response to a question raised in the Senate on June 6, 1995, by the Honourable Senator Forrestall, regarding the Federal-Provincial Strategic Highway Improvement Program. I have a response to a question raised in the Senate on June 14, 1995, by the Honourable Senator Andreychuk, regarding the commitment of France to continuing nuclear testing. I have a response to a question raised in the Senate on June 20, 1995, by the Honourable Senator Ottenheimer, regarding the United Nations, and possible changes to the application of the veto; a response to a question raised in the Senate on June 22, 1995, by the Honourable Senator Spivak, regarding the Royal Winnipeg Ballet and loss of student grants due to budget cuts; a response to a question raised in the Senate on June 27, 1995, by the Honourable Senator St. Germain, regarding job creation.

HUMAN RESOURCES

DISCUSSIONS WITH PROVINCES ON MANPOWER TRAINING—GOVERNMENT POSITION

(Response to question raised by Hon. Pierre Claude Nolin on May 3, 1995)

An offer was made in June 1994 to all provinces, including Quebec, to give them much more responsibility and flexibility for federal labour market programs.

Under this agreement, provinces would be able to plan an extensive array of federal labour market programs such as institutional training, workplace training and job creation. In Quebec, last year, the amount allocated to these programs by the federal government was valued at about 60 per cent ($180M) of the federal labour market program budget.

Provinces would manage purchase of institutional training on behalf of unemployed Canadians. The proposed agreement would give that important responsibility to the provinces. This offer would also make possible provincial planning and implementation of "single windows" where people could go and have access to all provincial and federal labour market programs and services.

This would not only be a major improvement in the delivery of services; it would also reduce any overlap and duplication that may currently exist.

Finally, the offer would give provinces responsibility for the management of other programs that are very important for Quebecers such as Co-operative Education and the Canada Employment Centres for Students.

Unlike some of her counterparts in other provinces, such as in Saskatchewan, Quebec's Minister for Employment and Training has chosen to reject this latest federal offer.

The federal government, however, will continue to cooperate fruitfully with Quebec and other provinces in a number of areas such as strategic initiatives. This will continue in the context of the new programming.

The federal government is committed to making real progress with provinces in the area of labour market programming.

TRANSPORT

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—CANADA-NOVA SCOTIA AGREEMENT—DIVERSION OF FUNDS TO CAPE BRETON PROJECT—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on May 23, 1995)

There have been tolls on the Trans-Canada Highway in the past. The Canso Causeway, which links the Trans-Canada Highway on the mainland with the Trans-Canada Highway on Cape Breton Island, was once a toll facility. Additionally, while not as part of the Trans-Canada Highway system, other provinces presently operate toll highways and have done so in the past. British Columbia presently has a toll highway; Quebec, in the past, had several toll highways; and Ontario is presently constructing a toll highway in Toronto.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—DISCUSSIONS BETWEEN MINISTERS ON DIVERSION OF FUNDS FROM NOVA SCOTIA HIGHWAY PROJECT—REQUEST FOR PARTICULARS

(Response to question raised by Hon. J. Michael Forrestall on May 24, 1995)

I will have the Strategic Highway Improvement Program Agreement, as well as other documentation that is available, tabled.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—INTRODUCTION OF TOLL BOOTHS ON TRANS-CANADA HIGHWAY

(Response to a question raised by Hon. Gerald J. Comeau on May 24, 1995)

No. The Canso Causeway in Cape Breton is part of the Trans-Canada Highway and it had tolls on it from when it opened on May 21, 1955, until they were removed on December 13, 1991.

Yes, there is nothing in the Trans-Canada Highway Act or in the associated agreements that prohibits tolls.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—NOVA SCOTIA—DIVERSION OF FUNDS FROM DESIGNATED PROJECT—KNOWLEDGE OF TRANSACTION BY PRIME MINISTER—GOVERNMENT POSITION

(Response to question raised by Hon. Gerald J. Comeau on May 25, 1995)

The process established over many years, since at least the early seventies, and exercised many times with each province with which the federal government has highway agreements is that, at the request of a province, changes are accommodated within existing funding limits of highway agreements. These agreements are made between the respective Ministers of Transport.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—NOVA SCOTIA—DIVERSION OF FUNDS FROM DESIGNATED PROJECT—ALTERNATE METHODS OF FUNDING—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on May 25, 1995)

In the preamble to the question posed by Senator Forrestall, a reference is made to an earlier oral response by the Leader of the Government in the Senate which recognized that remarks had been made about "other significant national highways." The preamble further referred to "significant Canadian highways, possibly even connectors to the Trans-Canada highways."

There are currently tolls being charged on that portion of the National Highway System known as the Coquehalla Highway, at 12 tollbooths located approximately one third of the way between Merrit and Hope, B.C.. Tolls also are collected by three bridge authorities which have been established under provincial statutes to operate bridges which connect parts of the National Highway System: these tolls are collected on two bridges in the Halifax/Dartmouth area, namely the A. Murray MacKay Bridge and the Angus L. Macdonald Bridge, linking Halifax/Dartmouth to Highway 101 to Yarmouth and Highway 102 to Truro, as well as on the Saint John Harbour Bridge in New Brunswick which links Highway 7 (Saint John to Fredericton) and Highway 1 (Sussex to St. Stephen.)

There are currently no tolls on any highway designated as a "Trans-Canada Highway." Tolls were charged between 1955 and 1991 on that portion of the Trans-Canada Highway known as the Canso Causeway in Nova Scotia. The toll booth was located on the mainland entrance to the Causeway and was collected as vehicles passed from the mainland to Cape Breton.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—NOVA SCOTIA—DIVERSION OF FUNDS TO PROJECTS NOT COVERED BY AGREEMENTS—GOVERNMENT POSITION

(Response to question raised by Hon. Lowell Murray on May 25, 1995)

Yes, a province is free to divert monies from such an agreement to other highway projects not covered in the agreement with the agreement of the federal Minister of Transport. The province decides which, where, when, and how highway projects are to be funded and how the amount of money agreed to with the federal government is to be apportioned amongst projects while recognizing that the funds from a particular agreement, or part thereof, may represent only a portion of the funds needed to complete said portion, part, or piece of a project.

CANADA-CHINA RELATIONS

PROTEST OVER GRANTING OF VISA TO TAIWANESE OFFICIAL—GOVERNMENT POSITION

(Response to question raised by Hon. Consiglio Di Nino on June 5, 1995)

The Taiwanese Vice-Premier, Hsu Li-teh, came to Canada to receive an honourary degree on June 1, 1995. The Government of China filed a formal diplomatic protest over this visit which stated that the decision to grant the visa to a Taiwan official violates the principles underlying Canada-China bilateral relations.

Canada made clear that this visit in no way signifies a shift in Canada's "One-China Policy." Canada pointed out that the visit resulted from a private invitation from the University of Victoria to Mr. Hsu to receive an honourary degree. In addition, the degree was conferred on Mr. Hsu in his capacity as Chairman of the Council of Economic Development and Planning of Taiwan and not as Vice-Premier.

Mr. Hsu's visit to Canada was entirely private and limited to a short period of time — four days. Mr. Hsu had no official meetings and did not make any public appearances other than the convocation at the University of Victoria. Thus, this private visit does not in any way constitute a shift in Canada's "One-China Policy."

FOREIGN AFFAIRS

REMARKS OF SENATOR STOLLERY ON MEXICO—POSSIBILITY OF CANADA'S WITHDRAWAL FROM NAFTA—GOVERNMENT POSITION

(Response to questions raised by Hon. Lowell Murray on April 5, 1995 and June 6, 1995)

In response to the April 4th speech by Senator Peter Stollery concerning Mexico, the position of the government is that Mexico's current economic woes are in no way caused by the NAFTA, nor should they lead us to doubt the value of the Agreement. Quite the contrary: the NAFTA is clearly a major success and we intend to press ahead with its expansion, the next country to join being Chile.

In 1994 the Canadian economy expanded by 4.5%. The International Monetary Fund predicts that, in 1995, Canada will again lead economic growth among the G-7 countries. This growth is export led, and the NAFTA is playing a critical part in it.

The statistics are telling:

In 1994, the first year of NAFTA, Canada's merchandise exports to the USA increased by 23%, to Mexico by 27%.

In spite of the drastic devaluation of the peso, Canadian exports to Mexico in the first quarter of 1995 are keeping pace with our exports over the same period in 1994.

Trade in goods and services between the NAFTA partners now supports more than 1.5 million jobs in Canada and directly generates over 25% of our GDP.

In terms of exports relative to GDP, we now export more than Japan and Germany.

Mexico's entry into the NAFTA has allowed Canadian firms to expand sales in sectors that were previously highly restricted, such as autos, financial services, trucking, energy and fisheries. Our export mix has broadened dramatically and we expect recently-announced privatisation plans to create more opportunities for Canadian firms in telecommunications, ports, airports, power stations and petrochemicals.

The economic fundamentals of Mexico are sound. Analysts the world over believe that the recent crisis in Mexico was essentially one of confidence, and that full recovery is only a matter of time. When that recovery comes, NAFTA will allow Canadian exporters to reap the fullest possible benefits from it.

At the June 15-17 Halifax Summit, the Prime Minister and other G-7 leaders together publicly welcomed the positive economic turn of events in Mexico. The Prime Minister and the leaders of other G-7 countries and Russia also publicly stated their support for "Mexico's bold steps towards political reform and dialogue."

While the Mexican authorities did not make either an informal or a formal protest with the government regarding the April 4, 1995, speech by Senator Stollery, the Mexican Embassy did informally contact the government for a reaffirmation of its policy on Mexico which continues as described above.

TRANSPORT

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—NOVA SCOTIA—FREEZING OF FUNDS TO AWAIT OUTCOME OF INQUIRY OF AUDITOR GENERAL—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on June 6, 1995)

The Auditor General has indicated that, in the course of the review thus far, there is nothing to report. The Auditor General is carrying out his responsibilities and, if he finds anything to report, he will do so.

The Trans-Canada Highway is not a federal highway. Like other highways, it is under provincial jurisdiction. The Government of Canada respects provincial jurisdiction concerning highways and is responsive to provincial requests for amendments to federal/provincial highway agreements.

The two highway agreements dealing with federal/provincial funding for highway projects in Nova Scotia clearly contain clauses allowing for amendments to be made, as do agreements with all provinces.

There is no justification for directing any or all provinces to put their highway programs on hold, as virtually every province has been involved in amendments to its original highway agreements.

Decisions regarding tolls are, similarly, a matter of provincial jurisdiction on provincial highways. Tolls have existed previously on the Trans-Canada Highway in Nova Scotia, on a portion known as the Canso Causeway, from 1955 to 1991.

EXTERNAL RELATIONS

COMMITMENT OF FRANCE TO CONTINUING NUCLEAR TESTING—GOVERNMENT POSITION

(Response to question raised by Hon. A. Raynell Andreychuk on June 14, 1995)

Canada regrets the decision by France to resume nuclear testing.

Canada does, however, welcome President Chirac's commitment to a definitive end to French testing by May 1996, at the latest, and France's accession to the Comprehensive Test Ban Treaty (CTBT) at that time "without reservations."

Canada hopes that this decision will not undermine the commitment of the other nuclear weapon states to maintaining their announced moratorium on nuclear testing and that the negotiations toward a CTBT will continue to move forward vigorously.

Canada was pleased to join the other seven participants in the Halifax Summit in supporting the Chairman's Statement:

"We are encouraged by the growing international recognition of the need to complete without delay universal, comprehensive and verifiable treaties to ban nuclear weapons tests and to cut off the production of fissile material for nuclear weapons and other nuclear explosive devices."

This decision by France demonstrates the urgent requirement for an early conclusion to the CTBT negotiations.

UNITED NATIONS

POSSIBLE CHANGES TO APPLICATION OF VETO—GOVERNMENT POLICY

(Response to question raised by Hon. Gerald R. Ottenheimer on June 20, 1995)

The independent working group on the future of the United Nations, established by UN Secretary General Boutros Boutros-Ghali in 1993, published its report June 19. The Canadian government has just received the report and will be studying it closely.

Canada strongly supports the need for careful reform of the UN as the global body charged with working for international peace and security, sustainable development, and human rights and the rule of law. The Minister of Foreign Affairs and the Prime Minister have both spoken in depth on reforming the United Nations in recent months.

The recent Halifax Summit devoted considerable attention to UN reform and put forward a number of concrete proposals which it is intended should be pursued over the coming months in the appropriate forums.

There are several high level groups already established in the UN itself; notably on reform of the security council, of UN finances, and of the system of assessment. Canada is a member of these bodies.

The question of the use of the veto is one of the most sensitive issues being considered by the high level working group in New York that is examining all aspects of security council reform. Canada welcomes the post-Cold War trend towards a diminished use of the veto by the permanent members of the security council. We very much hope that this trend will continue.

This latest report is timely, coming as it does in the fiftieth anniversary year of the United Nations. It is the government's intention to examine it closely and work with other countries to implement practicable and meaningful measures of reform. At the same time, it is important to recognize that over the years there has already been considerable reform of the UN and that this is a process which will have to continue. There will always be a need to update and reinvigorate an organization which is as important to the world as is the UN.

CANADA COUNCIL

ROYAL WINNIPEG BALLET—LOSS OF STUDENT GRANTS DUE TO BUDGET CUTS—POSSIBILITY OF ALTERNATURE FUNDING—GOVERNMENT POSITION

(Response to question by Hon. Mira Spivak on June 22, 1995)

This government recognizes the importance of ensuring the continuity of professional modern dance in Canadian society. For this reason, HRDC has established the Cultural Human Resources Council (CHRC) to develop industry-driven solutions to human resource development issues.

Discussions are currently underway on an Industrial Adjustment Agreement to clarify the roles of national training institutions and initiatives in the cultural sector and to identify sources of adequate funding. This process will be managed by the CHRC and participation will be solicited from the major national training institutions/initiatives in the cultural sector as well as from the Canada Council and the Department of Canadian Heritage.

HRDC will continue to work with its partners to explore possible funding sources for pre-professional training institutes such as the Royal Winnipeg Ballet.

HRDC is currently assisting the Royal Winnipeg Ballet through its Student Career Placement program. The Royal Winnipeg Ballet could also contact CHRC for information about the Training Initiatives Program administered by CHRC and the application process for nationally managed projects which are recommended by CHRC. This would also give the Ballet the opportunity to learn about, and become involved in, the work of CHRC towards a human resources development strategy for cultural workers.

While this government has long provided funding for post-secondary education to further the achievement of a wide range of national economic, social, and cultural objectives, it should be noted that post-secondary and

academic education remains the jurisdiction of the provincial governments. However, HRDC will continue to work with the provinces and stakeholders to ensure that Canadians have access to a post-secondary education that will serve them well in the future.

NATIONAL FINANCE

JOB CREATION—GOVERNMENT POLICY

(Response to question raised by Hon. Gerry St. Germain on June 27, 1995)

The department of Human Resources Development Canada (HRDC) has several programs aimed at job creation. Section 25 — Job Creation of the Unemployment Insurance Program assists unemployed workers to get back into the workforce by maintaining and enhancing their skills while receiving UI benefits when other employment is not available. In 1994-95, approximately 26,000 jobs were created under Section 25 of the UI Program.

HRDC also offers the Self-Employment Assistance (SEA) component which helps unemployed people to start their own business by providing income and technical support through early stages of business creation. Since November 1993, SEA has helped more than 42,861 Canadians to start their own business.

Job Development provides training and/or work experience to participants by contributing to training related costs, wage subsidies, and other specified costs to employers who carry out projects. In 1994-95, approximately 10,250 jobs were created under the Job Development program.

Job Opportunities provides employers with a wage subsidy to hire selected clients. The objective of this component is to provide clients with job opportunities that will likely lead to long-term employment. In 1994-95, approximately 13,945 jobs were created under this program.

HRDC is now developing the Human Resources Investment Fund (HRIF). HRIF's objective is to help people find and keep jobs. Re-employment measures that work are at the forefront of HRIF strategies. These measures are not yet fully developed. However, based on preliminary discussions and consultations, it is expected that they will:

— develop the employability of individuals so they will be equipped to participate in the economy; and

— support small and medium business in creating jobs, by removing barriers and disincentives to work.

As set out in the red book, the commitment to youth is being met through several of HRDC's youth initiatives. Student Summer Job Action (SSJA), which will result in the creation of 44,500 summer jobs for students, is part of federal government's comprehensive action plan to assist youth. There has been a shift in funding from short term make-work programs to programs which focus on school to work transition with longer term benefits.

The Youth Internship Program (YIP) and Youth Service Canada (YSC) are long-term interventions that help to bridge the gap between school to work. Since 1994, under YIP, over 5,600 jobs have been created and, under YSC, over 1,850 jobs have been created.

The new Youth Entrepreneurship Program is designed to help young Canadians, under age 30, to become self-sufficient by starting their own businesses. Several pilot projects have been implemented with more to follow. The pilots are testing new approaches such as innovative ways of accessing credit, the establishment of workers' cooperatives and sector targeting. To date, Youth Entrepreneurship has created 541 jobs.

HRDC also offers the Strategic Initiatives Program. This program, through pilots which test new and alternative approaches in employment and training, learning, and income support services, tests ideas to help Canadians develop skills, get work, and participate more fully in society.

Hon. Eymard G. Corbin: Honourable senators, I apologize to the Deputy Leader of the Government in the Senate, but did he have an answer to a previous question of mine? I may have missed that.

Senator Graham: I do not believe I have an answer yet for Senator Corbin or for Senator Prud'homme. In the case of Senator Prud'homme, the answer to his question involves more than one department. Every effort is being made to obtain a timely response for my honourable friend. That goes for questions which may be outstanding for all honourable senators. If a response is not received before the house rises, then obviously, time is running out. The leader's office will provide the response to the honourable senator in question as soon as it becomes available, and it will be tabled properly as soon as we return.

ORDERS OF THE DAY

JOINT PARLIAMENTARY DELEGATION TO BRAZIL

OFFICIAL VISIT—INQUIRY—DEBATE ADJOURNED

Hon. H.A. Olson rose pursuant to notice of Tuesday, May 23, 1995:

That he will call the attention of the Senate to the official visit to Brazil of the Joint Parliamentary Delegation of the Senate and the House of Commons from April 15 to 21, 1995.

He said: Honourable senators, it is not vital that I make these comments today, except that it appears today will be the last day that we will be here before the summer recess. Therefore, I should like to make a few comments on the inter-parliamentary group under your sponsorship and chairmanship, Your Honour, when we visited Brazil a few weeks ago.

I wish particularly to draw the attention of honourable senators to the very comprehensive report that has been filed in the Senate with respect to the trip we made to Brazil in response to an invitation extended by that country to the Senate and, more specifically, to His Honour. I will be brief about this matter, because that comprehensive report is available to honourable senators.

The intersting thing about this trip was that we were invited to Brazil to meet with a number of the parliamentarians and others involved in economic and political activity in Brazil, after they had been under a military dictatorship for four decades. In other words, for approximately 40 years they had not exercised those functions that take place in a democracy in terms of political structure or economic structure in that country.

My impression is that, for the short time that their government has been involved in trying to set up a democratic process, such as that enjoyed by some of the other countries in the world — and they mentioned Canada in particular, which was probably why we were invited — Brazil is doing very well. Their system is not perfect; no one ever gets that close to perfection, but they have been perfecting their system for slightly less than two years, and they are doing well. As Canadians, we should be prepared to help them, not only for their benefit but also for ours.

Prior to the country turning into a democracy — that is, when it was a military dictatorship — they did not buy anything. I cannot say that categorically, however, because they did not buy on the international market or trade with countries any more than they absolutely had to buy. For our benefit, I wish to tell you that, in the last year, we sold them $250-million worth of wheat and grain. That is especially important in the present international market. That is to our benefit, and certainly to theirs.

I want to close my comments by saying that we were taken on some extremely interesting trips into the centre of the Amazon jungle and into the rain forest. I was amazed at what we found there. For example, we were taken to a city of 1.5 million people in the rain forest. I had never realized that such a city existed in the middle of the Amazonian rain forest.

You will remember, Your Honour, that we were also taken to the opera house, which has existed longer than Canada has been a country. That building dates back to the last century. The Brazilians are very proud of it, and so they should be.

This was a particularly enlightening trip for me. There were many exciting and enjoyable things associated with the trip, however, it was extremely useful in cold-blooded economic terms as well. I am sure that our hosts were grateful that we made the trip there. They will be looking to Canada for help in becoming a member of some form of better trade arrangement, whether it is a free trade arrangement or just some better trading arrangement than they now enjoy.

• (1150)

Our Speaker can take a great deal of credit for leading several discussions with their politicians, their chambers of commerce and other economic bodies as they attempt to move from the form of government of the past 40 years to a new and successful process.

Your Honour, I wish to express my appreciation to you and to everyone else who was a part of that extremely successful trip.

On motion of Senator Berntson, for Senator MacDonald, debate adjourned.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

THIRTY-SIXTH ANNUAL MEETING HELD IN HUNTSVILLE, ONTARIO—INQUIRY—DEBATE ADJOURNED

Hon. H.A. Olson rose pursuant to notice of June 20, 1995:

> That he will call the attention of the Senate to the Thirty-Sixth Annual Meeting of the Canada-United States Inter-Parliamentary Group, held in Huntsville, Ontario, from May 18 to 22, 1995.

He said: Honourable senators, this year's meeting of the Canada-U.S. Inter-Parliamentary Group, which met in Huntsville, Ontario, in May, was attended by an almost-brand-new group of members because of the Republicans' win in the American election. The Democrats were thrown own out.

In the U.S. government, whenever one party gains control of either the Senate or of the House of Representatives, that party elects all the committee chairmen. It was extremely important that our group made the acquaintance of the Republicans who have taken on these tasks. No matter how long they hold those positions, we as parliamentarians in this inter-parliamentary group must get acquainted with them in order to help resolve problems such as trading disputes. This issue extends to other countries as well.

A comprehensive report has been filed with the Senate. I invite honourable senators to read it. The meeting worked out well. We actually completed the work of the committee on economic matters before the time set aside had expired. I cannot remember that happening at any other occasion. We have always run out of time before completing discussions on the economic irritants between Canada and the United States.

On the Saturday, we held a late-night meeting on problems relating to sugar. Those problems are not completely resolved, but I have no doubt that meeting will contribute to a better solution soon. There are arguments on both sides of the border about the damage being done to the sugar industry, and even greater economic damage will be done if a solution is not reached.

We discussed other issues such as fisheries, the steel industry and the ongoing irritants in the grain trade between Canada and the United States.

In conclusion, the meeting in Huntsville was very useful. We were already familiar somewhat with the leading Democrats and, as co-chairman of the Canada-U.S. section, along with MP Joe Comuzzi, it was easy for me to pick up the phone and exchange views and find solutions. I could give examples of some mutually satisfactory agreements which we have reached on some international irritants.

Senator Grafstein also participated in those meetings and made a useful contribution in becoming acquainted with members of the United States delegation. I am sure that in the future, we can look forward to further exchanges and mutually acceptable agreements.

Hon. Jerahmiel S. Grafstein: Honourable senators, Senator Olson was kind enough to mention my participation in the meeting in Huntsville. I would like to comment on one aspect not mentioned by Senator Olson.

I took a more active role in this project at the behest of Senator Olson. I found it both interesting and stimulating. I was amazed and remain so at the misconceptions that American legislators have about Canada and about our public policies. I know many Canadians have many misconceptions about the United States, but most members of this chamber have spent exhaustive time in the United States and have a good grasp of their public policies and processes and their private policies as well.

However, the reverse is not the case. Notwithstanding the fact that, as many of our prime ministers have said over the years, we have the longest undefended border, we share much in common and our trade flows are the greatest in the world.

I should like to bring this to the Senate's attention: In the time-frame of the public business which was done in Huntsville, time was afforded for some of us to spend some private time with our American colleagues. I invited a leading Republican from the House and a leading Republican from the Senate to come and spend several hours with me in Toronto. Neither had been to Toronto before. What they had heard about Toronto related to the Blue Jays. I thought this was a great opportunity to spend a few hours with them.

I began by taking them to lunch at the CN Tower, where they could get a good, physical view of the city. Then, in a car, I took them through the city for a couple of hours. I drove them through the specific areas of the city that were replete with social housing. I took them to the worst areas of the city where many of us would feel uncomfortable, in the sense that it is not up to the standard of public housing that we would prefer.

• (1200)

I kept saying, "We are now going through one of the worst areas of the city." They kept saying, "Is this the worst area of the city?" I would say, "Yes, it is." However, what they were seeing does not compare to the worst bombed-out zones in New York, Detroit, Houston, Los Angeles, Chicago or Miami — all of which I have driven through pretty quickly by car.

Then we talked about medicare. They told me how they had looked at the medicine care system in Canada and come to the conclusion that it was not appropriate for America because it did not work. It did not work because research was not good, service was not good and because the public were not attended to well enough — the whole catalogue of ills about our medicare system.

Guess what? After they had taken a look at the hospitals, how things were located and the efficiencies of some of the services, many of them came away saying, "I did not know that. That is amazing. I am sorry I did not understand that." One senator had taken a specific interest in medicare, and found that her particular views had been somewhat altered.

I tell this as a personal anecdote because, as Senator Olson has said, we in this chamber can do a great deal, particularly in institutions such as the Canada-U.S. committee, to remove the deep and horrific misconceptions that Americans have about our public policies. In that way, perhaps, we can also reduce the misconceptions that some ultra-extremists in this country have about our public policies as well.

On motion of Senator Berntson, debate adjourned.

CIVIL JUSTICE REVIEW

INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of Thursday, June 22, 1995:

> That she will call the attention of the Senate to the first report entitled *Civil Justice Review* on the joint review of the civil justice system in Ontario by the Ontario Court of Justice and the Ministry of the Attorney General of Ontario, co-chaired by the Honourable Mr. Justice Robert Blair and the Assistant Deputy Attorney General, Ms. Sandra Land, and in particular, Chapter 16 of the report, entitled "Focus on Family Law"; and to some recent trends in the practice of civil litigation and family law, and some recent developments in matrimonial and custodial disputes; and to the use of malice, untruth, false statements under oath, and perjury, in judicial proceedings in the practice of family law.

She said: Honourable senators, today I intend to draw the attention of the Senate to certain practices and trends in the routine proceedings of the practice of family law in Ontario. These practices have seemingly found favour among many legal practitioners, and seem to be so prevalent in civil litigation and in judicial proceedings that there is a crisis in the civil justice system of Ontario.

The civil courts are constituted for the purpose of dispute resolution and dispute settlement, of adjudicating conflict and providing judgment based on principles of law, fairness and truth. The conflicts of matrimonial and child custody disputes are especially difficult. In these conflicts, the purely legal issues are accompanied by undischarged and negative human emotions such as vengeance, regret, anger, self-deception and wounded vanities.

Honourable senators, the former Attorney General of Ontario, the Honourable Marion Boyd, and the well-respected Chief Justice of Ontario, the Honourable Roy McMurtry, in cooperation with the bar of Ontario, resolved to examine the current state of civil justice in Ontario. A small task force, co-chaired by the Honourable Mr. Justice Robert Blair and Sandra Lang, Assistant Deputy Attorney General, conducted a broad review of the civil justice system in Ontario which included public hearings. Their first report, entitled "Civil Justice Review," was released March 7, 1995.

Mr. Justice Blair reports that:

> Unacceptable delays and mounting costs, with their attendant implications for inaccessibility and mistrust of the system, have become endemic.

Further, Mr. Justice Blair states that the civil justice system is "in a crisis situation." He tells us that family law was the area of civil justice which dominated the task force's public consultation phase. Accordingly, it devotes an entire chapter, chapter 16, entitled "Focus on Family Law," to this concern.

The prime function of the courts is to make judgments. To do this, a judge makes a determination of the facts. Truth is critical to this process. Truth is so pivotal that, for centuries, the courts have employed the technique of swearing oaths in judicial proceedings. Courts have received evidence both in sworn written affidavits and in sworn oral testimony in open court. The making of statements under oath is the phenomenon of compelling truth by binding the conscience of the person sworn to tell the truth. The oath binds the conscience of the deponent by a solemn appeal to the deponent's deity or faith.

Honourable senators, I am loyal to those beliefs which insist on a solemn commitment to the act of swearing an oath, particularly in legal and judicial proceedings. I believe this loyalty is shared by most Canadians. The oath taken by witnesses in court reads:

> I swear that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth, so help me God.

The swearing of an oath is so reverent and so respectful of truth in judicial proceedings that the Parliament of Canada prescribes a criminal sanction against falsehood in sworn testimony. *The Criminal Code of Canada*, Part IV, determines that such malfeasance is an offence against justice. Part IV is entitled, "Offences against the administration of law and justice", and its Sections 131 to 139 speak to the issues of falsehood, untruth and prevarication under oath in judicial proceedings.

Section 131(1) states:

> ...every one commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false.

The Criminal Code makes no exception for lawyers or anyone counselling perjury.

The report's "Focus on Family Law" chapter reveals much about the current state of the practice of family law in Ontario. Mr. Justice Blair Stated:

> Lawyers were criticized for their drafting of lengthy, damaging, and sometimes unsupportable affidavit material.
>
> The Review was told frequently about...the often poisonous nature of lengthy affidavit materials.
>
> We were told...that perjury in these affidavits is rampant.
>
> ...it is clearly a perception...that such perjury goes unpunished.

He further stated:

> Concern and frustration were expressed about the number of allegations made in affidavits that were not capable of being substantiated in any way.
>
> Some contents of affidavits...were reported by members of the public to be damaging forever.
>
> ...lawyers...taking on family cases when they are not sufficiently experienced or qualified to do so.

Mr. Justice Blair's Review findings about family law practice are disturbing and troubling. They tell us, sometimes boldly and sometimes in understatement, that false statements under oath, perjury and malice are part of the routine proceedings of the practice of family law in the Province of Ontario. These findings tell us that the course of justice is being corrupted and perverted. These findings have been confirmed to me by several barristers in practice in Ontario who inform that false statements under oath in judicial proceedings are an "epidemic."

Honourable senators, the case of Reverend B. is an example of the use of falsehood in judicial proceedings in a child custody dispute. It is a traumatization of two little girls and a father who has suffered an enormous personal and financial cost. I should explain that I am using initials to protect the children who are still minors.

The case is as follows: Reverend B., an Anglican minister, and Mrs. B. were married for 10 years with two girls, aged two and four. Mrs. B. left her husband, Reverend B., taking the two children, all the household furniture, all their joint savings and departed with her lover, a convicted criminal. Separation and child custody proceedings followed. Months later, when it appeared that Reverend B. might be awarded custody of the children, Mrs. B., after taking legal advice, suddenly announced

that Reverend B. had sexually abused the two girls. She swore several affidavits to this effect. The Children's Aid Society worker initiated child protection activities. This custody-cum-child-protection case was tried in 1987 in Family Court. Reverend B. won. In the trial judgment, Judge Dunn awarded custody of the girls to Reverend B.

• (1210)

Honourable senators, a tragic aspect of this case was the children's experience at the hands of the mother and her lover, a convicted child sex offender. The damage to these children is enormous. The destructive aspect of this case is the fabrication of this diabolical scheme by persons who seem to have legal knowledge, and the enlistment of the justice system to this end. I shall quote Judge P.W. Dunn's judgment in 1987 in this child dispute trial. About Mrs. B.'s testimony at the trial, he said that she —

> ...did not tell the facts in an objective manner to the professionals, she advocated, almost vigorously, her position that —

— and here they refer to Reverend B. —

> — was a child molester. In November, 1985, —

— Mrs. B. told an individual —

> that she had witnesses who saw...

— Reverend B. —

> molesting and being brutal with the girls and with herself and that when the case would be finished —

— Reverend B. —

> — would be behind bars...

About this testimony, Judge Dunn continued:

> I do not find that —

— Mrs. B.'s —

> — testimony measured up adequately to my hallmarks of credibility.

Judge Dunn further added that:

> Her recitations of the past history did not have the 'ring of truth'...

In the 1987 proceeding regarding costs, Judge Dunn spoke of the Children's Aid Society and the worker, saying:

> In my opinion the society acted unfairly and indefensibly ...

He went on to say that Mrs. V, the Children's Aid worker, favoured Mrs. B. and her counsel.

Further, about the Children's Aid worker's sworn affidavit, he said:

> If Mrs. V. had sought the ... information, ... she would ... not have had the basis to write as biased an affidavit as she did. The tenor of the affidavit ... was calculated to condition the reader and to lead him by choice of wording and structure to infer that —

— he mentions Reverend B. —

> — was a mentally sick and violent man and was sexually abusing his daughters. Mrs. V.'s investigation, such as it was, fell below a fair standard. Unfortunately Mrs. V.'s findings set in stone the society's public position during the whole of this matter.

Later, Rev B., on behalf of his daughters, sued the Children's Aid Society and the caseworker for damages. The issues in this lawsuit were: their bias in favour of Mrs. B. and her lawyers, the suffering and anguish caused to the children and to Reverend B., and the negligence and cruelty of the Children's Aid Society.

The trial judge, Mr. Justice J. Somers, in ruling for Reverend B. and against the Children's Aid Society, stated in his judgment in 1994:

> ... and indeed one can certainly understand the frustration the father must have felt in this case attempting to deal with allegations against him which were untrue and which he regarded as utterly repugnant, and with a bureaucracy that treated him with ill-concealed contempt. While as I have said I do believe that much of the damage sustained by the Plaintiff—

— who is Reverend B. —

> — was as a result of the machinations of his former wife, I feel that the Defendants—

— the Children's Aid Society of Durham Region and the case worker—

> — played a strong and at times heavy handed role in the matter.

Referring to the testimony of Barbara Chisholm, an experienced professional in the field of child abuse, Mr. Justice Somers said:

> Ms Chisholm indicated that the experience has been for some time that sexual assault allegations made by a mother against a father in custody disputes are very prevalent nowadays and indeed have become what she called 'the weapon of choice'.

And further:

> Such is the increasing frequency of such allegations that she described this tactic as 'the weapon of the times'.

Mr. Justice Somers, in speaking of the Children's Aid worker, said:

> Ms V...in my view displays a mean spiritedness... In my view she demonstrated a contempt for the father which was apparent to him. This can be contrasted with her treatment of the mother...

Honourable senators, in Canada today every single family is touched by matrimonial and custody disputes. They affect the grandparents, aunts, uncles, the siblings, the children and the full range of familial and social relationships. The anguish and suffering from these disputes is unspeakable. The expense is enormous. Legal fees are extravagant. Reverend B., for example, spent $300,000. His sister and her husband mortgaged their home to finance his legal nightmare. This tale of human woe and misery lasted nine years, from 1985 to 1994, and the psychological wreckage is immeasurable.

Honourable senators, no Canadian who is traduced, who faces falsehood and malice, who believes his cause is just, can afford to turn to the courts for relief in a civil dispute without risking financial ruin. We must therefore conclude that justice is unattainable, both financially and procedurally, because of the systemic abuses and the excesses of lawyers. This is a terrible state of affairs.

Honourable senators, barristers take a solemn oath to maintain the basic principles of justice. The oath reads, in part:

> You shall not pervert the law to favour or prejudice any one, but in all things shall conduct yourself truly and with integrity.

This oath represents the assertion that barristers, being at the same time officers of the court, are endowed with responsibilities and obligations to uphold truth. However, we were told that falsehood and prevarication in judicial proceedings is common.

Honourable senators, despite the mention of the excesses of lawyers, the Civil Justice Review report's recommendations are silent on remedies for correction in the legal profession. The report advances no recommendations that speak to this problem; a fundamental problem of professional morality. I eagerly anticipate the review's final report, and I am expectant of its recommendations and remedies. These recommendations should be directed at the profession at all levels, including the Law Society of Upper Canada and the bar association. I note that the newly-elected treasurer of the Law Society of Upper Canada, Susan Elliott, on June 23, 1995, stated her approach for, in her words, "dealing with the legal profession's numerous problems".

Honourable senators, the journey of these false sworn statements through the courts holds continuing interest. I am told that judges are intolerant of perjury in criminal justice proceedings, but not necessarily so in civil justice, particularly family law proceedings. Perjury occurs on the stand at trial, and also in the swearing of false affidavits. The Civil Justice Review report indicates that most family law proceedings never reach trial; never reach adjudication by a trial judge under Themis's sword. Since the deponents of false affidavits never take the stand, the ground for manipulation and civil molestation is fertile.

Honourable senators, legal practitioners rely on absolute judicial privilege to shield these affidavit materials. They are misguided and mistaken. Absolute judicial privilege does not shield against perjury and related offences as, similarly, absolute parliamentary privilege does not shield members of Parliament against perjury in parliamentary proceedings.

The Hon. the Speaker: Honourable senator, I am sorry, however your time limit has been reached.

Senator Cools: I have only a few more pages, honourable senators. May I finish?

The Hon. the Speaker: Is it agreed that the honourable senator be allowed to finish?

Hon. Senators: Agreed.

Senator Cools: The singular statutory exception to all privilege is perjury. All privilege, including solicitor-client, is lost with perjury or counselling perjury. Her Majesty has spoken through the Criminal Code as to how her privileges are subject to truth. The Criminal Code of Canada ousts absolute privilege absolutely in the commission of perjury. From the highest to the lowest in the land, all are subject to the law. Privilege protects truth, and abhors perjury and lawlessness.

Honourable senators, the issue is truth. The issue is the obligation owed by barristers, as officers of the court, to truth and to justice itself. Certainly barristers know that perjury and prevarication are questions of crime. The Oxford dictionary defines truth as the:

> Disposition to speak or act truly or without deceit; ...true statement or account; that which is in accordance with the fact...

Honourable senators, without truth the judicial process cannot function. The swearing of false statements, knowing them to be false with an intent to mislead justice, to obtain a result and advantage in a court judgment is a crime. The issue of crime is a federal matter and a matter for examination by this Parliament.

• (1220)

Our Constitution places Parliament as a controlling power over the courts of law. It invests Parliament with a guardianship of the bench, and the administration of justice. Our Constitution has conferred upon us the superintendence over the proceedings of the courts. Further, the Criminal Code of Canada, the Divorce Act and the Canada Evidence Act are statutes of this Parliament.

Honourable senators, the case of Reverend B. jolts every sensibility. It offends every principle. This case of countless dishonesties, perjury, disceptions, illegalities, legal irregularities, professional carelessness and bureaucratic negligence is a diabolical creation by a wife. The Children's Aid Society and its resources, using the Child Welfare Act, supported this wife in the pursuit of a father. It actively supported a mother who exposed her children to untold abuse and suffering.

Honourable senators, these facts are driven home by both judges. Both judgments inform us that the Children's Aid Society, having realized, in the society's words, that "they had backed the wrong horse," and having declared that these girls were not in need of protection, still persisted in their accusations and in litigation, for purposes unrelated to the protection of the best interests of the children, but related to their own institutional, corporate self-interests. Mr. Justice Somers described the Society's position in this regard as "utterly unconscionable."

The perceptiveness, mental prowess and integrity of these two judges, who finally provided some measure of justice for these two little girls and their father, was impressive. Honourable senators, there are some splendid judges in this country. This current situation is an enormous strain for them, as it is for the independence of judges and for the convention of the independence of the judiciary.

I urge that honourable senators examine this disorder, this malignancy, this pathology that has grown in our midst in the legal system. I urge honourable senators to look closely at the case of Reverend B., which is typical of many, Mr. Justice Blair's Review Report, family law proceedings, trends in family law, malice and perjury as delivered in the system, and the current crises in the civil justice system.

Thank you, honourable senators, for your attention and for your patience. I would just close by saying that the report to which I speak is obviously a report of enormous size and content. I urge honourable senators to examine it.

On motion of Senator Berntson, debate adjourned.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before moving the adjournment motion, mindful that we will have Royal Assent shortly, I would like to express the hope that those committees which have legislation and important issues before them will sit when possible and appropriate during the summer break to hear the witnesses who have asked to be heard or whose testimony is necessary on concerns that have been raised by honourable senators, either in this chamber or in committees.

I am sure that honourable senators recognize that during any adjournment of the Senate, if the Speaker is satisfied, under rule 17(1), that the public interest requires that the Senate meet at an earlier time than that provided in the motion for such adjournment, the Speaker may call such a meeting.

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, September 26, 1995 at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned during pleasure.

• (1230)

[*Translation*]

ROYAL ASSENT

The Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Speaker of the Senate said:

> I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

> An Act to amend the Criminal Code (sentencing) and other Acts in consequence thereof (*Bill C-41, Chapter No. 22, 1995*)
>
> An Act to amend the Canadian Dairy Commission Act (*Bill C-86, Chapter No. 23, 1995*)
>
> An Act to provide for the continuance of the Canadian National Railway Company under the Canada Business Corporations Act and for the issuance and sale of shares of the Company to the public (*Bill C-89, Chapter No. 24, 1995*)
>
> An Act to implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (*Bill C-87, Chapter No. 25, 1995*)
>
> An Act to amend the Royal Canadian Mint Act (*Bill C-82, Chapter No. 26, 1995*)
>
> An Act to amend the Criminal Code and the Young Offenders Act (forensic DNA analysis) (*Bill C-104, Chapter No. 27, 1994*)

An Act to continue the Federal Business Development Bank under the name Business Development Bank of Canada (*Bill C-91, Chapter No. 28, 1995*)

An Act to reorganize and dissolve certain federal agencies (*Bill C-65, Chapter No. 29, 1995*)

An Act to amend the Members of Parliament Retiring Allowances Act and to provide for the continuation of a certain provision (*Bill C-85, Chapter No. 30, 1995*)

An Act to amend the Canadian Wheat Board Act (*Bill C-92, Chapter No. 31, 1995*)

An Act to amend the Criminal Code (self-induced intoxication) (*Bill C-72, Chapter No. 32, 1995*)

An Act to amend the Old Age Security Act, the Canada Pension Plan, the Children's Special Allowances Act and the Unemployment Insurance Act (*Bill C-54, Chapter No. 33, 1995*)

The House of Commons withdrew.

The Honourable the Deputy of his Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, September 26, 1995, at 2 p.m.

THE SENATE

Tuesday, October 3, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

NEW SENATORS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

William H. Rompkey

Doris M. Anderson

Lorna Milne

Marie-P. Poulin

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. William H. Rompkey of Labrador, Newfoundland, introduced between Hon. Joyce Fairbairn, P.C., and Hon. B. Alasdair Graham.

Hon. Doris M. Anderson, of St. Peter's, Kings County, P.E.I, introduced between Hon. Joyce Fairbairn, P.C., and Hon. M. Lorne Bonnell.

Hon. Lorna Milne of Brampton, Ontario, introduced between Hon. Joyce Fairbairn, P.C., and Hon. Keith Davey.

Hon. Marie-P. Poulin of Sudbury, Ontario, introduced between Hon. Joyce Fairbairn, P.C., and Hon. Leo Kolber.

The Hon. the Speaker informed the Senate that the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1415)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am proud today to introduce the four newest members of our chamber. It is with great pleasure that I welcome a familiar friend and much respected parliamentary veteran, Senator Bill Rompkey.

Colleagues may not know, but until his senatorial appointment, Bill Rompkey was the longest serving member of the House of Commons from Atlantic Canada. He has represented the people of Labrador since his first election there in 1972. Since that time, he has served as Minister of National Revenue, Minister of State for Small Business and Tourism, and as Minister of State for Mines. The interests of the constituents of his province have always been central to his political career. I know that he is particularly proud of his accomplishments in improving transportation facilities for the people of Labrador.

Recently, we recall his excellent work as the Chair of the House of Commons Standing Committee on National Defence and Veterans Affairs. Members of this house cooperated with him during the deliberations of the Special Joint Committee on Canada's Defence Policy, which he chaired.

Prior to Senator Rompkey's entrance into public life, he completed both Bachelor and Masters degrees in English, and post-graduate diplomas in education. He served as a school principal and the first Superintendent of Education in Labrador East.

I am particularly grateful, Senator Rompkey, for the support you have given to the issue of literacy in your province of Newfoundland. We have very high expectations of you, and this house has much to gain from your experience and your goodwill. We know that your devotion to the people of Labrador and Newfoundland will continue to be reflected in your new responsibilities.

From Prince Edward Island, we are joined by Senator Doris Anderson, a noted nutritionist who brings with her a lifetime contribution to education and mental health in her province. Senator Anderson graduated with a Bachelor of Science degree from Acadia University and a Master of Science degree from Cornell University. She has had an extensive career as a home economics professor at Prince of Wales College from 1948 to 1969, and at the University of Prince Edward Island from 1969 to 1980.

Widely published in the field of nutrition, Senator Anderson has trained generations of workers and teachers and, in particular, has focused on helping children with celiac disease. She was also appointed to the Order of Canada in 1982. Clearly, honourable senators, we can learn much from her experience. I know that she will represent her fellow islanders with great skill and pride, and with the compassion which has guided her throughout her career.

Senator Lorna Milne from Brampton, Ontario, has public service in her blood. Her father was Mayor of the great city of Toronto, Mayor Dennison, and her husband, Ross Milne, was a member of Parliament for Peel-Dufferin-Simcoe from 1974 to 1979.

Senator Milne's background is rich with community involvement. She has served as a trustee and chair of the Peel County Board of Education, on the Senate of the University of Guelph, as Chairman of the Brampton and District Association for the Mentally Retarded and as a board member for Rapport House, a hostel for young people with drug addictions.

• (1430)

A graduate of the University of Guelph, Senator Milne received a Bachelor of Science in Agriculture. She was also a lecturer with the university's physics department.

Honourable senators, "volunteerism" has been central to Senator Milne's life. She brings with her an extraordinary vitality and commitment which will be of great benefit to the work of this Senate.

Senator Marie-Paule Poulin offers this institution a lifetime of experience in an area for which we are not always noted, namely, communications.

[*Translation*]

She is well known for her exceptional contribution to the arts and broadcasting in Canada, particularly for her contribution to the expansion of French-language radio and television to the entire country.

She has held a number of senior positions at CBC, among them founding director of French services for Northern Ontario, president and secretary-general of the Canadian Broadcasting Corporation and chairman of its board of directors.

[*English*]

Most recently, many of us have known her as the Chairman and Chief Executive Officer of the Canadian Artists and Producers Professional Relations Tribunal since 1993. Previously, she served as deputy secretary to the cabinet for communications and consultation, a position where she worked closely with the former Leader of the Government in the Senate, our friend, Senator Murray, who I know valued her advice highly.

Senator Poulin is a native of Sudbury and holds a Bachelor of Arts degree from Laurentian University and a Master of Social Sciences from the University of Montreal. She has a strong commitment to letter base in Northern Ontario and offers to the Senate not only important experience in a critical sector of our culture and economy but also boundless energy to contribute in new directions in the work of this institution.

These new colleagues, honourable senators, bring this house closely into balance — not quite, but close. We all know that the Senate is a place of vigorous debate, independent spirit and political enthusiasm. It is also a place for reflection, compassion and innovative initiatives. Over the years of its history, it has witnessed, on occasion, aggressive confrontations, but more often it functions on the basis of cooperation, courtesy and goodwill.

Each of the senators who join us today will make a strong and positive contribution to this place as it carries out its responsibility to the people in every part of this country of Canada. Again, we offer our congratulations to each of you and your families, and our good wishes on this very special day as you take your seats in this chamber.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, it is with pleasure that I join with the Leader of the Government to welcome our new colleagues, each one of whom brings, as Senator Fairbairn has so well outlined, his or her own special talents and abilities, confirming again that the Senate of Canada has available to it a collection of experience and knowledge, which, I always like to maintain, is greater than that found in any elected body in Canada, whatever the level.

The four new senators emphasize again the value of an appointed body in even this most democratic of all countries.

[*Translation*]

My congratulations to our new colleagues and my best wishes for success as they assume their new duties. Putting our various political allegiances aside, we share the same goal: to contribute to ensuring that any legislation we are called upon to examine serves the public interest as far as possible, and not the interests of some special group.

[*English*]

I trust that the new senators will ignore the interpretations circulated in some quarters — and not all non-governmental at that — that their appointment is in part intended to give the government side enough votes to bring an end to the so-called "Tory-dominated Senate."

Some Hon. Senators: Shame, shame!

Senator Lynch-Staunton: They and the Senate are not deserving of such a narrow and partisan interpretation of the nature of their appointments.

May I remind honourable colleagues, and particularly our four new colleagues, that, during the Confederation debates in 1865, one speaker saw the Upper House as:

> ...a tribunal for purifying the legislation of the Commons, for weighing in the balance of experience the probable consequences of their legislation.

In the Speaker's chambers, where our new colleagues will be received later today, are a number of mural inscriptions, one of which is attributed to Cicero. Properly translated, it reads:

> It is the duty of the nobles to oppose the fickleness of the multitudes.

Let me hasten to say that these are not my sentiments as such. The two quotations are given to emphasize that ours is a responsibility to improve and suggest improvements where found useful, not to obstruct endlessly, and certainly not to rubber-stamp slavishly.

[*Translation*]

No matter what, our new colleagues are assured of our support and cooperation as they carry out their new duties.

Hon. Marcel Prud'Homme: I understand from the press that there is a new majority taking shape in the Senate, as they say that there are now 51 Conservatives, 50 Liberals and three Independent Liberals. I would like to speak only for myself as a true Independent, however, leaving the others to say whatever they wish to say.

I would like to speak at length on the appointment of the four senators. I know that some people are very impatient because it is claimed that I speak too often and on just about every topic. I am delighted to hear Senator Gigantès applaud, for he has in the past taken considerable advantage of the same right I allow myself today. I take no offence, however, because we are friends.

I could speak at some length of a gentleman who sat with me in the House of Commons. I was there when he arrived, I left him behind, and now here he is again. You will have guessed that I am speaking of Senator Rompkey.

As for Senator Milne, I know her indirectly through her husband and colleague, Mr. Ross. I know that it is clear from the list of all of her accomplishments that this is a person who has made a contribution to Canadian life.

[*English*]

I wish to know more. I must admit that I know less than Senator Anderson. I want to ensure that my sentiments today are equal in welcoming her to our midst.

[*Translation*]

I have reserved my closing remarks for Senator Poulin, whom I know a bit better. I would like to state that I know far more good things about her than have been mentioned. I wish her a most cordial welcome.

To those among the Liberals who are listening, let me say this: This is a woman of highly independent spirit, a brilliant and intelligent person, like the others who have come with her. Knowing her better than the others here in the Senate do, with the exception of perhaps two or three honourable senators, I would not be surprised, however, if some day the independent spirit she has always shown in the past makes her aware that in the Senate there is truly a place for people of independent spirit. At any rate, I wish her the most cordial, the warmest, the friendliest of welcomes.

THE LATE HONOURABLE JEAN NOËL DESMARAIS

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): It was with great sadness that we heard in late July that our colleague the Honourable Jean Noël Desmarais had passed away. Although he was with us only two years, his contributions to the proceedings in this chamber were of the same high calibre as those he made throughout a life dedicated to his fellow citizens in Northern Ontario.

[*English*]

Senator Desmarais made a lasting contribution to the improvement of health services in Northern Ontario. His efforts were an invaluable factor in the founding of Laurentian Hospital and the establishment of a regional cancer treatment centre in Sudbury. He was initially a member, then Chairman of the Board of Laurentian University, of which his father was a founder and first board chairman. He also served on many professional and government advisory committees. To all these activities, he gave his total devotion and the benefit of his experience and wisdom, while still finding time to pursue an active career as Chief of Radiology and Medical Director at both St. Joseph Hospital and Laurentian Hospital. Only failing eyesight forced him to retire, as he felt that he could no longer give to the field of radiology the excellence which he insisted it deserved and which he brought to it.

[*Translation*]

Dr. Desmarais brought this unique experience with him when he became a senator, which again confirms how fortunate the Upper House is to benefit from the extensive knowledge of its members. His speeches here in the Senate were not many in number — and sometimes very low-key — but they were always received with the kind of attention that reflected the immense respect he enjoyed among his colleagues here in the Senate, in committee or in caucus.

[*English*]

Senator Desmarais knew that his cancer was inoperable last April, ironically on his seventy-first birthday. Despite the shocking news, he carried on until his last breath with extraordinary courage, even good humour. Many honourable senators are familiar with the remarks he made to the Sudbury and District Unit of the Canadian Cancer Society on May 10. He said in part:

> It helps me spiritually, as a Roman Catholic, to think that Jesus came into the world to save me. He is a very smart cookie and a very capable one, and I cannot believe that he would not succeed. Therefore, I accept and believe that I am leaving this world and entering the next in good shape and I thank God for all the good blessings that I have had.

Indeed, in life as in death, he was a good person.

[*Translation*]

To his wife, Colette, and to the entire family, I wish to offer my most sincere condolences and also my thanks for allowing us to have in our midst a great man whose memory will endure.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, we on this side wish to join with Senator Lynch-Staunton's remarks in honouring the memory of our colleague, Senator John Noël Desmarais of Sudbury, who passed away this summer, three months after being diagnosed with lung cancer.

He was appointed to this place in 1993 and known by all of us as a fine gentleman, hard-working in his community, well respected in his field of radiology medicine. Given his background, as Senator Lynch-Staunton has said, one cannot help but note with sadness the diagnosis of his illness and also its timing, on his seventy-first birthday this year.

At that time, Senator Desmarais had an X-ray which revealed inoperable cancer in his left lung. Only one month later, as Senator Lynch-Staunton said, he kept an engagement to speak to the Sudbury Cancer Society's fund-raising campaign in his capacity as the honorary chairman. This took place in Sudbury on Volunteer Recognition Awards Night. Senator Desmarais could easily have stayed away, but his own circumstances made him even more determined to set an example of strength and courage to others. He did so with a sense of deep humility and faith, and a touch of humour. I can only hope that the spirit to whom he referred as "a very smart cookie" is taking good care of him today.

• (1445)

Senator Desmarais contributed more than 40 years of service as a physician in Sudbury and in other smaller Northern Ontario communities where there were no other radiologists. He also served as Chief of Staff at Laurentian Hospital. He was Chairman of Laurentian University's Board of Governors and a member of the Ontario government committee that studied constitutional change in 1980-81.

Although he was with us in the Senate for only two years, he was committed to participating. He worked hard as a member on the committees on Internal Economy, Legal and Constitutional Affairs, and Privileges, Standing Rules and Orders. Because of his lifetime dedication to helping individuals through medicine, Senator Desmarais took a very keen interest in the study of the Special Senate Committee on Euthanasia and Assisted Suicide. Although he had not been assigned to that committee at the outset, he participated very actively in its hearings. Sadly, he was unable to see the committee's deliberations through to the end because of his own health. I know that the co-chair of that committee, former Senator Joan Neiman, who admired him tremendously, had hoped that he could have contributed his knowledge and sensitivity to the final report of that committee.

Honourable senators, this institution has been deprived of a fine mind, a good heart and a loyal friend. It is a loss that we share with his family and with his friends. I want to express my personal gratitude for the warmth, the courtesy and the friendliness which he showed to me as a colleague in this house.

To his wife, Colette, and his children Jocelyne, Michèle, Jean, Joanne, Guy, Suzanne and Marie, we express our deepest sympathy. We know that your personal memories and the public achievements of this sensitive and caring man will strengthen all of you through the rest of your lives.

Hon. David Tkachuk: Honourable senators, I used to call Senator Desmarais "doctor." He would say, "Why do you continue to do that?" I said, "Because you are older than me, sir." I could not call him by his first name.

I did not know him before he was appointed to the Senate, but we became acquaintances and then friends, because we came here at about the same time and it was all very new to us. We are both from a small city. He talked about Sudbury and I talked about Saskatoon; a Ukrainian and a Frenchman.

We talked about the things we would like to do in the short time that God gave us here; about what we would like to accomplish. We could have used him in the present debate on health care. I was lucky enough to talk to him privately, and discuss issues that concerned our country. We will miss his knowledge and we will miss his understanding.

Politics needs more men like Dr. Desmarais. He was kind; he was dignified; he was a civilized man. To his wife, Colette, and all his children, my deepest sympathy, for I, too, will miss him.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, Winston Churchill once said, "Courage is rightly esteemed the finest of human qualities because it is the quality which guarantees all others."

Courage is the engine of conviction. Courage is the engine of endurance. Courage is the stuff of life itself. Honour, nobility and compassion spring from courage. Very few of us have the capacity to capture its true essence. Senator Desmarais did, and we are fortunate enough to have his words as testimony to all the human qualities which courage guarantees.

It was mentioned earlier that, as chairman of the fundraising campaign for the Canadian Cancer Society in his beloved Sudbury, he addressed the Volunteer Recognition Awards Night just a few months before his death. Many honourable senators have been privileged to read that speech.

You will recall that he announced at that time that he had inoperable cancer. He did so quietly, with dignity and simplicity. "How you handle it makes all the difference," he said. He would do so with endurance and a remarkable, pragmatic sense of preparedness.

When he said that Jesus was a smart cookie, and that he felt good about joining him in the next world, I guess it touched all of us, because reference has been made already to that statement by Senator Lynch-Staunton and by Senator Fairbairn. Most importantly, however, he said it with conviction, he said it with faith, and perhaps most important of all, he said it with hope.

In conclusion, he thanked the volunteers for their dedicated efforts on behalf of all those suffering from cancer. The very selflessness of those words was a tribute to the physician who had so recently become a senator.

When I learned of his death, I thought, among other things, of the biblical Timothy's beautiful words. They are as follows:

> I have fought the good fight,
>
> I have finished my course,
>
> I have kept the faith.

That, in different times, was the message Senator Desmarais brought to his friends and colleagues both here and in Sudbury.

Like some of you here today, I attended his funeral this past summer. I believe that those of us who had the privilege of being there saw everything as he would have wanted it to be. We saw incredible strength and a celebration of life. We saw a community saddened, but proud and united. We saw a family imbued with love. Most important, perhaps, we understood that Senator Desmarais was right when he said that Jesus was a "smart cookie."

I have already had the opportunity to express personally my feelings to Colette and the beautiful members of her family. I do so again publicly, mindful of their loss but confident that this brave yet gentle spirit will be with them always.

Hon. Mabel M. DeWare: Honourable senators, it is with sadness that I rise in the Senate today to pay tribute to a dear friend: Dr. Desmarais, Senator Desmarais, Jean. I wish to extend my best wishes to Colette and the family who are here with us today.

After 14 months of working with Jean on the Special Senate Committee on Euthanasia and Assisted Suicide, I came to respect Dr. Desmarais' dedication to the task. I also came to respect a friendship that developed as we walked back to the Victoria Building night after night, after our long hours of meetings. He showed compassion for our committee, and revealed to me his personal feelings on the direction our deliberations should take, reflecting, at the same time, his own personal experiences in his life as a doctor.

The last week, late on Thursday, as we went back he told me how tired he was. He said, "You know, when I go home this weekend, I am going to have to go see my doctor because I am sure I have the flu. I shouldn't be this tired."

After he was confined to the house, I called him one day to see if I could talk a little business. Colette said, "He'd love to speak to you." During our little talk, he told me how pleased he was that his maker had given him the time to thank all the people who had helped him on his way up through the years.

I should like to conclude with, and echo, what his six-year-old grandson said in a note of encouragement to his grandfather. He said, "Thank you for all the time we spent together." We all thank you, Jean, for having spent some time with us, even though it was far too short.

Thank you, Jean.

Hon. Sharon Carstairs: Honourable senators, when Chaucer wrote about the "gentle, perfect knight," I think he must have been referring to a character, to a man, like Jean Noël Desmarais, because that is what he was. He was a gentle, perfect knight.

I first met him during the hearings in Winnipeg of the Special Senate Committee on Euthanasia and Assisted Suicide when he was replacing Senator DeWare. We began to chat about his family. He recommended that I take an apartment in Ottawa, as he had recently done after living for a year in a hotel, and then with his daughter. I accepted his good advice and did just that.

His contribution to the committee studying euthanasia and assisted suicide, as mentioned by Senator DeWare, was very positive. As a physician, he was able to provide us with the knowledge of medicine which the rest of us, with the exception of Dr. Keon, simply did not have.

He did not have very much to say because he tended to be a listener. When he did say something, it was after a great deal of thought and consideration.

He sat on this side of the chamber for the first few months that I was sitting here, and then he moved across the way. It was not because he changed parties, but because the seating arrangement changed in that fashion. I missed our daily greetings and the chatter that one tends to have with a colleague who sits nearby, so every now and then I would sneak around to the other side to say hello to him.

I will miss him here in the Senate. I think we could all strive to be a little better, to be "gentle, perfect knights" like Senator Desmarais.

[*Translation*]

Hon. Marie-P. Poulin: Honourable senators, it is with considerable emotion that I rise today, the first day of my mandate in the Senate, to mark the passing of Senator Jean Noël Desmarais. Senator Desmarais passed away on July 26 following a brief illness.

He was born in Sudbury in 1924 and studied medicine at the University of Ottawa, specializing in radiology in the United States and England. He practiced medicine until 1991. He was a pioneer committed to the health sector in Northern Ontario, specifically.

Those who had the good fortune to know him are well aware of his ever-increasing achievements over the years. His outstanding quality was his profound concern for others' well-being. He frequently reminded us in both words and deeds that well-being was dependent on good health. In real terms, this belief was expressed through a strong and daily commitment to promoting the availability of health care and the quality of hospital services in the Sudbury area.

I had the pleasure of working with him between 1978 and 1983 on the board of directors of the Laurentian Hospital in Sudbury.

Dr. Desmarais was known for the relevance of his remarks. He said little, but he spoke well and always at the appropriate moment. This fine quality earned him a reputation for wisdom and made him highly respected.

In addition to his exemplary contribution as a doctor and a director, he was known for his longstanding involvement in many community organizations.

[*English*]

• (1500)

For one, Dr. Desmarais was actively involved in furthering the objectives of Laurentian University as Chairman of its Board of Governors between 1973 and 1978. In 1990, the university recognized his many achievements with an honorary Doctorate of Science.

If it is true that you really get to know someone when you work with them, then I can say, too, that I knew him well. Indeed, we sat on several boards together; we shared ideas and beliefs; we made things happen in our community.

On a more personal note, he was a neighbour and a friend to my family, the Charettes of Sudbury, for many years. Above all, he was an exemplary family man, a caring father of seven, a loving husband and a beloved brother.

However, for me, one detail stands out among many. Less than two weeks before Senator Desmerais passed away, I received a very kind note from him, perhaps one of his last. In that note, he congratulated me for also obtaining an honorary doctorate from Laurentian University. These are written words that I will always cherish in a very special way.

As I and countless others remember him for the gentleman and, yes, the gentle man, that he was, I am sure all honourable senators would want me to extend our renewed sympathy to the Desmerais family members, some of whom are present here today. I feel privileged to have known him, and truly honoured that I can pay this tribute to his memory as the representative of Northern Ontario in the Senate of Canada.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, last summer I attended the funeral of our colleague and friend, Senator Desmarais. I did so as a friend and out of respect for the Senate.

I realized I had much in common with the Desmarais family. I went to university with Robert Desmarais, who became a judge of the Ontario Supreme Court. I sat in the House of Commons with Louis Desmarais, his brother, who was a member of Parliament for Dollard in Montreal, next door to my riding.

I had the honour of being appointed a member of the Privy Council by Her Majesty Elizabeth II on the occasion of the 125th anniversary of Canada, this country we must save, preserve and modernize.

Suddenly, I am in the Senate with Jean Noël. It is too bad we are so often afraid of expressing our emotions in public and speaking with compassion about these matters that bring us together from time to time.

I want to thank Colette Michaud-Desmarais who did me the great honour of writing me a letter, to say what Senator Desmarais may have wanted to say when he was no longer able to do so.

His children, Jocelyne, Michèle, Jean, Joanne, Guy, Suzanne and Marie, had an extraordinary father. His goodness was felt by everyone around him. His patience, candour, goodness and humanity made a lasting impression on those who knew him.

I know that in heaven, where a man as good as he was — and I realize this sounds odd but I have no hesitation. I am not ashamed. He was a good man; he was a practising Catholic; he was a believer. I had the privilege of conversing with him because I was always more enthusiastic than he was, and he often said to me: "Marcel, you seem a bit agitated." I see my good friend Senator Bacon nodding agreement. Then he would say: "Come along, we will go for a walk. You will get me going, and I will get you to calm down."

What a good man! I know that up there where he belongs, he is delighted to see that Senator Marie-Paule Poulin is now in the Senate.

[*English*]

THE LATE HONOURABLE DAVID JAMES WALKER, P.C.

TRIBUTES

Hon. Lowell Murray: Honourable senators, it is with sadness, but much pride in his service to public life, that I record the death on Friday, September 22, of our former colleague the Honourable David James Walker.

David Walker had already distinguished himself in the practice of law when he entered Parliament in 1957 as the member of the House of Commons for Rosedale. He was immediately appointed Parliamentary Assistant to the Minister of Justice, and two years later joined Prime Minister Diefenbaker's cabinet as Minister of Public Works with added responsibility for Central Mortgage and Housing Corporation and for the National Capital Commission.

His three years in those portfolios were marked by a significant expansion of the federal government's activity as a builder, developer, lender and landowner. The Trans-Canada Highway, which had been lagging because of a variety of financial and interprovincial obstacles, was pushed through to completion. Thirty thousand acres of land were acquired for the Ottawa greenbelt. An agreement was reached with Ontario and Quebec to build the Macdonald-Cartier Bridge. Federal assistance under the National Housing Act was extended to municipalities for sewage disposal plants. The National Library and Public Archives on Wellington Street were begun, and the reconstruction of the West Block on Parliament Hill was undertaken.

As a minister, David Walker was no chairman of the board. He involved himself directly in the decisions and in their implementations. In Canada's present straitened financial circumstances, it is unlikely that, in the near future, today's parliamentarians will see a surge of public investment on similar projects to match that of the late 1950s and early 1960s.

David Walker lost his seat in the House of Commons in the 1962 general election and, within a few months, was appointed to the Senate by Prime Minister Diefenbaker. Here he began an active career that ended only with his retirement more than 26 years later on September 30, 1989.

He will be remembered by colleagues here as an exceptionally able debater and also as a gifted and serious participant in the legislative process. He brought a wealth of experience to discussions of public policy, notably on legal questions but also on business and economic issues.

David Walker began his political service at the age of 14 as a Page in the Ontario Legislature. As a 19-year old at the University of Toronto, he debated Mackenzie King, knew most of our provincial and federal leaders over the years and attended all the Conservative Party conventions from 1927 to the 1990s. He was President of the Albany Club of Toronto in 1949.

The Conservative Party especially, but also Parliament, has reason to acknowledge with gratitude his 32 years of service here and his even longer service to his profession, to his party and to Canada.

Hon. Richard J. Stanbury: Honourable senators, I should like to join Senator Murray in paying tribute to the former Senator David James Walker who passed away on September 22 at the age of 90 years.

I have known Senator Walker since about 1949, and always had a deep respect for him. Fervently partisan and fiercely patriotic, Senator Walker had a long record of public service in this country. Born in Toronto, he attended University College at the University of Toronto, and graduated from Osgoode Hall Law School in 1931.

Law was certainly the seed of his interest in political life, and for many years he worked as a Crown prosecutor and as a civil lawyer before being elected as the member of Parliament for Rosedale in 1957.

I recall that on one of my earliest court appearances, I felt called upon to apologize to the court because of some oversight. Dave Walker was in the locker room when I went to ungown after we had both left the court. He looked at me sternly and said, "My boy, never admit you're wrong. I never do." I am not sure I was ever able to accept that advice, but David certainly believed it to be an important principle.

His tenure in the House of Commons was highlighted by his assistance in drafting then Prime Minister Diefenbaker's Bill of Rights and by his work as Minister of Public Works from 1959 until 1962, which Senator Murray has delineated. He was a passionate loyalist of John Diefenbaker.

Appointed to the Senate in 1963 in the dying days of Mr. Diefenbaker's regime, David Walker was actively involved in the proceedings of this place until his retirement in 1989. He worked on several committees, in particular, Banking, Trade and Commerce, Legal and Constitutional Affairs, National Finance, and Standing Rules and Orders. His interventions in the Senate were frequent and on a diverse selection of issues.

There was certainly no mistaking the spirit and drive with which he tackled his job — sometimes a little bit too much so for those of us who went up against him in many spirited, political battles over the years. I never knew anyone so adept at making a sarcastic remark that could destroy another's logic. Indeed, at his retirement he said, "As a lawyer, I was always glad to have the last word. That is an experience that I have always enjoyed, and have always sought after."

In his private life, however, he had a great love and commitment to his family. In his book, *Fun Along the Way*, he writes:

> When I first sat down to write this account of my life...I had one ambition still unrealized: to celebrate with Bunty —

— that is his wife, Elizabeth —

> — our fiftieth wedding anniversary.

Not only did he go on to celebrate that anniversary, but on September 2 of this year, he and Elizabeth had been married for 62 years. To Elizabeth, to his children, David, Margaret and Diane, and to his many other family members and friends, we extend our condolences.

• (1515)

[*Translation*]

THE LATE RIGHT HONOURABLE JEAN-LUC PEPIN, P.C.

TRIBUTES

Hon. Jean-Robert Gauthier: Honourable senators, on September 5, this country suffered a great loss, that of the Honourable Jean-Luc Pepin. In recalling this great Canadian, I think of a friend whose ever-present smile and good humour spoke of his joie de vivre. He was a passionate intellectual and a philosopher, a man of great culture who communicated his ideas with eloquence. A man of singular modesty, he knew how to listen to others, whose ideas he respected.

I am saddened at the loss of this sincere friend who, like myself, believed in a united Canada where the two language communities could live side by side anywhere in the country. I consider it an honour and a privilege to have shared conversations with him regularly on subjects of mutual interest.

An honest politician, an inveterate worker, a man of conviction, Jean-Luc Pepin left his mark wherever he went. He never failed to meet the challenges sent his way.

He was a professor at the University of Ottawa for many years. He was a member of Parliament from 1963 to 1968 and from 1979 to 1984. He served as Minister of Mines and Resources, Minister of Transport and Minister for External Relations. He held almost all the portfolios. He would have been a good prime minister.

He did not shy away from co-chairing the Pepin-Robarts Commission on Canadian unity or the Anti-Inflation Board. He always gave his best. This is why hundreds of people gathered at the Notre-Dame basilica on September 12 to accompany this great man on his final voyage and to pay him tribute for his immense contribution to Canadian life.

Most honourable Jean-Luc Pepin, very dear friend, thank you for your contribution to our country's development and thank you for the political inheritance you have left us. You will remain in our hearts as you were a part of our lives.

To his wife, Mary, his daughter, Aude, his son, Nicolas, and to their family, I offer my most sincere condolences. May you be as proud to have shared his life as I was to know him.

Hon. Gérald-A. Beaudoin: Honourable senators, I rise today to pay tribute to a great friend and statesman, Jean-Luc Pepin. He lived at a crucial time in our constitutional history and was one of its major players.

Jean-Luc was a colleague of mine at the University of Ottawa. As a political scientist first and foremost, a much sought-after professor, an academic in heart and soul with a lively mind, a very popular commentator on radio and television, and a member of Parliament, minister and a high-ranking government official, Jean-Luc Pepin dedicated his life to politics.

And what a life! He understood his time.

I first met him when he started out as a minister in the House of Commons. I was assistant parliamentary counsel at the time. Our offices were next door to each other. A junior public servant, Paul Tellier, who was to play a major role in the Public Service, was Jean-Luc Pepin's assistant at the time.

People will remember the contribution that Jean-Luc Pepin made to Canadian politics as a very competent, well-rounded and imaginative minister. I have seldom met a man who was such a hard worker, so absorbed by his work and so well-informed.

I had the good fortune to work with him on the Pepin-Robarts Task Force with John Robarts, Solange Chaput-Rolland, Ronald Watts and a number of other people. He also came up with the idea of a committee of wise men consisting of Léon Dion, John Meisel and Edward McWhinney. We will never forget this experience.

John Robarts made an extremely useful contribution.

We had many researchers of very high calibre. We were one big family. We travelled the length and breadth of Canada. This field-work made a lasting impression on us.

The commission was an important moment in our lives. It had a role to play at a very difficult time. How could we ever forget the spirit that guided the report entitled: "Future Together" and the lexicon of the words of the debate "Coming to Terms," which was so useful and is still being consulted, in law schools and political science departments.

Because of his personality and his genius, Jean-Luc Pepin always had many friends and admirers in politics, in the course of his academic career and in the media. He will remain in our memory as a born professor, dedicated commentator and statesman.

To his wife, Mary, his children Nicolas and Aude, his brothers and sisters and the entire Pepin family, I wish to offer my most sincere condolences. Goodbye, Jean-Luc, our intrepid colleague.

Hon. Marcel Prud'homme: Honourable senators, with your leave, I would like to say a few words about Jean-Luc who was my professor, but I reserve the right to do so later this week.

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before I proceed with Senators' Statements, I wish to add my words of welcome to the four new senators we received today. I also welcome all of you back to what I trust will be a fruitful and pleasant session this fall. I take particular note of one of our colleagues who has returned after being absent for a long time. Honourable Senator Wood has been ill, but is back in the Senate today.

I should also like to take a moment to welcome back the pages who are returning and to introduce to you the new Pages. Christine Lenouvel was appointed Chief Page on June 30, 1995. She is in her third year at the University of Ottawa. She comes to us from Toronto and will be with us again throughout this session.

Also from the previous session, we have O'Neal Banerjee. He is starting his second year with us. He is in his fourth year at the University of Ottawa and is from Brossard, Quebec.

[*Translation*]

Honourable senators, Kelsey MacTavish is in her second year as a Senate Page. She is in third year at Carleton University, and comes from Lachute, Quebec.

[*English*]

Now we come to the new Pages. Andrew Barnsley studied at Mount Allison University in New Brunswick. He is now in his third year at Carleton University. He comes from Fredericton, New Brunswick.

Erin Clow cannot come down to the floor because she is responsible for the microphone console up above. She is from Charlottetown, Prince Edward Island, and she is in her second year at the University of Ottawa.

[*Translation*]

Honourable senators, Gregory Doiron is in his first year at the University of Ottawa. He comes from Gondola Point, New Brunswick.

[*English*]

We have one Page who unfortunately is absent today. Leigh Lampert is from Moncton, New Brunswick. He is in his first year at the University of Ottawa.

[*Translation*]

Honourable senators, Natacha Leclerc is in third year at the University of Ottawa. She is from Chicoutimi, Quebec.

[*English*]

Honourable senators will note this year that the competition for new Pages was in Eastern Canada.

Honourable senators, I have one final note of business, if I may: We are having some difficulties today with the recording equipment. They are trying to solve the problem now, but we may not have *Debates of the Senate* at the usual time tomorrow. I simply advise you of the situation in case you are looking for your Hansard and cannot find it.

I also wish to remind you that at five o'clock this afternoon, there will be a reception in my quarters for the new senators, and obviously all senators are invited.

SENATOR'S STATEMENT

HEALTH

TOBACCO PRODUCTS CONTROL ACT—DECISION OF SUPREME COURT OF CANADA

Hon. Mira Spivak: Honourable senators, the Supreme Court's recent decision to strike down the Tobacco Products Control Act placed the value of private advertising to sell deadly products above that of public regulation to preserve people's health. Whether judicial solicitude for corporate arguments about commercial speech are well placed, whether full constitutional status is properly conferred upon corporations — and the place of freedom of commercial speech in the hierarchy of political values is a subject deserving of debate — I wish at this time to place on the record several of the excellent observations found in the minority judgment of the court which received too little attention in the press and elsewhere in recent weeks.

At issue in the court's decision were two essential questions: Did Parliament have the constitutional authority to enact the legislation, and, if it did, did the government demonstrate that the law did not unjustifiably violate the freedom of expression right set out by the Charter?

On the first point, a majority of the Supreme Court judges did not rule against Parliament. We have retained the constitutional authority to legislate tobacco advertising and other measures, a ruling which enables the government to quickly enact new legislation.

The reasons for the government to do this, while previously well documented, were reinforced by the Health Canada study published last month in the *Canadian Journal of Public Health*, detailing new smoking-related mortality statistics. As of 1991, there were 41,408 deaths, with women's deaths accounting for 89 per cent of the increase. Smoking is still the single largest cause of preventable death in Canada.

The key to the tobacco companies' pleadings before the court was that tobacco is a legal product and thus has the right to be advertised.

Mr. Justice La Forest in writing the minority decision put it succinctly:

> It must be kept in mind that the infringed right at issue in these cases is the right of tobacco corporations to advertise the only legal product sold in Canada which, when used precisely as directed, harms and often kills those who use it.

If tobacco were a product under the Hazardous Products Act, as all the anti-tobacco groups have been advocating for some time, advertising could be prohibited. The Food and Drug Act, for example, prevents the advertising of nicotine patches, a method by which some people stop smoking.

Justice La Forest also wrote:

> Nearly 7 million Canadians use tobacco products, which are highly addictive. Undoubtedly, a prohibition of this nature —

— speaking of a total ban —

> — would lead to an increase in illegal activity, smuggling and, quite possibly, civil disobedience. Well aware of those difficulties, Parliament chose a less drastic, and more incremental, response to the tobacco health problem. In prohibiting the advertising and promotion of tobacco products, as opposed to their manufacture and sale, Parliament has sought to achieve a compromise among the competing interests of smokers, non-smokers and manufacturers, with an eye to protecting vulnerable groups in society. Given that advertising, by its very nature, is intended to influence consumers and create demand, this was a reasonable policy decision.

The question before the court, however, was not simply whether it was reasonable but whether it was demonstrably justified and minimally impaired freedom of expression. The majority of the court found that the Tobacco Products Control Act violates the companies' Charter right to freedom of expression, largely because the government failed to demonstrate that a total ban was necessary to counter the limited objective of curbing consumption through advertising, labelling or promotion.

Madam Justice McLachlin wrote that the "motivation to profit is irrelevant," comparing the activity of tobacco companies to book sellers, newspaper owners and toy sellers.

Again, Justice La Forest wrote —

The Hon. the Speaker: Senator Spivak, I hesitate to interrupt you, but your three minutes are up, unless there is agreement.

Hon. Senators: Agreed.

Senator Spivak: Thank you.

> The *Charter* was essentially enacted to protect individuals, not corporations. It may, at times, it is true, be necessary to protect the rights of corporations so as to protect the rights of the individual. But I do not think this is such a case.

Because:

> ... the harm engendered by tobacco, and the profit motive underlying its promotion, place this form of expression as far from the 'core' of freedom of expression values as prostitution, hate mongering, or pornography and thus entitled it to a very low degree of protection under Section 1 of the *Charter*. It must be kept in mind that tobacco advertising serves no political, scientific or artistic ends; nor does it promote participation in the political process. Rather, its sole purpose is to inform consumers about, and promote the use of, a product that is harmful, and often fatal, to the consumers who use it. The main, if not sole, motivation for this advertising is, of course, profit.

The government must now provide the remedy. It could use the Charter's "notwithstanding" clause to override the decision. It should use the Hazardous Products Act or the Food and Drug Act to impose more stringent controls on the tobacco industry. In addition to any of those measures, it must better enforce the federal law which forbids sales to minors. It must affirm respect for the law among retailers and give the right signal to young people.

The government must act to restore the faith of Canadians in the Charter as an instrument for their protection. The government of Canada has been hesitant, weak-kneed and, I may say, downright negligent in its approach to this issue. In this judgment, the court both laid to rest judicial deferment to Parliament and invited the government to act, and it should act.

ROUTINE PROCEEDINGS

PRIVACY COMMISSIONER

ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Privacy Commissioner for the period ended March 31, 1995.

CODE OF CONDUCT

REPORT OF SPECIAL JOINT COMMITTEE PRESENTED

Hon. Donald H. Oliver, Joint Chairman of the Special Joint Committee on the Code of Conduct, presented the following report:

Tuesday, October 3, 1995

The Special Joint Committee on a Code of Conduct has the honour to present its

FIRST REPORT

Your Committee has examined its Order of Reference adopted by the Senate on Wednesday, June 28, 1995 and by the House on Monday, June 19, 1995, and recommends the following:

That the report deadline be extended from Tuesday, October 31, 1995 to Friday, March 29, 1996.

Respectfully submitted,

DONALD H. OLIVER
Joint Chair

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

On motion of Senator Oliver, report placed on Orders of the Day for consideration at the next sitting of the Senate.

AGRICULTURE AND FORESTRY

AGRICULTURAL TRADE—CONFIRMATION OF TABLING OF REPORT

Hon. Dan Hays: Honourable senators, I should like to report to the Senate that on Wednesday, July 26, 1995, pursuant to leave granted by the Senate, the Standing Senate Committee on Agriculture and Forestry tabled its eleventh report entitled, "Agricultural Trade—A Report of the Standing Senate Committee on Agriculture and Forestry's Fact-Finding Mission to Washington and Winnipeg." The copies of that report were distributed to honourable senators immediately after that date.

BANKING, TRADE AND COMMERCE.

1992 FINANCIAL INSTITUTIONS LEGISLATION—
CONFIRMATION OF TABLING OF INTERIM REPORT
AND MOTION FOR CONSIDERATION

Hon. Michael Kirby: Honourable senators, I wish to inform the Senate that, pursuant to the order adopted by the Senate on June 28, 1995, I tabled the twenty-first report of the Standing Senate Committee on Banking, Trade and Commerce entitled, "Interim Report on the 1992 Financial Institutions Legislation" with the Clerk of the Senate on August 3, 1995.

I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Motion agreed to.

FOREIGN AFFAIRS

FREE TRADE IN THE AMERICAS—CONFIRMATION
OF TABLING OF REPORT

Hon. John B. Stewart: Honourable senators, I have the honour to inform the Senate that the Standing Senate Committee on Foreign Affairs tabled its eighth report with the Clerk of the Senate on Thursday, August 3, 1995, as authorized by the Senate on June 27, 1995.

The interim report, entitled, "Free Trade in the Americas," deals with hemispheric trade relations in the context of the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, October 4, 1995 at one-thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

CORRECTIONS AND CONDITIONAL RELEASE ACT
CRIMINAL CODE
CRIMINAL RECORDS ACT
PRISONS AND REFORMATORIES ACT
TRANSFER OF OFFENDERS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-45, to amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday, October 5, 1995.

INTER-PARLIAMENTARY UNION

SPECIAL SESSION OF INTER-PARLIAMENTARY COUNCIL ON FIFTIETH ANNIVERSARY OF CREATION OF UNITED NATIONS—REPORT OF CANADIAN GROUP TABLED

Hon. Peter Bosa: Honourable senators, I have the honour to table the report of the Canadian Group of the Inter-Parliamentary Union to the Special Session of the Inter-Parliamentary Council on the occasion of the fiftieth anniversary of the creation of the United Nations, held in New York, New York, from August 30 to September 21, 1995.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

REPORT OF ANNUAL COMMITTEE MEETING IN NORTH AMERICA

Hon. Bill Rompkey: Honourable senators, I have the honour to table the eighth report of the Canadian NATO Parliamentary Association which deals with the North Atlantic Assembly Annual Committee Meeting in North America, held in Ottawa and Washington from June 11 to 16, 1995.

[*Translation*]

THE INTER-PARLIAMENTARY UNION

SPECIAL SESSION OF INTER-PARLIAMENTARY COUNCIL ON FIFTIETH ANNIVERSARY OF CREATION OF UNITED NATIONS—NOTICE OF INQUIRY

Hon. Peter Bosa: Honourable senators, I give notice that on Tuesday, October 24, 1995, I will call the attention of the Senate to the special session of the Inter-Parliamentary Council on the occasion of the 50th anniversary of the founding of the United Nations, which was held in New York on August 31 and September 1, 1995.

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

DISBANDMENT OF CANADIAN AIRBORNE REGIMENT—DIFFERENCE OF OPINION BETWEEN MINISTER AND CHIEF OF DEFENCE STAFF—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, I should like to take this opportunity to welcome the new senators, despite the fact that some of them may have left the chamber.

To Senator Rompkey, who comes from the other place, I was never really at ease in this place until your arrival here today. I used to feel that there might be a tinge of patronage in my appointment. However, your appointment here dispels that thought completely. I welcome you, and I look forward to working with you. It is nice to see you here.

Honourable senators, my question is to the Leader of the Government in the Senate and it relates to the shameful decision to disband the Canadian Airborne Regiment against the wishes of the Chief of Defence Staff because of the misbehaviour of a few.

Is there truly a difference of opinion as between the Minister of National Defence and the Chief of Defence Staff regarding matters of disbandment, promotions and the general management of the military?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as Honourable Senator St. Germain would know, the decision to disband the regiment was made some time ago. That decision took into account all the circumstances about which we have heard a great deal, and resulted in the public inquiry which began its hearings this week. That decision has been accepted by both parties.

Senator St. Germain: Honourable senators, in spite of her lack of military experience — and not many of us here have had that privilege — the Leader of the Government in the Senate must realize that the undermining of the morale of our armed forces will be horrendous if the minister and the Chief of Defence Staff square off on opposite sides of an issue such as the disbanding of the regiment, the promotion aspect, and any other aspects of managing our forces.

If the Leader of the Government in the Senate is not prepared to pass on my first question, then I ask her to pass on my request to replace that minister, or at least make changes in order to save the morale of one of the greatest fighting forces that this world has ever seen — our Canadian Armed Forces.

Honourable senators, it is unacceptable that members of the armed forces, past and present, should be forced to deal with these differences of opinion which will completely undermine the morale of this great military organization. You need not take my word for it. On a recent television program, I heard a report that the Americans have stated that the work done by the Canadian troops in Somalia was, overall, above reproach and to be commended.

Will the Leader of the Government request the Prime Minister to do something about the situation, to either replace or fire the minister or to make some other effort to help our armed forces?

Senator Fairbairn: Honourable senators, frankly, I will not have that conversation with the Prime Minister. The Minister of National Defence has carried out his responsibilities, and the Chief of Defence Staff has carried out his responsibilities. Nevertheless, I agree with Senator St. Germain that the morale of the armed forces is of great concern to this government and to armed forces members.

Although I have not had the privilege of serving in the armed forces, I do have the privilege of serving as Honorary Lieutenant-Colonel of the 18th Air Defence Regiment, and I take those responsibilities very seriously. Every effort is being made, and will continue to be made, to deal with the difficulties that have arisen surrounding recent incidents.

There is a great desire on the part of all Canadians to support our forces, which are, as Senator St. Germain has said, the finest fighting forces anywhere in the world. Our forces have done this country enormously proud in the work that they have undertaken under very difficult circumstances in the former Yugoslavia.

I appreciate the concerns of my honourable colleague. I certainly will communicate those concerns. In concert with all members of this chamber, I will do everything in my power to improve and consolidate the morale of our fine fighting forces and all elements of the armed forces of Canada.

DEFENCE

SAFETY OF SEA KING HELICOPTERS—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, I too welcome the new senators to this place. I like Sir John A. Macdonald's definition of the Senate:

> It is a saucer into which you pour legislation to cool.

Honourable senators, I am disturbed to learn that another Sea King helicopter was in trouble recently. Two weeks ago, one of our aging Sea Kings was forced to make an emergency landing as a result of a warning light coming on, indicating transmission problems. The incident happened in Quebec.

In response to a question in the House of Commons, the Minister of National Defence said that the incident was very unfortunate. He also said that the Sea Kings are totally safe to fly. How can the minister state that the Sea Kings are perfectly safe to fly in light of these repeated reports of failures?

Senator Berntson: They keeping falling out of the sky, but are perfectly safe to fly.

• (1545)

Hon. Joyce Fairbairn (Leader of the Government): As the honourable senator will know, the white paper on defence, in which our new colleague Senator Rompkey was very much involved, clearly confirmed the government's intention to purchase replacements for the Sea King helicopters. The government is considering all options. At this point in time, no contract has been approved.

My honourable friend will know that persons expert in the field have indicated that with the kind of maintenance we expect, the Sea Kings will be safe to operate, I believe, until the end of this century. From time to time, there have been tragic incidents. However, the information accepted by the government is that we are pressing on. The choice has not yet been made, and the Sea Kings will be maintained at the highest level until it is.

Senator Stratton: Honourable senators, when is this likely to occur? How many more crashes and failures must we have before the government will take action?

Senator Fairbairn: As I indicated, honourable senators, the government is considering a number of options. As to the precise timing, I am afraid I cannot indicate that to my honourable friend today.

HUMAN RIGHTS

RATIFICATION OF HUMAN RIGHTS CONVENTION OF ORGANIZATION OF AMERICAN STATES—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, my question is for the Leader of the Government in the Senate.

Madam Minister, I was pleased to read in the Montreal *Gazette* this morning a story to the effect that your colleague the Minister of Immigration used his authority to grant landed status to the Langner family. Stanislaw and Ewa Langner were born in Poland; their children were born in Canada. The minister, I think, made the correct decision. I would ask that you convey to him my pleasure upon learning of this decision.

What is interesting about the story is that the Langners' case rose to prominence after the Inter-American Commission on Human Rights — which is the commission of human rights of the OAS — became interested in it.

Canada has neither signed nor ratified the Inter-American Convention on Human Rights. My recollection from the Red Book is that the government was prepared to honour this human rights convention; in other words, Canada would sign and ratify the Human Rights Convention of the OAS. Could the minister inform this chamber as to the progress in ratifying that human rights instrument on behalf of Canada?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, first, I will seek to inform myself. I would then be pleased to communicate with my honourable friend in the chamber.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have several delayed answers to oral questions, some of which were sent to honourable senators by mail over the summer months. They were sent to those senators who were directly concerned.

However, in accordance with the rules, I wish to table the following delayed answers: A response to a question raised in the Senate December 15, 1994, by the Honourable Senator Carney regarding the Automatic Navigational Weather System; a response to a question raised in the Senate March 21, 1995, by the Honourable Senator Forrestall regarding the replacement of Sea King and Labrador helicopters; a response to a question raised in the Senate May 9, 1995, by the Honourable Senator St. Germain regarding relations with the European Union and the impact on local industries; a response to a question raised in the Senate May 24, 1995, by the Honourable Senator Johnson regarding federal management of radioactive waste material; a response to a question raised in the Senate May 25, 1995, by the Honourable Senator Doyle regarding the report of the Auditor General on foreign service travel directives; a response to a question raised in the Senate May 25, 1995, by the Honourable Senator Doyle regarding new directives on foreign service travel directives; a response to a question raised in the Senate June 7, 1995, by the Honourable Senator Forrestall regarding compensation for cancelled EH-101 contracts; a response to a question raised in the Senate June 7, 1995, by the Honourable Senator LeBreton regarding the creation of jobs for women through infrastructure programs; a response to a question raised in the Senate June 8, 1995, by the Honourable Senator Bolduc regarding a dispute with departments over unreported liabilities; a response to a question raised in the Senate June 13, 1995, by the Honourable Senator Kinsella regarding the return to democracy in Nigeria; a response to a question raised in the Senate June 14, 1995, by the Honourable Senator Corbin regarding the closing of the Canada Council Art Bank; a response to a question raised in the Senate June 15, 1995, by the Honourable Senator Comeau regarding the dispute with the European Union on newsprint; a response to a question raised in the Senate June 15, 1995, by the Honourable Senator Atkins regarding a request for a status report on environmental and financial concerns associated with the sales abroad of CANDU reactors; a response to a question raised in the Senate June 20, 1995, by the Honourable Senator Robertson regarding a new federal-provincial silviculture agreement; a response to a question by the Honourable Senator Doyle of June 20, 1995, regarding the reorganization of the blood supply system; a response to a question raised in the Senate June 20, 1995, by the Honourable Senator Spivak regarding closer control on tobacco products; a response to a question raised in the Senate June 20, 1995, by the Honourable Senator Kinsella regarding the Canadian Race Relations Foundation Act; a response to a question raised in the Senate June 21, 1995, by the Honourable Senator Nolin regarding the unilingual English production of the Catalog of National Sports Events; a response to a question raised in the Senate on June 21, 1995, by the Honourable Senator Spivak regarding the use of bovine growth hormone somatotropin and the delay in investigation of human health risks; a response to a question raised in the Senate on June 21, 1995, by the Honourable Senator Johnson regarding the demise of the Winnipeg Freshwater Science Teams; a response to a question raised in the Senate June 27, 1995, by the Honourable Senator Spivak regarding the link between IGF-I and breast cancer; a response to questions raised in the Senate on June 27, 1995, by the Honourable Senators Nolin and Simard regarding the granting of a public relations contract for the G-7 Summit; a response to a question raised in the Senate June 27, 1995, by the Honourable Senator Prud'homme regarding the granting of a public relations contract for the G-7 Summit; a response to questions raised in the Senate on June 28, 1995, by the Honourable Senators Tkachuk and Robertson regarding the RCMP marketing contract with Disney Corporation; and a response to questions raised in the Senate June 11 and 12, 1995, by the Honourable Senator Forrestall regarding the lease of premises in Sydney, Nova Scotia.

TRANSPORT

AUTOMATED NAVIGATIONAL AND WEATHER SYSTEMS—REQUEST FOR DOCUMENTATION—GOVERNMENT POSITION

(Response to question raised by Hon. Pat Carney on December 15, 1994.)

Transport Canada, Aviation Group, is pleased to provide all documents it possesses on the Automatic Weather Observation System (AWOS). It should be noted, however, that this represents only a portion of the automated weather aids used in providing Aviation weather information. For the most part, the purchase and testing of automatic weather stations including the Automatic Weather Observation System (AWOS) has been under the purview of Environment Canada.

Further, the attached documents refer only to automated weather systems, as it is believed to be the thrust of the question. Automated navigation aides for aviation purposes consist of numerous individual pieces, from radar and all its component parts, instrument landing systems, lighting systems, etc.

The Coast Guard has been operating automatic aids to navigation for many years. It does not, however have AWOS equipment at any of its sites. The Aids to Marine navigation including related equipment are purchased from reputable suppliers. Statistics show that main lights and fog horns at unattended, remotely monitored lightstations are operational more than 99 per cent of the time. These statistics are based on outages of aids to navigation as recorded by remote monitoring equipment. In order to reassure users that automated aids to navigation equipment are reliable, it is intended to remotely monitor the operation of the equipment for a minimum of two years at newly destaffed lightstations.

The Coast Guard conducts considerable in-house equipment testing at its Navigational Aids Test Establishment in Cardinal and at the base in Prescott, Ontario.

The Coast Guard maintains a 133-page Catalogue of Marine Aids Equipment. The description of the equipment includes a photograph or drawing, the manufacturer, the physical and operating characteristics and other relevant information. Equipment is selected for use to meet particular designs and service requirements.

In addition to the documentation regarding automated navigational and weather systems provided by Transport Canada, Environment Canada includes the following:

– a concise summary of significant studies that have been undertaken to test the performance of AWOS and its sensors, over the years, and

– a summary of the purchasing history of the AWOS (previously referred to as READAC) project covering Phases I, II, and III.

In the time since this question was raised in the Senate, considerable information relating to this subject has been provided to Senator Carney as Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources. Additional information, responding to questions raised at the June 6, 1995 information session of that standing committee, was forwarded to the committee's clerk in June.

SEARCH AND RESCUE—REPLACEMENT OF SEA KING AND LABRADOR HELICOPTER FLEETS—EFFECT OF REPLACEMENTS ON VIABILITY OF CANADIAN FORCES BASE SHEARWATER—PERFORMANCE STANDARDS FOR REPLACEMENTS

(Response to question raised by Hon. J. Michael Forrestall on March 21, 1995.)

The project offices for the Canadian Search and Rescue Helicopter (CSH) and the Maritime Helicopter Project (MHP) were established this summer. They will be charged with managing all aspects of replacing these two helicopter fleets. To date, work on both CSH and MHP has been accomplished using staffs who normally deal with the day-to-day operational and equipment requirements of the Sea King and Labrador helicopters.

The 1994 federal budget directed that Canadian Forces Base Shearwater would be reduced in size with the movement of 434 Squadron to Canadian Forces Base Greenwood. Furthermore, Shearwater is to be consolidated as a detachment of Canadian Forces Base Halifax. There have been no other statements made concerning further reductions to Canadian Forces Base Shearwater by the Government.

The cancellation of the New Shipborne Aircraft (NSA) and New SAR Helicopter (NSH) projects resulted in a re-evaluation of the operational requirement for both the Marine Helicopter Project and the Canadian Search and Rescue Helicopter Project. In the case of the Marine Helicopter Project, changes have occurred to reflect the new defence policy as outlined in the 1994 white paper. For the Canadian Search and Rescue Helicopter Project, while capability requirements have been reduced from the EH-101 specification, they will still provide for an ample overall level of SAR service in Canada.

INTERNATIONAL TRADE

RELATIONS WITH EUROPEAN UNION—IMPACT ON LOCAL INDUSTRIES—GOVERNMENT POSITION

(Response to question raised by Hon. Gerry St. Germain on May 9, 1995)

On the general issue of trade irritants, the government is currently pursuing the resolution of several disputes with the European Commission, and with EU member states where appropriate. Canada will not hesitate to use the dispute settlement options open to us within the World Trade Organization if required.

With respect to pulp and paper exports, the government is indeed concerned about the activities of certain environmental groups across Europe who are criticizing forest practices in Canada. Several of these groups have recently changed their tactics, and are now targeting customers of Canadian producers, threatening to publicly boycott newsprint which contains the product of Canadian old growth forests.

The approach taken by the Canadian government to respond to these activities has been to focus efforts on acquainting all parties with the facts relating to Canada's success in developing solutions to the challenge of achieving sustainable forest management.

Canada is an environmentally responsible nation, and continues to lead the world in its efforts to develop internationally agreed rules and standards which will ensure a global balance between economic and environmental interests. The positive results achieved at the recent meeting of the UN Commission on Sustainable Development are a good illustration of these activities, where the important decision to initiate an inter-governmental panel on forests was in large measure the result of preparatory work completed by Canada in the FAO and other multilateral fora.

It is Canada's view that the existence of a recognized international approach to sustainable forestry, developed by international consensus through the normal processes of a credible international organization, would end the uncertainties prevailing in this industry regarding the acceptability of various forestry practices. It is the current

absence of such standards or guidelines which has made it too easy for some to raise support on the basis of overstatement and misinformation, and to attempt to interfere with the free flow of international trade in forest products.

The task of responding to the various criticisms of European environmental groups lies with the Department of Foreign Affairs and International Trade, which, in concert with the Canadian forestry service, the provinces, and industry, has addressed this particular issue by ensuring that embassy personnel throughout Europe monitor and report on local incidents and legislative proposals in this category, respond quickly and factually to any criticism, build partnerships with various interest groups, and strengthen dialogue with key institutions, academics, scientists and parliamentarians. Both incoming and outgoing missions have been organised to ensure that knowledgeable parties have the opportunity to view firsthand the realities of conditions in Canadian forests, and to discuss local forestry practice with stakeholders across Canada. In this way, the misinformation promulgated by some groups has been exposed, and this extensive effort by Canadians to communicate positive developments and achievements in Canadian forest practices and land-use policies has been welcomed by customers in Europe.

Canada is also concerned about the impact of the European Union's regulation on fur imports. The regulation, which was enacted in 1991, would ban fur imports as of January 1, 1996, if producers do not ban the use of jaw-type leghold traps for 13 species or enact humane trapping standards for those species.

The fur trade is one of Canada's oldest international industries. It contributes approximately $600 million to the Canadian GDP. Over 90% of Canadian wild fur is exported. Europe has always been the principal market. Over 100,000 Canadians are employed in the industry. About half the 80,000 trappers are aboriginal Canadians for whom trapping is not only an important source of income, but an essential part of their heritage.

Canada was willing to cooperate with the European Union in the implementation of the regulation because we share the principles of sustainable use, animal welfare and the preservation and expansion of the fur industry. However, in late 1993, the European Commission issued a reinterpretation of the regulation that no fur-producing country could meet. Canada, and the other major producers, the USA and Russia, are working to persuade the EU to moderate the impact of the regulation.

The European Commission is supposed to decide by September 1, 1995, which countries will be able to continue to export to the European Union. Canada's position is that the best course of action remains in finding a cooperative way to resolve our differences, in a way that fulfils our shared animal welfare goal and preserves the international fur trade. The Prime Minister raised the fur issue with Mr. Jacques Santer, the President of the European Commission and other European union participants at the G-7 Summit in Halifax. Following the summit, the German Chancellor, Helmut Kohl, as the guest of the Prime Minister, visited the Northwest Territories. Chancellor Kohl heard first hand the potentially devastating impact that the fur regulation will have on northern and aboriginal communities. Members of the European parliament and the German bundestag have also recently visited Canada to learn about the impact of the fur regulation.

As a result of the discussions at the Whistler quadrilateral meeting and the G-7 Summit, the European Commission agreed to form a working group to resolve this issue. However, in spite of a number of initiatives on Canada's part, Canada, the USA and the EU have not yet agreed to even the basis for the formation of a working group to negotiate an agreement on humane trapping. While it is in everyone's interest to resolve this dispute through negotiations, if there are no positive developments soon, Canada will initiate the dispute settlement process under the rules of the World Trade Organization.

Canada's strategy on the fur issue is developed in consultation with the provinces, territories, industry and the leading aboriginal groups. The Canadian government is dedicated to the preservation of a legitimate trade.

THE ENVIRONMENT

FEDERAL MANAGEMENT OF RADIOACTIVE WASTE MATERIAL—REPORT OF AUDITOR GENERAL OF CANADA—GOVERNMENT POSITION

(Response to question raised by Hon. Janis Johnson on May 24, 1995)

Canada's approach has been to develop the concept for disposal of the nuclear fuel waste (high-level radioactive waste) deep within the rock of the Canadian Shield and to carry out an in-depth environmental assessment and public review to determine that it is safe and acceptable prior to implementation of disposal.

Assuming a favourable response by the Canadian Environmental Assessment Agency Panel to move forward with implementation of disposal of nuclear fuel waste, disposal is not anticipated to begin before 2025-2030 because the identification of a suitable site, site characterization work, other related activities, as well as obtaining the required environmental and regulatory approvals, will take about 30 years. It is anticipated that future funding requirements for the disposal of the nuclear fuel waste will be provided for by the nuclear utilities.

In the interim, nuclear fuel waste continues to be stored safely and economically in water filled pools or dry storage canisters at the Canadian nuclear reactor sites. The safe storage and containment of the small volume of nuclear fuel waste at these sites can continue for 50 years or more.

In March of this year, the Minister of Natural Resources obtained approval from her cabinet colleagues to negotiate, with major waste stakeholders, a policy framework including organizational and financial options, for the disposal of all radioactive wastes in Canada including nuclear fuel waste.

A Discussion Paper was prepared by Natural Resources Canada and released to the major stakeholders to get their views on a policy framework for radioactive waste disposal. The Minister of Natural Resources is planning to return to Cabinet later this year with the results of these discussions and negotiations, and with proposed options for the policy framework. This initiative will respond to the Auditor General's Report.

FOREIGN AFFAIRS

REPORT OF AUDITOR GENERAL ON FOREIGN SERVICE TRAVEL DIRECTIVES—GOVERNMENT POSITION

(Response to question raised by Hon. Richard J. Doyle on May 25, 1995)

The issue of the travel irregularities was the submission of travel claims by employees that falsely requested reimbursement for expenses not actually incurred by the employee. Following a comprehensive investigation, praised by the Auditor General for its thoroughness, those employees making such false statements were disciplined. An active audit program, implemented since then, has ensured that such false statements are no longer made and will not be made in the future.

Media reporting on this issue was very imprecise. In a letter dated May 18, 1995, the Assistant Deputy Minister of the Corporate Services Branch of the Department of Foreign Affairs and International Trade responded to the many inaccuracies reported in the media.

NEW DIRECTIVES ON FOREIGN SERVICE TRAVEL DIRECTIVES—REQUEST FOR PARTICULARS

(Response to question raised by Hon. Richard J. Doyle on May 25, 1995)

The Foreign Service Directives are negotiated with the Public Service Bargaining Units once every three years. Foreign service directives 45 and 50 were changed during the last negotiations which were completed in June 1993. Negotiations for the next review will commence during the fall of 1995, and are expected to be completed by 1996.

Foreign Service Travel Directives 45 and 50 read as follows.

FSD 45 – Foreign Service Leave/Option

In addition to leave entitlements under your collective agreement or compensation plan, Foreign Service Leave gives you an extra 10 days of leave each year as a premium for service abroad. (This leave is accumulated at the rate of 10/12 days per year.) This leave may be utilized with SBM approval in three different ways:

1. taken as leave after accrual or carried over from year to year;

2. accrued credits may be cashed in, in part or in full (although you should be aware that this dollar value is taxable), on the basis of your salary in effect on the preceding March 31, or;

3. any time you are assigned abroad or in conjunction with relocation travel to or from a Post, 10 days of accrued leave may be traded in exchange for a transportation entitlement to reflect 85% of one full adult return economy air ticket (Y) based on the return fare from your mission to the Headquarters city. When there is no "Y" fare, 100% of the "Y2" fare shall be used. The accountable advance shall be accounted for in full on completion of all travel for which the advance was issued, or one year from the date of issuance of such advance, whichever is earlier.

FSD 50 – Foreign Service Vacation Travel Assistance

Entitlements

FSD 50 applies to you and your accompanying dependants at the mission. Where educational facilities at the mission are not compatible and you have dependants attending school away from the mission but not in Canada, those dependants are also eligible for benefits. Employees are given an option to claim:

1) a transportation entitlement which is fully accountable based on full (Y) economy class fare Post/Ottawa/Post; or

2) a non-accountable foreign service vacation travel allowance of:

– 90% of full (Y) economy class fare for those posts for which a stopover would be authorized for relocation travel,

– 80% of full (Y) economy class fare for those posts for which a stopover would not be authorized, or

– where (Y) fare is not existent, the allowance is based on 100% of the Y2 fare.

Please note that employees must travel and although the benefit is non-accountable, may be required to provide evidence that travel has occurred!

1. Employees may return to headquarters, or any alternative destination, at the completion or termination of each posting. In a cross-posting situation, should you be asked to defer your return provided normally under FSD 15 for operational reasons, you may use this entitlement during the next posting;

2. Frequency of entitlements are calculated as follows:

– at A-level (non-hardship) missions, once per tour of duty of three years or more,

– at Level I or II hardship missions, once per two-year tour of duty, twice per three-year tour of duty plus one trip for each additional year beyond three years,

– at Level III, IV and V mission, the same number of trips per tour of duty as the number of years in the tour of duty;

3. Employees returning to Level III, IV and V missions may claim for unaccompanied excess baggage, or an air shipment, whichever is the lesser cost of up to 20 kilograms for the employee and each accompanying dependant from Ottawa to the mission.

Conditions

The following conditions apply to FSD 50:

1. Travel may be undertaken at any time during a posting but lapses on the termination of each posting;

2. A minimum of 10 compensation days of leave must be taken;

3. If option 1) is used, and where travel is undertaken by car, you may claim actual and reasonable automobile operating expenses or the "employee-requested" kilometre rate in effect at your point of departure;

4. If you used Foreign Service Vacation Travel Assistance and terminate your posting early for personal reasons, you may be required to reimburse the Crown for all or part of the expenses previously incurred on your behalf.

NATIONAL DEFENCE

COMPENSATION FOR CANCELLED EH-101 CONTRACTS—REQUEST FOR PARTICULARS

(Response to question raised by Hon. J. Michael Forrestall on June 7, 1995)

Under the terms of the contract, Unisys was required to design, to integrate and to install a full suite of mission equipment that would enable the anti-submarine variant of the EH-101 helicopter to detect, to locate and to destroy enemy submarines. Included equipment were a sonar system, a radar system, plus a variety of other sensor systems — all of which, ultimately, were to be integrated into a single functional mission system.

The contract with Unisys was to span a period in excess of 10 years. Cancellation occurred at the end of the first year. At that time, the company was in the early stages of system design, had completed the set up of appropriate project management systems, and had completed negotiations with a number of suppliers of the mission equipment which would later form part of the overall EH-101 mission system.

Because of the design nature of the program, no actual equipment had been produced at the time of the cancellation. The vast majority of the costs associated with the work were, therefore, used to pay for the labour hours and associated overhead costs spent on producing the various program plans, detailed design specifications, design reviews and project management that are normally associated with a long-term contract that requires considerable initial design work. At the time of the termination, the contractor had over 350 personnel working directly on the contract and this does not include either the labour of the company's indirect staff nor the labour of its subcontractors. As well, the company had occupied an additional building with all of the overhead costs associated with that building, procured engineering development equipment and software, and entered into contract with 11 major subcontractors.

The only deliveries that had been made up to the point of termination were documents and design reviews and, therefore, it is not possible to provide a list of the completed work items. The development equipment and software previously mentioned, totalling approximately $3.5 million, has been transferred to the Department of National Defence's ownership.

The contract with Unisys was terminated on November 5, 1993, as promised in the Government's Red Book. Unisys was paid $98 million for work completed under the previous administration and prior to contract termination.

THE ECONOMY

CREATION OF JOBS FOR WOMEN THROUGH INFRASTRUCTURE PROGRAM—REQUEST FOR PARTICULARS

(Response to question raised by Hon. Marjory LeBreton on June 7, 1995)

The main objectives of the Infrastructure program are to renew Canada's infrastructure and create employment. Approximately 100,000 direct jobs will be created during the design and construction phases of Infrastructure Works projects. Over and above these 100,000 jobs, a total of 10,800 direct long-term jobs will be generated by the program, according to information provided by municipalities. In addition, Infrastructure Works is a very

important generator of indirect long-term jobs related to other economic activities made possible as a result of improved road ways, water and sewer systems and other forms of infrastructure.

The office of Infrastructure does not keep statistics on the number of women employed on Infrastructure projects since hiring is done at the local level. The project proponent, usually a municipality, is responsible for project management including the tendering of contracts. The federal-provincial/territorial framework agreements indicate that all contracts will be awarded and administered in accordance with the administrative, management and contract procedures within the province/territory, including those of employment equity. The upcoming evaluation of the program may enable us to determine the number of women employed on Infrastructure projects.

AUDITOR GENERAL

DISPUTE WITH DEPARTMENTS OVER UNREPORTED LIABILITIES—GOVERNMENT POLICY

(Response to question raised by Hon. Roch Bolduc on June 8, 1995)

Generally accepted accounting principles in Canada, as established by the Canadian Institute of Chartered Accountants, require the recognition of liabilities associated with future site restoration costs when the likelihood of their being incurred is established as the result of environmental law, contract, or because an organization has established a policy to restore a site and when such costs can be reasonably determined. The position of the Government is that, on the whole, these costs cannot yet be reasonably determined.

This is a complex issue in that the costs associated with remediating environmental damage will very much depend on the future use to be made of the site. A different standard may apply to a future wilderness site than will apply to a future day care site. This uncertainty, coupled with a variety of standards and methods of remediation, makes reasonable quantification extremely difficult.

The government is working towards full disclosure of environmental liabilities in the Accounts of Canada. The government has provided note disclosure since 1991 and the intent is to enhance that disclosure this fiscal year. Government officials are working with officials of the Office of the Auditor General on this matter and do not anticipate an audit reservation on the financial statements. As was recognized in the government's response to the recommendations of the Auditor General in his May report, the requirement to disclose this liability is accepted and will be met when a reasonable estimate can be determined.

FOREIGN AFFAIRS

RETURN TO DEMOCRACY IN NIGERIA—EFFORTS OF DEPARTMENT

(Response to question raised by Hon. Noël A. Kinsella on June 13, 1995)

The announcement expressing concern at delayed democracy in Nigeria, as issued by the Canadian mission in Lagos, was in fact issued in Ottawa and repeated in Lagos.

Measures adopted by Canada since the annulment of the 1993 presidential election apparently won by Chief Moshood Abiola include the following:

– received Abiola in Ottawa and spoken out for his safety;

– demanded diplomatic access to political detainees;

– cancelled visit to Canada by Institute of Strategic Studies;

– suspended Nigeria's eligibility for military and police training assistance;

– cancelled proposed visit of Inspector General of Police;

– declined request to negotiate investment protection agreement;

– refused visas to senior Nigerian military and ministers;

– blocked requests to send military-capable exports to Nigeria;

– called repeatedly for Abiola's release as an indispensable part of any solution;

– lowered bilateral relations to Acting High Commissioner level;

– sponsored several prominent Nigerian democratic activists to visit Canadian cities;

– declined to host meeting of Canada/Nigeria Joint Commission;

– cited Nigerian abuses in several UN human-rights speeches and co-sponsored UN resolution on human rights in Nigeria;

– refused to accredit new Nigerian military attachés.

The adequacy of the existing measures is being reviewed.

It is worth recalling that Nigeria is a regional power with the largest population and oil production in Africa, and troops stationed in several West African nations. It receives

no government-to-government aid from Canada, and enjoys a substantial bilateral trade surplus with Canada based on exports of over $600 million of oil in each of the last two years. It is because Nigeria is relatively impervious to foreign influence that its military regime has already endured for 12 years, indeed all but four of the last 29 years, as noted in the first press release.

Only through high-level contact and dialogue can we encourage greater openness in other countries and advance Canadian interests at the same time. With China, our policy of engagement is built on four pillars: economic partnership, sustainable development, peace and security, and support for human rights, good governance and the rule of law. Regarding the fourth pillar in our relationship with China — support for human rights, good governance and the rule of law — the people of Canada naturally expect that our foreign policy will reflect the democratic principles upon which Canadian society is based. Our government believes that a great deal can be achieved through dialogue. While we may not always agree with our partners at the negotiating table, our strong commitment to long-term global peace and stability will keep Canada at the table.

On a bilateral basis, we have expressed our concerns on human rights to the Chinese leadership during high-level visits and meetings. The Prime Minister first did so with President Jiang Zemin during his visit to China in November 1993 and, more recently, during Vice Premier Zou Jiahua's visit to Ottawa in April 1994. Canada will continue to use both bilateral and multilateral meetings, such as the United Nations Commission on Human Rights, to express our concerns about abuses in China.

CANADIAN HERITAGE

ABOLITION OF ART BANK—ROLE OF MINISTER

(Response to question raised by Hon. Eymard G. Corbin on June 14, 1995)

The Art Bank was created in 1972 at the initiative of the visual arts section of the Canada Council, with special funds obtained through a Treasury Board submission put forward by the Secretary of State.

The supporting documents that led to the Bank's creation and to the allocation of the funds required for its first five years of operation indicated that the program would not be terminated without consulting with the Government through the Secretary of State. After the initial five years, the program was continued by the Council, which is responsible for its resource allocation, policy and administration. Since 1978, there has been no specific requirement for the Canada Council to consult with the Government. Therefore, the quoted phrase "The program will not be terminated without consultation with the government through the Secretary of State" has not been in force since then.

The decision to close the Art Bank was made by the Canada Council Board, after a strategic review of its operation and programs. The Council developed its strategic plan independently from the Department. The Council's strategic plan states that priority will be given to programs which support creation, production and dissemination of the arts, with a particular emphasis on dissemination to greater numbers of Canadians across Canada. Viewed within these objectives, the Art Bank, although a unique and valuable program of support to the visual arts, was considered not to fit within the plan: its cost of operations were said to be too high, and its program of dissemination largely limited to government office spaces.

The Canada Council has appointed a Committee of Experts to make recommendations concerning the future of the Art Bank's collection of artwork. The Committee has begun its deliberations and will report to the Board before year end. The federal Government is paying close attention to the process now underway and remains sensitive to the concerns expressed by the members of the contemporary art scene in Canada.

INTERNATIONAL TRADE

DISPUTE WITH EUROPEAN UNION ON NEWSPRINT—GOVERNMENT POSITION

(Response to question raised by Hon. Gerald J. Comeau on June 15, 1995)

Canada and several other countries are engaged in negotiations with the European Union for tariff compensation. This is owed as a result of increased import duties on Canadian and other countries' exports to Sweden, Finland, and Austria since those three countries joined the European Union on January 1, 1995. The European Union ministerial decision to implement a reduction for newsprint is considered as partial compensation only. The European Union has indicated their willingness to improve upon these tariff reductions in the final negotiations.

These negotiations are in no way related to the turbot issue and the government does not expect that Canada's action on turbot will prevent the goal of finalizing an acceptable long-term compensation package from being achieved.

Minister MacLaren has decided not to increase duty rates at this moment provided that the European Union is prepared to accelerate negotiations to conclude a final compensation package as soon as possible.

FOREIGN AFFAIRS

SALES ABROAD OF CANDU REACTORS—REQUEST FOR STATUS REPORT ON ENVIRONMENTAL AND FINANCIAL CONCERNS

(Response to question raised by Hon. Norman K. Atkins on June 15, 1995)

ROMANIA

Canada and Romania signed a Nuclear Co-operation Agreement (NCA) in 1977, allowing for the establishment of commercial relations in the development and application of atomic energy for peaceful purposes. It is important to note that the NCA was primarily triggered by Romania's interest in Canadian nuclear technology. Romania was attracted by the safety features of the CANDU reactor and the possibilities for nuclear autonomy that could derive from the relative accessibility of the technology, as well as the domestic availability of heavy water and natural uranium as the fuel for the reactor.

In the early 1980s, Atomic Energy of Canada Limited (AECL) played an advisory role to the Romanians. In 1990, it was invited to complete the first unit of the planned five-unit Cernavoda nuclear power plant in Romania. Cernavoda Unit 1 is now completed; full in-service is expected in early 1996.

Environmental Concerns:

The CANDU reactor in Romania was built in accordance with strict Western safety standards. That the reactor will be completed in accordance with these standards is ensured by AECL and an Italian consortium, which have the contractual responsibility for completing it.

The Romanian government shares our concern for safety and has taken the necessary measures to ensure that the strictest safety standards are observed. Internal reviews by both Romania and AECL, plus the International Atomic Energy Agency, have confirmed that Cernavoda Unit 1 will be completed to the high standards of quality and safety that Canada demands.

In addition, over the past several years, Canada has been training Romanian reactor operators and regulators to ensure that Unit 1 will be operated to a high standard of safety. Over 100 Romanian operators have been through a training course run by New Brunswick Power at its Point Lepreau Station, using the Canadian utility's full scale control room simulator. The Point Lepreau CANDU unit is the same basic design as the CANDU 6 being built in Romania.

AECL will be responsible for operating the reactor for the first year and a half to ensure that Western operating standards are well established.

Financial Concerns:

In 1979, the Canadian government approved a loan of over US$680 million through the Export Development Corporation (EDC) for the construction of a CANDU reactor in Romania. Romania used only a part of the loan, which it later repaid in full with interest. Another loan of over C$300 million was approved in 1991. Both loans were provided at market, non-concessional interest rates.

In the early part of the program, the Romanian authorities clearly experienced a number of problems and delays which have increased the cost of the project. However, it is difficult for Canada to know how Romanian's cost estimates changed during this period.

Since AECL and its Italian partner took charge of the project in 1991, the work has progressed well, even though unexpected delays and additional costs have been required to upgrade some of the equipment. However, there does not appear to have been a very significant cost increase over this period.

AECL and its Italian joint-venture partner are interested in securing financing to complete Unit 2 at Cernavoda. If AECL decides to approach the Canadian government for additional funding to complete Unit 2, the question will be examined carefully.

INDIA

Canada supplied India with the CIRUS nuclear research reactor and two CANDU power reactors at the Rajasthan Atomic Power Plant in the 1960s (RAPP 1 and 2). Thus, India was one of Canada's first partners in advancing the peaceful uses of nuclear energy. Canada terminated bilateral nuclear cooperation with India in 1976.

The Canadian government's decision to suspend bilateral nuclear cooperation with India was triggered by India's refusal to accept Canada's new nuclear non-proliferation policy conditions. These requirements, which included signature of the Nuclear Non-Proliferation Treaty (NPT) and accepting International Atomic Energy Agency (IAEA) safeguards on all present and future nuclear activity, were set out in response to India's 1974 nuclear explosion. At the time, it was felt that material subject to Canadian controls was used in the explosion, in violation of the agreement between Canada and India.

Canada does not have nuclear trade or cooperation with India.

The situation between Canada and India is different from that with Romania, because India is not a signatory of the NPT and does not accept IAEA safeguards on its nuclear activities.

In 1990, on the basis of IAEA recommendations, Canada offered limited safety assistance to help India meet the serious, urgent safety problems with the RAPPS 1 and 2 reactors that it supplied in the 1960s and which are under IAEA safeguards. The offer to assist was made with safety concerns in mind; it was not intended to make the reactors operate more effectively. Canada's limited assistance would be carried out under IAEA auspices. So far, India has not accepted the offer of assistance.

The safety of the RAPPS reactors is clearly the responsibility of the Indian authorities.

It is important to note, however, that the RAPPS 1 and 2 reactors are not currently in operation. The Indian authorities have shut them down for safety reasons due to deteriorating pressure tubes. Canadian experts were notified of the problem in a February 1994 meeting of an IAEA technical committee. In July 1994, an IAEA consultants meeting involving Canadian and Indian experts prepared a report to assist the Indian authorities on solving the problem.

In view of the energy India will need now and in the near future to sustain economic development, the government may be reconsidering the offer of assistance made by Canada in 1990.

POTENTIAL SALES

Possible sale of Canadian nuclear technology to Indonesia, Egypt or China raise no difficulties for Canada in terms of bilateral nuclear cooperation. All three have signed bilateral Nuclear Cooperation Agreements with Canada pledging to use nuclear energy for peaceful purposes only: Indonesia signed on July 12, 1982, Egypt on May 17, 1982, and China on November 7, 1994.

A Nuclear Cooperation Agreement with a partner country is an instrument that both opens the way for bilateral nuclear exchanges and provides assurances that interchange between Canada and the partner country takes place in accordance with our nuclear non-proliferation policy. Canada believes that bilateral nuclear cooperation makes nuclear trade more transparent, and it also ensures that nuclear items supplied by Canada are being used for peaceful purposes only.

The Canadian government considers that these three countries are responsible nuclear partners who will use the nuclear items supplied by Canada for peaceful purposes only.

Both Indonesia and Egypt are signatories of the Non-Proliferation Treaty (NPT) and have accepted IAEA safeguards on all of their nuclear activities. As a NPT nuclear weapon state, China differs slightly from the two other countries, as it has a Voluntary Offer Safeguards Agreement with the IAEA.

Canada has received assurances from China that the nuclear items subject to the Canada-China Nuclear Cooperation Agreement will be used only within the framework of civilian activities, subject to the safeguards agreement between China and the IAEA.

NATURAL RESOURCES

NEW FEDERAL-PROVINCIAL SILVICULTURE AGREEMENT—GOVERNMENT POSITION

(Response to question raised by Hon. Brenda Robertson on June 20, 1995)

In the February 27, 1995 budget documents, the federal government reconfirmed the position originally announced by the previous federal government, that the Forest Resource Development Agreements with the provinces will be discontinued.

The Atlantic Canada Opportunities Agency (ACOA) is in the process of negotiating new agreements with the provinces. Under the new agreements, should there be individual projects involving value-added and trade-related initiatives in the forestry sector, ACOA would be willing to consider assistance within its limited financial capacity.

The federal government recognizes the Province of New Brunswick program (ie. Silviculture Improvement Program) and the contributions made by the private woodlot sector in New Brunswick. The Agreement between the Province of New Brunswick and the New Brunswick Federation of Woodlot Owners is important in encouraging the management of private forest lands in New Brunswick and in increasing the economic, social and environmental potential of these lands for the benefit of other stakeholders.

The termination of all forest resource development agreements (FRDAs) under which private woodlots were financially supported, was announced by the previous government in its 1993 budget. In view of the current fiscal situation, the government confirmed in its February 1995 budget that the FRDAs will not be renewed.

Historically, the New Brunswick FRDA has been funded through the ACOA. Given the severe financial constraints that all departments, including ACOA, are facing, it has not been possible to identify new sources of funding to support a transition forestry program in New Brunswick and elsewhere in Canada.

Moreover, federal-provincial/territorial cooperation is under continued discussion with provincial and territorial colleagues through the Canadian Council of Forest Ministers. Natural Resources Canada remains committed to working with the provinces and territories, within the limits of our financial ability in areas of federal responsibility, such as international trade, science and technology, on job creation and sustainable management of our forests.

HEALTH

REORGANIZATION OF BLOOD SUPPLY SYSTEM— GOVERNMENT POSITION

(Response to question raised by Hon. Richard J. Doyle on June 20, 1995)

Last February the Government released the Interim Report of the Krever Commission — the Commission of Inquiry on the Blood System in Canada. It is very important to reiterate the main conclusion of that Interim Report. Justice Krever said that Canada's blood supply is not less safe than that of other developed nations. This is a very important message for Canadians to hear, and it bears repeating.

Justice Krever also urged all the participants in the national blood supply system not to be complacent. The Government feels this message should be heeded by all partners in the blood supply system. For its part, the Government has acted, and will continue to take action to strengthen the safety of the blood supply. The Government indicated as much when it released its Response to Justice Krever's Interim Report, which was tabled in the House of Commons by the Minister of Health on June 7/95.

Justice Krever himself said that his Interim Report was not a full examination of the blood system. He focussed on the current safety of Canada's blood supply, and he said that he was leaving an assessment of the national blood supply program and system for his final report. He also said that, at this time, it would be premature to expect full implementation of all the recommendations he makes in his Interim Report. General questions about the national blood supply system and ideas about its organization would best be served by referring to Justice Krever's advice in his final report, which is due to be submitted to the Government by December 31 of this year.

The blood system in Canada is multi-faceted. It includes the provinces and territories, hospitals and medical practitioners, the Canadian Blood Agency, the federal government, and others. Justice Krever recognized that the system today is dynamic and undergoing changes at a rapid rate.

The Government of Canada will continue to monitor these changes, which are occurring at all levels of the system. Where it is appropriate and within its jurisdiction, the Government will regulate and inspect all manufacturers of blood, blood products and components to ensure they are safe, efficacious and of the highest possible quality.

The Government has considerable scientific, technical and administrative expertise which it has brought to bear on those recommendations which are within the scope and mandate of the Government's jurisdictional authority. Where practical and warranted, the Government is prepared to apply its expertise to assist others in implementing Justice Krever's recommendations relating to their jurisdictional authorities.

Very recently there have been claims made in the media that there may be "chronic blood shortages" in some of the country's hospitals and that public confidence in the safety of the blood supply needs to be regained. One of the best ways to rebuild public confidence is for all the partners in the national system to demonstrate their commitment to finding new ways to make the blood supply even safer. The Government has taken action and will continue to act to strengthen the safety of the blood supply. Others are acting in their own ways to rebuild public confidence. Indeed, Canadians should be reassured by Justice Krever's conclusion affirming the quality of the Canadian blood supply.

Justice Krever also emphasized that nothing he recommended in his Interim Report will diminish the urgent need for Canadians to donate blood. He recognized the enormous contributions made by Canada's blood donors by saying that all members of Canadian society owe blood donors a debt that can never be repaid.

One cannot but agree with Justice Krever, who said that by their past generosity, the blood donors of Canada have shown that they can be relied on to continue their selfless actions as long as blood is necessary for therapeutic purposes.

Turning to the question of the National Forum on Health and whether the subject of the national blood supply system is receiving specific attention from the Forum, it should be noted that the mandate of the Forum is to inform and involve Canadians and advise government on the ways to improve the health of the population. The Forum has been designed to promote a dialogue with Canadians about their health care system to determine whether changes can be made that lead to better health while respecting the principles on which our system was built. The Forum has begun to examine key issues under four main themes, and there may be some opportunity to discuss the national blood supply system under this thematic approach, but that is very much up to the Forum itself to determine.

CLOSER CONTROL ON TOBACCO PRODUCTS— GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on June 20, 1995)

The purpose of the Hazardous Products Act is to ensure the safety of personal, household, or recreational products by either prohibiting them or by regulating their sale, advertisement, and importation. Products are regulated under the Hazardous Products Act in order to make them safe. Currently, it is not possible to make tobacco safe.

The Department of Justice has carried out an in-depth review of the possibility of using the Hazardous Products Act to regulate tobacco and has confirmed that it is not an appropriate legislative vehicle for this purpose.

Current drug enactments are not designed to control tobacco. Basically, under the Food and Drugs Act, a drug is defined as anything intended for use for medical purposes. Tobacco does not meet this criteria since it has no medical use.

There already exists a comprehensive legislative framework and strategy to deal with tobacco under the Tobacco Products Control Act and the Tobacco Sales to Young Persons Act (TSYPA). With respect to modifying the Tobacco Products Control Act, since its constitutionality has been challenged before the Supreme Court, it would be inappropriate to modify it until the Court's decision is rendered.

The government will have an opportunity to review tobacco policy options once the decision from the Supreme Court has been made.

HUMAN RIGHTS

ESTABLISHMENT OF CANADIAN RACE RELATIONS FOUNDATION—GOVERNMENT POSITION

(Response to a question raisedby the Hon. Noël A. Kinsella on June 20, 1995)

The official proclamation date of the Canadian Race Relations Foundation Act has not yet been determined. Several implementation activities are required before proceeding with proclamation. These include appointing an Executive Director, selecting the Board of Directors, strengthening the accountability regime of the Canadian Race Relations Foundation Act and developing some operating guidelines for the Board.

While selection for the Board of Directors and the Executive Director have begun, the process has yet to be completed.

CANADIAN HERITAGE

CATALOGUE OF NATIONAL SPORTS EVENTS—FAILURE TO PUBLISH IN FRENCH—GOVERNMENT POSITION

(Response to question raised by Hon. Pierre Claude Nolin on June 21, 1995)

The contribution agreement issued by Sport Canada, which is the contract outlining the obligations of recipient organizations, includes the requirement to provide equitable service to the public in both official languages.

Officials of the Sport Canada branch of the Department of Canadian Heritage have contacted representatives from the Canadian Sport and Fitness Administration Centre (CSFAC) to remind them of their contractual obligations, as recipients of federal financial support, with respect to the publishing of materials in both official languages.

CSFAC officials have translated the Canadian Sport Guide — summer edition into French, and it was released to the media and the public on July 24, 1995.

Although the cuts in support to the CSFAC over the 1994-95 and 1995-96 fiscal years have been major, the CSFAC made an error in judgement in stating that the guide could not be published in French because of the cuts.

Sport Canada officials have met with CSFAC management, reminded them of their contractual responsibilities as a federally supported institution, and resolved the situation — the guide will be produced in French.

HEALTH

USE OF BOVINE GROWTH HORMONE SOMATOTROPIN—DELAY IN INVESTIGATION OF HUMAN HEALTH RISKS—GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on June 21, 1995)

Health Canada is the regulator of this product and makes scientifically-based decisions that result in the issuing or not issuing of a Notice of Compliance. Until the review is completed, rBST cannot be sold or distributed in Canada. The review by Health Canada is independent of any moratorium.

The moratorium was a voluntary undertaking on the part of the manufacturers of BST. Health Canada must remain as an independent regulatory body. As such, Health Canada is not in a position to call for a voluntary moratorium.

The scientific and procedural information provided to the Standing Committee on Agriculture and Agri-Food was correct. Under the Access to Information Act, this could not include confidential, proprietorial data contained in the manufacturers' submissions.

FISHERIES AND OCEANS

CUTS IN DEPARTMENTAL BUDGET—DEMISE OF WINNIPEG FRESHWATER SCIENCE TEAMS—GOVERNMENT POSITION

(Response to questions raised by Hon. Janis Johnson on June 21, 1995)

The Freshwater Institute (FWI), one of the world's leading research centres for freshwater fisheries research, is the regional headquarters of the Central and Arctic Region

for the federal Department of Fisheries and Oceans. This region extends throughout the provinces of Ontario, Manitoba, Saskatchewan, Alberta, the Northwest Territories, and the North Yukon Slope. The FWI provides facilities for fisheries and environmental research, as well as for non-research activities of the Region such as fisheries inspection, fisheries management, economic analysis, and administration. It is the major federal government centre for freshwater fisheries and Arctic fisheries research.

Scientists at the FWI play a critical role in a number of regional and national issues relative to freshwater, freshwater fisheries, and Arctic marine fish and marine mammals, issues such as the impact of Arctic oil and gas development on fish habitats, toxic contaminants, aquaculture development, inland fisheries enhancement, and acid rain.

The work of the Freshwater Institute at the Experimental Lakes Area in northwestern Ontario focuses on the experimental manipulation of small lakes to long-term pollution stresses. The program has contributed to world-class scientific advancements; notably for the effects of acid rain and phosphorus-based laundry detergents. The government is hopeful that this program will continue to generate the scientific knowledge needed to support management of Canada's water resources.

The work of the Great Lakes Laboratory for Fisheries and Aquatic Sciences, which is located at the Canada Centre for Inland Waters in Burlington, Ontario, is an important component of Canada's commitment to the Great Lakes Water Quality Agreement. Water Quality in the Great Lakes continues to be a high priority of this government.

It is intended, as part of the rationalization of freshwater and marine responsibilities in the Department of Fisheries and Oceans (DFO) and the Department of the Environment (DOE), to transfer the affected freshwater programs from DFO to DOE. These programs, as is the case for all departmental programs, are facing budgetary reductions as a result of program review. The budget reduction to the affected DFO freshwater science programs for the 1995/96 fiscal year is approximately 22%. Pending discussions with Environment Canada, no decisions have been made for reductions in future years,

On November 18, 1994, a Memorandum of Intent was signed at the Deputy Minister level, on the rationalization and transfer of responsibilities between the Department of Fisheries and Oceans and the Department of the Environment. The objective is to reduce overlap and duplication between federal departments and other levels of government. Under this initiative, the Department of Fisheries and Oceans would become primarily an oceans department. The Department of the Environment would become the lead federal department for freshwater responsibilities. A further aspect would involve the delegation of freshwater fish habitat protection and freshwater fisheries management to provinces.

Discussions between the two departments are continuing on the transfer of freshwater and marine programs. These talks are taking longer than originally anticipated due to the complex, multi-faceted nature of some of the affected programs, and the difficult challenge of meeting the reduction targets. In the case of the program at the Experimental Lakes Area, for example, an examination is underway of potential partnership alternatives which could provide a sound long-term financial base for the program.

HEALTH

BOVINE GROWTH HORMONE—LINK BETWEEN IGF-1 AND BREAST CANCER—GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on June 27, 1995)

Products containing rBST are currently under evaluation in the Bureau of Veterinary Drugs of the Department of Health. Review of safety issues on IGF-I, including its physiological function and possible link to breast cancer is still ongoing, and no decisions have been made regarding the issuance of a notice of compliance for these veterinary drug products.

Until the evaluation by Health Canada is completed and a decision made, rBST cannot be sold for use in Canada.

COMMUNICATIONS

GRANTING OF PUBLIC RELATIONS CONTRACT FOR G-7 SUMMIT—CONTRAVENTION OF TREASURY BOARD REGULATIONS—GOVERNMENT POSITION—REQUEST FOR ESTIMATED FINAL COST

(Response to questions raised by the Hon. Pierre Claude Nolin and the Hon. Jean-Maurice Simard on June 27, 1995)

There are strict conditions under which the Government may offer sole source contracts. These include cases where the contracts are smaller than $30,000, in cases of urgency or in cases where corporations sponsor free goods or services. A number of these cases applied to various contracts arranged to support the Halifax Summit.

The preparations for the Halifax Summit were done in a very tight time frame, necessitating some quick decisions. In the case of the public relations firm, the decision to award a sole-sourced contract to Groupe Columbia Inc. was made on the basis of an urgent need for specialized communications assistance for the Summit. The decision was taken after reviewing a number of informal proposals from public relations firms, although a formal tendering process was not undertaken. Groupe Columbia submitted the earliest and most complete bid to handle all the communications functions of the Summit. Further, the firm's capabilities were well known to the Summit organizers.

The firm provided specific assistance in organizing public events and media relations for the Summit. The assistance provided by Groupe Columbia Inc. helped foster the positive image of Canada portrayed in the media. It was also instrumental in ensuring good relations with the people of Halifax.

The final cost of company's services is $431,000.00. The total cost of the Halifax Summit was $28 million, cheaper than both the Toronto Summit in 1988 and Naples Summit in 1994.

GRANTING OF PUBLIC RELATIONS CONTRACT FOR G-7 SUMMIT— REQUEST FOR PARTICULARS ON ADVICE GIVEN TO RCMP

(*Response to question raised by Hon. Marcel Prud'homme on June 27, 1995*)

On March 9, 1995, the RCMP contracted a public relations firm from Halifax, Arlington Consultants, to conduct a media relations training course for 18 RCMP, local police, military and Ports Canada officers responsible for media relations during the Halifax G-7 Summit. This contract was financed through the Halifax Summit Office. Since the contract was for less than $30,000, Treasury Board guidelines allowed for it to be signed without a formal tendering process.

The purpose of the course was to train the officers in media liaison functions and general public relations, particularly how to respond to media questions, how to present useful information and how to ensure that the people of Halifax were informed on security arrangements affecting access to downtown areas and Summit public events. The course took place on 1-8 May, 1995 in Halifax.

The final cost of the contract was $13,200.

SOLICITOR GENERAL

RCMP MARKETING CONTRACT WITH DISNEY CORPORATION— REQUEST FOR PARTICULARS

(*Response to questions raised by Hon. David Tkachuk and Hon. Brenda M. Robertson on June 28, 1995*)

The Mounted Police Foundation (MPF) was established to assist the Commissioner of the Royal Canadian Foundation (RCMP) in administering the commercial use of the intellectual properties which are the principal public identifiers of the RCMP. The Foundaion was incorporated in June of 1994. Its Board of Directors is comprised of prominent members of the community who are volunteering their time, energy and experience in support of the RCMP and its community policing initiatives. As the Master Licensee for the RCMP, the MPF will receive, maintain and manage funds generated from the Licensing Programs. These funds will be directed to support and to enhance RCMP community policing, public relations and crime prevention programs throughout Canada.

The RCMP Product Licensing Program was formally launched on January 27, 1995, in a press conference attended by the Solicitor General, the Commissioner of the RCMP and the President of the Mounted Police Foundation (MPF). The event generated national press coverage. In this regard, over 450 letters were sent out to known users of RCMP intellectual property, by the RCMP and the MPF, advising them of the licensing program and of the application requirements. In addition, pursuant to Section 9(1)(n)(iii) of the Trade Mark Act, the RCMP filed formal notices with the Registrar of Trade Marks. As a result, notice of the licensing program was published in various Trade Mark journals.

Following these communications initiatives, the MPF received unsolicited offers of service and/or proposals from a variety of companies, of both Canadian and American origin, specializing in licensing or in specific aspects of the licensing industry. Interest from solely American companies was not considered. The MPF reviewed applications from Canadian companies at length, focusing on company history and reputation in the licensing industry, established marketing and advertising capabilities, creative capabilities, revenue control systems, access to the Canadian manufacturing base, and access to international marketing and distribution networks. The MPF determined that the proposal from the Walt Disney Company (Canada) Ltd. was superior in many ways.

Under the terms of the contract, the Walt Disney Company (Canada) Ltd., will act in the capacity of agent for the Mounted Police Foundation, to develop and to administer the RCMP Product Licensing Program. Walt Disney (Canada) Ltd. will not be directly involved in the manufacturing of goods but rather will license Canadian companies to supply licensed goods for the program. The RCMP retains all ownership of its intellectual property and will have final approval over all use of its image by licensees to the program.

Royalties from the sale of licensed goods will be shared between the MPF and Walt Disney Canada (Ltd.) on a sliding, five-year scale. In the first year of the agreement, the MPF will retain 51 per cent, while Walt Disney Canada (Ltd.) will receive 49 per cent, sliding to 55 per cent (MPF) and 45 per cent (Walt Disney Canada Ltd.) by year five.

The costs of administering the program (i.e., creative, administrative, and management personnel; contract negotiation; marketing; advertising; revenue control; etc.) will be the sole responsibility of Walt Disney Canada (Ltd.) and will be paid for out of its share of the royalties.

The MPF's percentage of the royalties will be allocated to support existing RCMP community policing programs, such as crime prevention initiatives, victims services, and drug awareness programs.

The contract in question is between the MPF and the Walt Disney Company (Canada) Ltd., based in Etobicoke, Ontario. Contract negotiations were conducted by the MPF at Disney's offices in Etobicoke and with the RCMP in its offices in Ottawa. Expenses incurred by the MPF in these negotiations were paid for by the MPF. These negotiations did not involve the travel of RCMP or MPF personnel outside Canada.

The MPF has contracted with the Walt Disney Company (Canada) Ltd. which acts independently of the parent company in the United States and which is fully equipped to handle all aspects of the program. Walt Disney (Canada) Ltd. is well established in the Canadian licensing industry and has been since 1966. The company has extensive ties with Canadian manufacturing and distribution networks. All operational and administrative aspects of the MPF and the Walt Disney (Canada) Ltd. agreement will be handled solely by the Walt Disney Company (Canada) Ltd. Under the provisions of the agreement, the Walt Disney Company (Canada) Ltd. will give priority to Canadian manufacturers as licensees to the program. As the Walt Disney Company (Canada) Ltd. expands the licensing program to include foreign markets in the United States, United Kingdom and Japan, it will be liaising with Disney offices in those countries to use existing distribution channels for the marketing of RCMP licensed products.

CANADA POST CORPORATION

LEASE OF PREMISES IN SYDNEY, NOVA SCOTIA—INTERVENTION OF MINISTER OF PUBLIC WORKS

(Response to questions raised by Hon. J. Michael Forrestall on July 11 and 12, 1995)

Pursuant to the request by the Minister's office, this review will include the analysis of the events in chronological order, all supporting documentation as well as the financial evaluation that directly relate to the leader at 124 Pitt Street, Sydney, Nova Scotia.

The purpose of this review is to determine the merits of this transaction.

The precise terms of reference are outlined in the attached letter dated July 24, 1995, from Canada Post Corporation to Price Waterhouse.

(For the text of the letter see Appendix A, page 2084)

ANSWERS TO ORDER PAPER QUESTIONS TABLED

AGRICULTURE FOOD CANADA

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 81 on the Order Paper—by Senator Tkachuk.

SOLICITOR GENERAL OF CANADA

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 86 on the Order Paper—by Senator Tkachuk.

CITIZENSHIP AND IMMIGRATION CANADA

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 89 on the Order Paper—by Senator Tkachuk.

MARINE ATLANTIC—M.V. BLUENOSE FERRY SERVICE

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 99 on the Order Paper—by Senator Comeau.

The Senate adjourned until Wednesday, October 4, 1995, at 1:30 p.m.

APPENDIX A

(See page 2083)

POSTE MAIL

July 24, 1995

Price Waterhouse
1250 René-Lévesque Blvd. West
Suite 3500
Montreal QC H3B 2G4

Attention: Mr. Russell Goodman

Dear Sirs:

Re: Examination of Lease

In accordance with the request of the Minister responsible for Canada Post Corporation ("the Minister") as set out in the attached letter of July 10, 1995, Price Waterhouse is appointed to carry out an independent review and evaluation of the details relating to the lease entered into by Canada Post Corporation ("CPC") for its retail outlet located at 124 Pitt Street, Sydney, Nova Scotia.

The objective of your examination is to assess the basis for, and financial merits of, the aforementioned lease and the transactions directly related to it ("the CPC lease"). Your examination shall also include interviews of those individuals to be selected by Price Waterhouse as you deem necessary.

In carrying out your examination you will have unrestricted access to CPC employees and to documents in their possession. Additionally, CPC will assist Price Waterhouse in arranging interviews of individuals other than CPC employees who have, or are alleged to have, direct knowledge of the CPC lease. Your work should specifically include visits to CPC locations in Sydney, Halifax and Ottawa.

At the substantial completion of your examination, you should submit a preliminary report, in draft form, to CPC. Upon receipt of the preliminary draft report, CPC will provide Price Waterhouse with comments in written form. Specifically, CPC agrees that it will advise Price Waterhouse as to the accuracy of material events

and facts as presented by Price Waterhouse in its draft report and known by CPC. A final report should then be prepared and submitted to CPC.

CPC agrees to hold Price Waterhouse free and harmless from any demands, claims or actions and to indemnify Price Waterhouse from any awards or judgments for damages including interest and costs arising out of or in any way related to the execution of the mandate described in this letter.

Price Waterhouse shall treat all information that it receives in a strictly confidential manner and shall not comment on or release any information or its report to anyone without the express written authorization of CPC. Notwithstanding the foregoing and subject to prior consulting with CPC, Price Waterhouse shall have the right to comment on any material public misrepresentation of the contents of its report that compromises its integrity.

Price Waterhouse shall invoice CPC for the examination, including any work and costs related to the defence of its report, based upon the time devoted to the assignment at rates customary for such assignments. Price Waterhouse will also be reimbursed its customary travel and other out-of-pocket expenses, including, in consultation with CPC, the costs of any special advisors engaged to assist Price Waterhouse in connection with the examination or defence thereof. CPC confirms that it will pay any such invoices or other charges upon their receipt.

Either CPC or Price Waterhouse shall have the right to terminate this examination upon 24 hours written notice at which time Price Waterhouse shall, if requested, return copies of all documents related to the CPC lease and the examination in its possession. In the event of the early termination of the examination, Price Waterhouse shall be entitled to be fully paid for its time and other charges up to the expiry of the notice period, as well as, in consultation with CPC, for time and costs reasonably incurred subsequently in defence of its examination and, if applicable, draft or other reports.

CPC agrees that any changes to the scope of the mandate described herein shall be communicated by CPC to Price Waterhouse in writing and shall be covered by the terms of this letter of engagement.

Should you be in agreement with the terms of this letter, kindly sign two original copies of this letter and return one original signed copy to CPC at your earliest convenience.

Yours very truly,

for Canada Post Corporation

Acknowledged and agreed to this day 25th of July 1995 by Price Waterhouse.

for Price Waterhouse

THE SENATE

Wednesday, October 4, 1995

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

Prayers.

SENATORS' STATEMENTS

THE LATE RIGHT HONOURABLE JOHN GEORGE DIEFENBAKER

ONE HUNDREDTH ANNIVERSARY OF BIRTHDAY

Hon. David Tkachuk: Honourable senators, I rise today because I am slightly intrigued and always amazed at the life of John George Diefenbaker. He was born on September 18, 100 years ago.

I can still see him — as I am sure many of you can — as if it were yesterday. I heard him speak at the 1974 Progressive Conservative Convention. I remember it well. It was held in the Adam Ballroom of the Bessborough Hotel in Saskatoon.

Hours earlier, I had been formally introduced to him for the first time. He stated to me that I write a very good letter. I had written to him some three or four months earlier outlining to him why I thought it was important for him to come to Saskatchewan and speak at our convention. I thought we could really win in that province. Of course, in 1974, this was not something that one could easily believe.

Mr. Diefenbaker looked very old and tired, and he could not hear well. At the banquet table that night, he looked down, not at us but down at his lap and at the floor. I thought we would be in for a bad night, because I thought he was human. I do not remember who introduced him, but I remember him rising slowly with his back arched forward. He was not stooped over, just straight. He placed his papers on the lectern, not like many of today's politicians with their neatly typed papers, and then he started.

His eyes transformed him. All of a sudden, he became very young to us. As a matter of fact, he looked as young as we did, and as strong. He was bold, irreverent and funny. When he sat down, he looked old again.

With Mr. Diefenbaker, the line in the sand was always drawn. I have concluded that he is remembered for what he said, and, yes, how he said it. He loved to take on the Liberals, Otto Lang and Pierre Trudeau. However, after Bennett and King and St. Laurent, onto the spotlight came Diefenbaker. He was different, exciting and charismatic. He was a populist. He was eloquent in contrast to all those around him and immediately before him.

People filled arenas by the thousands, and politics became personal. Many of us became involved in politics because of him — for him or against him — no doubt because of him. Diefenbaker liked to say that he opened up the Progressive Conservative Party and made everyone feel welcome. However, he really opened up all parties. While there have been populists in politics before, he was the first national populist to become Prime Minister.

To put his vision in perspective, there are those views that are well known: the expansion of the north, the profiling of western agriculture, and the bill of rights. However, years ago, I retrieved from the library his manifesto from the 1938 provincial election, when he was Leader of the Conservative Party in Saskatchewan. I will quote a couple of lines from it, honourable senators, because they are interesting.

In that 1938 manifesto — most of which he penned himself — Diefenbaker stated:

> The Conservative Party pledges itself to increase grants to expectant mothers.
>
> The Conservative Party approves of the need for health insurance, state medicine and hospitalization, and undertakes to fully investigate the various forms thereof...
>
> The Conservative Party pledges itself to:
>
> (1) The extension of public health services to combat cancer, mental and other degenerative diseases;
>
> (2) The establishment of child guidance clinics;
>
> (3) The provision of facilities to permit periodical medical examination of all individuals over the age of 35 years.
>
> The Conservative Party pledges itself to the adoption of a system of contributory unemployment insurance.

• (1340)

The social policy, combined with his strong support of individual liberty and free enterprise, laid a new foundation for our party. If only Diefenbaker could hear Dalton Camp today! The irony is that he is speaking through Dalton Camp today; Dalton just does not know it!

Mr. Diefenbaker also said that it seems the more things stay the same, the longer you are in politics. I will quote from that 1938 manifesto — and if I am running out of time, perhaps honourable senators will excuse me. That manifesto stated:

> (A) By making substantial reductions in the salaries of cabinet ministers;
>
> (B) By reducing the number of the members of the cabinet;
>
> (C) By reducing the number of the members of the legislature;

(D) By making substantial reductions in the salaries of the higher paid civil servants;

(E) By coordinating to a greater degree the various departments of the government;

(F) By coordinating to a greater degree the services rendered in Saskatchewan by both the federal and provincial governments, thus preventing overlapping and duplication and making possible the giving of the same services with the elimination of many travelling inspectors;

(G) By eliminating unnecessary boards and commissions, thereby placing public administration in the hands of bodies responsible to the people.

Incidentally, honourable senators, he lost that election.

John Diefenbaker appealed to Canadians, and to him there were no hyphenated Canadians. Being of German ancestry, he did not ask Germans to support him because he was a German. He would consider it unbecoming to play upon that. He reached out to Jews, Ukrainians and aboriginal peoples, not to give them a special place but simply an equal place in Canada.

It was he who stood alone against apartheid. There were no black votes to be won in Canada. He stood against the policies of the government of South Africa because, after all, those policies were un-Canadian; there were just not right. That was his paradox: the welcoming of Canadians into the political process, his joy around people and before audiences, his strength and, at the same time, to the seemingly less than collegial way of operating, a loner who saw demons around him but was never afraid to face them alone. This same supposed weakness in administration was the thing that gave him strength when it came to human rights and natural justice.

Diefenbaker loved Canada unabashedly, unswervingly and undeniably — and this holds more meaning today in Canada in light of what is happening in our neighbouring province of Quebec. To him, there were no parts that he loved more than, or to the exclusion of, any other. He had what we might call today unconditional love for his country, and he accepted the whole of his country, despite all its faults.

He is laid to rest, with Olive at his side, on the banks of the South Saskatchewan River at the University of Saskatchewan, and alone as always. There is not another headstone for miles. He was a man of this earth; he gave much more than he took from it. That should be said of all of us.

Hon. H. A. Olson: Honourable senators, the Right Honourable John George Diefenbaker was an interesting person, to put it mildly. I had a great admiration for some of his characteristics. I probably got better personally acquainted with him than most members of Parliament, and perhaps even better than most members of his own party, because he and I were in opposition in the House of Commons for many years — that is, from 1963 until approximately 1967. That is the year he lost the election to Pearson.

I was swept out of office in the landslide of 1958, together with every other member of my party, almost all the members of what was then the CCF party, and most of the Liberals, too. The Conservatives under Diefenbaker won the highest majority in Canadian history up to that time, being 208 members.

However, there is a lesson to be learnt here. Since that time, Prime Minister Mulroney received a higher majority, but when he was swept out of office, it was with a majority that was even higher. At that time, the Conservatives who had been in office were all swept out but one, plus a member from Saint John who had previously not been in Parliament.

Mr. Diefenbaker will be recorded as being one of the great personalities in Canadian history. There is no question in my mind about that. To say that he had a good political philosophy is wrong, in my view — or at least I did not agree with it. It is a philosophy that has caused me a great deal of trouble throughout much of my political career. In retrospect, I am not sure that, politically, Mr. Diefenbaker's administrative policy was good for Canada. Yet, I hold a very warm feeling towards him because I know that he was striving to establish a government that would be responsive to some of the things that Senator Tkachuk has just been talking about. I do not know what you would call them — either pink Conservatives, left-wing Conservatives, or whatever. He certainly was not a right-winger. Senator Tkachuk made that point, and I agree with it.

Then when the Liberals were in office, I was a member of the Social Credit Party at the time, and we were in opposition. John Diefenbaker and I sat very close to each other because, for a while, the Social Credit Party had more members than the CCF or the NDP, so we were the next party in line. At that time, I had a great deal to do with Mr. Diefienbaker. I talked to him a lot. Among other things, I admired the kind of personal relationship that he could develop with other members of Parliament.

He said many times, "I am a House of Commons man" — everyone in the Conservative Party will have heard that — and he certainly was that. He loved the place. He loved the cut and thrust of what went on there. He was probably the best debater or "House of Commons man" who has ever been a member of that chamber. He was certainly an excellent Leader of the Opposition.

The opposition's job is to probe the government's policies, its legislative program, and everything else on which the government should be accountable to the people. He was one of the best, and maybe the very best leader who could bring that out. I admired that, because there was a time when that was sort of my job, too — even in this house. I did not do it well, but I tried. He did it very well when he tried.

My three minutes are probably up, but I wanted to get that on the record. I knew him very well. I admired him.

I have one further memory of him. In the 1965 election, the local Progressive Conservative Party in the Medicine Hat constituency made several, almost desperate, pleading requests to Mr. Diefenbaker to come to Medicine Hat to campaign. I know that he told them, "No, I will not campaign against Olson. I think he probably should be re-elected." And of course I was. That was the only time when everyone else who ran for office lost their deposit, except me. Most of the time I was the one who was

always hanging on by the skin of my teeth, if you know what I mean. Mr. Diefenbaker told me before I left Parliament that he would not campaign against me, and he did not. I never had any trouble with the Liberals; it was the Conservatives who were breathing down my neck all the time!

Senator Di Nino: And still are!

Senator Olson: Yes, they still are. Diefenbaker was a man with whom every one of you would have enjoyed having a personal relationship. I know that I did.

[*Later*]

Hon. Len Marchand: Honourable senators, I should like to say a few words about John Diefenbaker, because he made a big difference in my life. He brought about the most fundamental change for my people of this century: He gave us the federal vote in 1960. What could be more fundamental than getting the vote?

I have some very personal memories with respect to that. I was 27 years old before I was allowed to vote in this great and wonderful land of ours. In 1958, during the big "follow John" time, I was attending university in British Columbia. My landlady, who was a fighter for rights, put me on the voters' list. I said, "Oh my gosh, you can't do that." I was very worried about it because I knew that my vote would be illegal. She said, "To hell with it, vote anyway. It should be the right of every person in this land to vote." She talked me into voting and I did so. I did not vote Conservative. I was always a Liberal, even though John later gave us the vote.

I had nightmares for a while as a result of voting in that election.

Senator Doody: No, you had nightmares because you voted Liberal!

Senator Marchand: In my nightmares, a policeman would come to my door and say, "Hey, Indian, you voted in this election. You knew damned well you were not supposed to vote. You broke the law."

However, it was a great turning point in my life. At the start of my political career, I worked with the American Indian Brotherhood. One of our goals was to get the federal vote.

I do not know how people in this great land of ours could do such stupid things. We have historically done stupid things, especially to my people.

As I said, that was a turning point. However, everything is not rosy in our lives at this time. On a daily basis, we read in newspapers about things that are going wrong all across the country. Things did improve, however. Getting the federal vote was a turning point for us. We are at least able to be a part of the process. Our votes now count, like those of everyone else.

After my election to the House of Commons in 1968, Senator Corbin moved the Address in Reply to the Speech from the Throne, a motion which I seconded. I think that was, perhaps, the one and only time that everyone was in attendance in the chamber. John Diefenbaker was there. I paid tribute to him at that time. I thanked him for allowing my people to vote in federal elections. He was most appreciative of my comments to him and wrote me a note to that effect. To this day, I have that note; it is one of my little treasures.

He also took me under his wing in a way. He was very friendly. He saw me doing a television interview one time. I tended to speak a little too quickly at the time; perhaps I still do. I spoke quickly in that television interview. The next day, he walked across the House of Commons floor and said to me, "Young man, I have a little bit of advice for you. You speak too quickly. You have to slow down just a little bit. What you had to say was not bad, for a Liberal, but you have to slow down a bit."

Honourable senators, I thank you for allowing me to take these few minutes to make these remarks. I thought it appropriate to make these few comments. I, for one, appreciate what he did in giving my people the federal vote. It was a real turning point for us.

• (1350)

[*Translation*]

FRANCOPHONES OUTSIDE QUEBEC

THE REFERENDUM—A REMINDER OF THE URGENT NEED FOR A PARTNERSHIP WITH THE PROVINCE

Hon. Jean-Robert Gauthier: Honourable senators, francophones outside Quebec remember the nice promises made by the PQ government and the Bloc Québécois before the referendum was called, when they talked about the urgent need for a new partnership with the francophone and Acadian communities.

They must think we are very naive or desperate in trying to convince us that, in the aftermath of a Yes vote, the Parti Québécois would look after the interests of their fellow francophones from the rest of Canada.

The referendum has not been held yet, but we have already been relegated to the international francophone community. A few mystics even refuse to see us as a segment of Canadian society. According to Quebec's declaration of sovereignty released in the Grand Théâtre de Québec on September 6, 1995, we, the French Canadians from the rest of Canada, are part of this international community in the eyes of these PQ members.

As for the bill on Quebec's future, it does not mention us at all. There is no reference to the fact that we even exist.

We, who have been forgotten by the Parti Québécois, the Bloc Québécois and the Action Démocratique du Québec, wish to point out that the francophone and Acadian communities do exist and that our allegiance is to Canada.

We ask our brothers and sisters in Quebec to vote No in the referendum because Canada, despite its flaws, deserves to be saved.

[*English*]

STATUS OF WOMEN

TWENTY-FIFTH ANNIVERSARY OF TABLING OF REPORT OF ROYAL COMMISSION

Hon. Sharon Carstairs: Honourable senators, I should like to take this opportunity to draw your attention to the fact that last Thursday, September 28, was the 25th anniversary of the tabling of the report of the Royal Commission on the Status of Women.

The report made 167 recommendations, based upon the following principles: That women should be free to choose whether or not to take employment outside the home; that the care of children is a responsibility to be shared by the mother, the father and society; that society has a responsibility toward women because of pregnancy and child birth, and that special treatment related to maternity shall always be necessary; and that in certain areas, women will, for an interim period, require special treatment to overcome the adverse effects of discriminatory practices.

Women have achieved a great deal in Canada in the last 25 years. In 1978, the Canadian Labour Code was amended so that pregnancy was no longer considered to be a basis for dismissal. In 1982, the Canadian Charter of Rights and Freedoms, section 28, ensured that the Charter applied equally to all men and women in this country. In 1983, the Canadian Human Rights Act was amended to prohibit sexual harassment and ban discrimination on the basis of pregnancy or marital status. In 1986, the Employment Equity Act was introduced. In 1993, Canada had its first woman Prime Minister. This was preceded by the achievements of women as Leaders of the Opposition, as premiers and as leaders of national and provincial political parties. In 1995, the federal government adopted the concept of gender-based analysis of legislation and policies.

However, honourable senators, there are still obstacles which must be surmounted. A 1993 Statistics Canada survey found that 51 per cent of all women had experienced at least one incident of physical and sexual violence in their adult lives. In 1992, we learned that 92 per cent of victims in cases of spousal assault were female and that 93 per cent of the accused were male.

In 1991, Statistics Canada reported that three out of five lone-parent families were headed by women and that they had incomes below the low-income cutoff.

The need for quality and affordable child care spaces far outstrips their availability across this country. Women continue to spend more hours doing unpaid work than men. Even when employed, women still invest one to two more hours per day than men doing unpaid work.

The 1992 Statistics Canada figures indicated that women with full-time jobs made 71.8 per cent of the average earnings of their male counterparts.

Honourable senators, let us continue to work toward equality for all people in Canada.

NEW BRUNSWICK

LIBERAL VICTORY IN PROVINCIAL ELECTION

Hon. John G. Bryden: Honourable senators, I should like to draw your attention to the fact that while most of you were enjoying a well-earned summer break, Senator Simard and I were engaged in a somewhat partisan contest in the Province of New Brunswick. During that time, in his own inimitable fashion, Senator Simard referred to Frank McKenna and I as two puppies who had made a mess and should have our noses rubbed in it.

I was reminded of that reckless prediction on September 11. The people of New Brunswick presented us with a beautiful bouquet of 48 red roses. The premier and I rubbed our noses in them and the fragrance will stay with us for the next four years.

• (1400)

ROUTINE PROCEEDINGS

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a number of petitions regarding Bill C-68. The first petition is signed by 24 citizens of Ontario; the second is signed by 25 citizens of Ontario; the third is signed by 52 citizens of Saskatchewan. All of these Canadian citizens express their opposition to Bill C-68 and ask that it not be proceeded with.

Lest honourable senators think I am starting a GST petition round, I have another petition signed by 50 residents of British Columbia who are in favour of tough new gun control legislation.

Hon. Brenda Robertson: Honourable senators, I have a petition signed by approximately 40 citizens of British Columbia. These petitioners implore all members of Parliament to support the passage of tough new gun control legislation.

QUESTION PERIOD

TRANSPORT

PENSIONS OF ROUTE CANADA EMPLOYEES—DELAY IN RESOLUTION OF DISPUTE—STATUS OF NEGOTIATIONS—GOVERNMENT RESPONSE

Hon. J. Michael Forrestall: Honourable senators, in the near future I hope it will no longer be necessary for me to raise the question of Route Canada and its employees. The Minister of Transport appeared before the Transport Committee last June while we were examining Bill C-89, and some documentation was provided to us at that time. It was our impression that all pension benefit entitlements and severances had been paid in full to former employees of Route Canada.

As honourable senators may be aware, one day last summer a number of the constituency offices of Liberal MPs were occupied by former Route Canada employees. They were demanding compensation and a parliamentary inquiry into this issue.

George Rideout, the member of Parliament for Moncton, appeared to be in agreement when he stated, "There is no question that they got shafted," meaning the Route Canada employees.

Does the Leader of the Government have any information whatsoever with respect to these negotiations? As far as the government is concerned, are the negotiations complete or is the government no longer interested in dealing with these people?

In other words, will the Leader of the Government indicate whether or not, as a result of the events of last June, the matter has been dealt with completely, or do these actions by former employees signal a contrary view to that of the Government of Canada on this matter?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am certainly aware of Senator Forrestall's interest in this issue. I will inform myself further today and provide him with an answer.

HUMAN RIGHTS

RATIFICATION OF HUMAN RIGHTS CONVENTION OF ORGANIZATION OF AMERICAN STATES— GOVERNMENT POSITION—DELAYED ANSWER

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, yesterday, Senator Kinsella asked a question of me concerning the Human Rights Convention of the Organization of American States. I wish to indicate to him that, in consultation with the provinces and territories, Canada is continuing its legislative review, with the prospect of acceding to the convention at the earliest possible time. It is precisely because Canada takes seriously its international human rights obligations that we are giving careful consideration to the OAS convention.

Senator Kinsella will know that we continue to play a strong role within the Organization of American States on this matter. I want him to know that the issue is very much alive. The hope is that a conclusion will be reached at an early date.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I wish to thank the Leader of the Government for that information.

Is the Leader of the Government able to tell us which provinces, to date, have agreed that Canada should ratify this convention? It would be interesting for honourable senators to know what the areas of reservations are with reference to Canadian ratification of this instrument.

From my reading, there appear to be a number of provisions in the OAS convention with which some Canadian jurisdictions have difficulty. I do not know if the federal government falls into that category. One provision relates to the right to life, and there are a number of other issues.

This process has been ongoing for three or four years. I understand that a federal-provincial committee of officials meets from time to time on the issue. Perhaps it is time that parliamentarians were given some insight as to what are the obstacles.

• (1410)

Senator Fairbairn: I shall be glad to pursue that point. I simply wished to get an initial answer to my honourable friend quickly. I would also remind my honourable friend that if his question was a written question, and were on the Order Paper, I could get him an even faster answer.

THE SENATE

STATUS OF SENATOR KINSELLA

Hon. Jean-Robert Gauthier: Honourable senators, I apologize to my colleague, but I am not familiar with the Senate rules. I am more familiar with the House of Commons rules. Has Senator Kinsella had a promotion? He was speaking from Senator Berntson's seat. Are we permitted to speak from any seat in this house? Is it agreeable to all senators that that should happen? If so, I should like to know.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I can answer that. It is certainly not out of order to ask at this time. The leadership on the Liberal side was advised that Senator Berntson is leaving soon on an official mission with the Speaker. Senator Kinsella will be replacing him temporarily, and Senator DeWare will be acting as whip on our side. It is not unusual to have these changes take place, and next time we will certainly publicize it more.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on June 13, 1995, by the Honourable Senator Forrestall regarding the First Canadian Mechanized Brigade.

NATIONAL DEFENCE

PEACEKEEPING IN BOSNIA—REQUEST FOR PARLIAMENTARY DEBATE ON INCREASE IN SIZE OF FORCE—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on June 13, 1995)

> The 1 Canadian Mechanized Brigade Group (1 CMBG) is not currently on standby for any specific NATO deployment. Essentially, each of the three mechanized brigade groups within Land Force Command has the same mission, that is: to maintain a general purpose combat capability to provide operationally effective forces, to, amongst others, assigned NATO and international commitments and UN missions.

The specific tasks associated within this overall mission are rotated amongst the brigade groups at regular intervals (generally on a yearly basis). In November of this year, 1 Canadian Mechanized Brigade Group will take over the UN task for 5 Groupe-Brigade mécanisé du Canada based in Valcartier, Québec, and has earmarked one of its infantry units (2nd Battalion, Princess Patricia's Canadian Light Infantry) for deployment with UNPROFOR in Bosnia, as part of a normal rotation of Canadian troops. Additionally, 2 Canadian Mechanized Brigade Group based in Petawawa, Ontario, has been assigned the task, and has just completed Exercise VENOM STRIKE in Gagetown, New Brunswick. This exercise prepared the brigade-group for a possible NATO task in Bosnia, in support of potential UN withdrawal from the region.

As to the specifics regarding the Naval and Air support required by the army in a NATO-related deployment, it is impossible at this point in time, without exact details about the nature of the task and governmental guidelines, to determine the size or configuration of their participation. However, it would be safe to assume that Hercules' flights could be required to move personnel and equipment, and that a Canadian support ship could be of use as a floating logistic base in some scenarios.

ANSWER TO ORDER PAPER QUESTION TABLED

BUDGETARY SAVINGS FOR REGIONAL DEVELOPMENT AGENCIES

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 85 on the Order Paper—by Senator Tkachuk.

THE SENATE

VALUE OF INDEPENDENT SENATORS—GOVERNMENT POSITION

Hon. Edward M. Lawson: Honourable senators, following the events of yesterday, when we welcomed four new senators to the chamber, the numbers now stand at 50 Liberals to 51 Conservatives. In view of that situation, will the Leader of the Government in the Senate determine from her colleague the Minister of Finance the current estimated value of independent senators?

Hon. Joyce Fairbairn (Leader of the Government): I will give that a pass, Senator Lawson.

Hon. B. Alasdair Graham (Deputy Leader of the Government): It is inestimable.

ORDERS OF THE DAY

FARM SAFETY

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Agriculture and Forestry, (Special study on farm safety), tabled in the Senate on Friday, June 30, 1995.

Hon. Dan Hays: Honourable senators, the committee which I have the privilege of chairing tabled two reports during the summer months, and the report referred to is one of those reports.

I should like to thank those honourable senators who participated in the proceedings of the committee leading up to that report, as well as our clerk and research staff from the Library of Parliament.

Honourable senators, farming is considered to be one of the most dangerous occupations in Canada, with a higher death rate than that found in the mining or construction industries. Deaths and injuries in the farming sector involve a proportionately high percentage of the young and the elderly. Moreover, agriculture is the only industry where, on average, there are two fatalities every week and disabling injuries daily. Children routinely work and play at the work site, and the home is located at the work site.

Hazards on the farm arise from a number of sources: Chemical use on the farm, machinery operation and repair, noise, the design of farm facilities, and economic and human stress are all hazards with which farmers must live on a daily basis. Unfortunately, data and information are lacking on many of these hazards, and on the exact extent to which they lead to farm fatalities, injuries, and illness. While there appears to be some research into a number of these areas, it does not appear to be coordinated, or its results widely disseminated.

Recognizing the role that the Standing Senate Committee on Agriculture and Forestry could play in contributing to increased awareness of the issues surrounding farm safety and farm health, on September 22, 1992, Senator Barootes, the then chairman, sought the Senate's permission for the committee to examine farm safety and farm-related issues. One impetus for this interest was a series of conferences cosponsored by the Centre for Agricultural Medicine at the University of Saskatchewan. Attendees included farmers, academics, government representatives and others with an interest in farm health and safety, including senators.

As a result of these conferences and the interest expressed in their subject matter, the Canadian Coalition for Agricultural Safety and Rural Health was formed in June of 1993. The goal of the coalition is to serve as a national communication and information network and to facilitate collaborative research. The coalition, which was incorporated in July, 1995 and has its head office in Saskatoon, will participate in the Canadian Farm Machinery Conference to be held in late October in Prince Edward Island.

As the committee began its work, it became clear that many issues needed examination: economic and mental stress, machinery, chemicals, noise, the design of farm facilities and the use of personal protective equipment, among others. The committee decided to begin its work with an examination of stress and its economic, mental, emotional, and physical dimensions.

On June 21, 1993, Senator Berntson, the then chairman of the committee, tabled an interim report entitled: "Farm Stress: Its Economic Dimensions, Its Human Consequences." The report, which did not make any recommendations, summarized the testimony from experts who shared their expertise on the financial situation in the agricultural industry, and on the mental, emotional, and physical stresses experienced by farm families today.

The committee learned that while farm stress can come from several sources, most witnesses saw unstable and adverse economic conditions as the most significant in relation to farmers' health and safety. The committee heard that adverse economic conditions not only cause stress, often leading to occupationally linked ill health, but that conditions also make farmers more susceptible to illness or injury from other hazards.

Adverse economic conditions, both alone and in combination with other sources of stress, such as fluctuating weather, long work hours, lack of information, and isolation are linked to the symptoms of physical and mental ill health. Moreover, adverse economic conditions affect many choices relevant to health and safety of farmers. For example, economic conditions may effect whether machinery having the latest safety devices will be purchased, and how safely that equipment will be used by a farm operator who is inattentive because of fatigue. They affect the decision of whether personal protective equipment will be purchased for the mixing and application of chemicals, and how carefully the applicator, worried about inadequately attended children, concentrates on proper procedures for mixing and use. They affect the timing of the decision to repair or upgrade the ventilation system in an animal barn with air quality problems.

Certain avenues of change were highlighted by witnesses. Related to economic stress, the Farm Debt Review Board and the Canadian Rural Transition Program initiatives were highlighted. Education, counselling, research, federal support, and child care were identified as future actions which might be taken to limit the effects of mental and emotional stress.

After completing its examination of stress, the committee turned its attention to the issue of farm machinery, tabling its report entitled "Farm Machinery: Lost Lives, Lost Limbs" in June, 1995. Most fatal farm injuries are thought to arise from machinery use, despite such design changes as roll-over protection, a reduced number of points where blockages may occur, and improvements in guard design. In fact, it is estimated that farm machinery is involved in more that 50 per cent of the machine-related deaths that occur among all occupations. Quite apart from the human costs associated with fatalities and injuries resulting from farm machinery use, productivity and competitiveness are reduced.

• (1420)

Farm machinery is intended to decrease physical labour, increase productivity, and save time. However, power-driven machines are, by their nature, potentially dangerous. Each year, an estimated 150 to 200 people are killed in Canada as a result of farm-related accidents; more than half of farm fatalities are predicted to be the result of machinery, either because of how the machinery was designed or how it was operated. Among the most dangerous farm machinery are tractors, round balers, grain augers and power-drive shafts.

The committee learned that the exact extent to which the operation of farm machinery contributes to fatalities and injuries cannot be accurately determined, although data sources may include records from the provincial Workers' Compensation Board, coroners' records, hospital discharge data or a direct survey of farmers. However, these data sources are not without their problems, since Workers' Compensation Board data is incomplete and hospital discharge data may code the injury as having occurred at the individual's place of residence, rather than on the farm. One witness told the committee that, in his opinion, for each fatality there are at least 11 hospital admissions and 300 non-fatal injuries, and the vast majority of these injuries occurring on farms are not reported to any agency.

Honourable senators, whatever the actual numbers, the costs — human, hospital, lost time, structure modification and rehabilitation — of farm machinery-related fatalities and injuries are estimated to be extremely high. Looking merely at hospital costs, the committee was informed by one witness that an Ontario study of farm injuries estimated that the annual direct costs associated with hospital admissions are about $3 million in that province; this prediction assumed 250 to 300 farm injuries per year in Ontario, and costs of about $10,000 per injury. Clearly, a case can be made for prevention.

In seeking to determine the causes of machinery-related fatalities and injuries, the committee learned that some are related to the operator of the machinery, while others are associated with the very nature of the machinery. In particular, fatalities and injuries may occur because the farmer is too busy to attend seminars; removes safety shields or guards for adjustment or repair and does not take the time to reattach them; works when fatigued or inattentive; works too quickly and cuts corners; is careless; makes errors in judgment; or does not take the time to learn the correct operating procedure for new equipment with new controls. Furthermore, much of the machinery is, by its very nature, dangerous. Danger may be even greater with older machinery or machinery that is bought second-hand, since it may lack safety devices and decals.

Honourable senators, the problem has been identified: unacceptable loss of life and costs associated with farm machinery-related fatalities and injuries, whether due to theds operator or the machinery itself. The question becomes: How can the incidence of fatalities and injuries be reduced? The answer lies in changes to both the manner in which farmers use the machines and in the machines themselves.

It was from that perspective that the committee heard suggestions by witnesses and formulated recommendations designed to meet the goal of reduced fatalities and injuries associated with the use of farm machinery. The committee received a great deal of testimony about the critical need to educate farmers and farm families, in various and appropriate formats, about the hazards of using farm machinery and the proper methods for doing so, with particular emphasis on the delivery of education to children, the older population and farm women. In recognizing the importance of education as a means of lowering the incidence of farm machinery-related fatalities and injuries, the committee recommended that all stakeholders develop an effective education strategy, properly targeted and with a variety of formalities.

The design of machinery must also be examined. However, to ensure the safest possible design, one witness suggested to the committee that design changes are more effective than educational or legislative measures in reducing the fatalities and injuries associated with the use of equipment. This witness recommended that, to ensure their effectiveness, these design changes be engineered and tested in a pilot program. Only then should they be implemented across the board. However, another witness told the committee that manufacturers may be reluctant to add costs to machinery for a device not required by law, since that might place them in an uncompetitive position. A number of witnesses pointed out that new farm machinery is becoming safer, that some equipment has shields and guards that are hinged, are easy to replace, or fold up and out of the way to adjust the machine; they also noted that standards are being developed in a number of areas and that research is being done to further enhance safety. Nevertheless, it is still the case that the farm operator must operate the machinery as intended; he or she must replace any guards or shields moved or removed for repairs, and must read and abide by the proper operating instructions, as outlined by the manufacturer.

[*Translation*]

The committee made recommendations on the design of farm machinery, on composite standards and on regulations.

The committee recommended that farm machinery manufacturers continue to do research on how to improve the safety of farm machinery and to participate in the development and implementation of farm-related safety standards.

Standards already exist, but manufacturers are not always aware of them and do not know which ones apply specifically to them. That is why the committee supports one witness' recommendation that a centralized national directory of standards be created.

[*English*]

Furthermore, the committee learned that some provinces have statutory farm-related equipment standards. In particular, the committee heard about the Ontario Farm Implements Act, which regulates the sale of farm implements and authorizes the Ontario Farm Implements Board to establish and enforce farm safety requirements and standards for farm implements sold in Ontario.

The Hon. the Speaker: Senator Hays, I regret to inform you that your time has expired.

Honourable senators, is leave granted to allow Senator Hays to continue?

Hon. Senators: Agreed.

Senator Hays: One witness recommended that all provinces establish regulations or guidelines on the safety requirements of new and used farm machinery. In supporting this witness' position and recognizing that legislation has a role to play in ensuring the safety of farm machinery, the committee recommended that provincial governments be encouraged to adopt legislation related to new and used farm equipment and that, to the extent possible, legislation be harmonized across provinces.

A number of witnesses mentioned to the committee the particular hazards associated with the operation of used machinery. In fact, the committee was told that many farmers are using equipment that is perhaps 15 or more years old, some of which lacks warning decals and up-to-date safety devices. Moreover, farmers may purchase used equipment because it is less costly. Although safety devices have been developed for installation on older machinery, it is costly to retrofit used and older machinery. Nevertheless, the committee recommended that farmers using such equipment be encouraged to retrofit their machinery with the safety devices that have been developed for this purpose.

[*Translation*]

The committee also heard evidence on safety checks carried out by farmers and their families. These checks could apply to all farm hazards, including machinery without safety devices or warning decals, as well as to the comprehensibility of users' manuals. The committee recognizes that such checks could help prevent accidents and injuries. Therefore, the committee recommended that farm families conduct safety checks of farm hazards including machinery on a regular basis.

[*English*]

As noted, prevention of such fatalities and injuries must be the goal. However, if appropriate preventive programs are to be developed and areas for research identified, accurate data are needed about machinery-related fatalities and injuries, what machinery was being used when the accident occurred, under what conditions, and the type and severity of the injury. From this perspective, many witnesses stressed the need for accurate data, and the committee recommended that federal and provincial governments develop a national injury surveillance system that would ensure the ongoing collection of data needed to identify injury patterns and risk factors. The committee believes that data collection and a national database are critical if progress is to be made in reducing farm machinery-related fatalities and injuries.

• (1430)

The committee is confident that many of these initiatives, working together and in harmony, are needed if there is to be a reduction in the number and severity of these accidents, particularly with respect to fatalities. All stakeholders must contribute to an integrated farm health and safety strategy if success is to be achieved.

In conclusion, it is estimated that farmers are five times more likely to be killed or suffer disabling injuries than workers in other major industries. The Canada Safety Council has estimated that there are approximately 100 accidental deaths, and more than 5,000 time-loss injuries sustained each year by Canadian farm workers. The rate of accidental death on the farm is estimated to be 20 per cent higher than the national average, making the number of fatalities higher for farming than in any other industry.

Risks to farm health and safety derive from many sources: economic stress which often leads to emotional and physical stress, chemicals, machinery noise, the design of farm facilities, and exposure to such other hazards as dust, gases, et cetera. Dust-related respiratory problems have been found amongst workers in grain elevators, in animal and poultry confinment operations, and in many other farm facilities. The use of chemical pesticides and fertilizers has led to risks of cancer, neurological disorder and skin problems. Noise in various aspects of farming has led to noise-induced hearing loss. Fences, gates and chutes for animal handling that are not properly designed or adequate in their construction are the cause of many fatalities and injuries.

To date, the committee has examined two hazards: stress and farm machinery. Certainly the other hazards are equally important, and the committee remains interested in their examination. The decision as to whether any further study will occur remains a decision to be taken by the committee, following an examination of its interests and priorities by committee members to take place in the near future. In the interim, while recognizing that farm health and safety is a year-round preoccupation, I draw attention to the centre in Saskatchewan which has as its purpose improving the work environment for farmers, and to the Farm Safety Week which will be held March 7 to 13, 1996.

I thank all honourable senators who participated in the hearings leading up to this report, as well as our clerk and committee staff.

On motion of Senator Kinsella, on behalf of Senator Spivak, debate adjourned.

AGRICULTURE AND FORESTRY

CONSIDERATION OF REPORT OF COMMITTEE ON FACT-FINDING MISSIONS TO WASHINGTON AND WINNIPEG

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Agriculture and Forestry entitled: "Agricultural Trade: Report of the Standing Senate Committee on Agriculture and Forestry's Fact-finding Missions to Washington and Winnipeg."

On motion of Senator Hays, report placed on Orders of the Day for consideration at the next sitting of the Senate.

PRIVILEGES, STANDING RULES AND ORDERS

FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Privileges, Standing Rules and Orders (Printing of *Minutes* and *Order Paper*), presented in the Senate on Wednesday, June 28, 1995. — (*Honourable Senator Robertson*).

Hon. Brenda M. Robertson: Honourable senators, I move the adoption of the report.

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

Motion agreed to and report adopted.

The Senate adjourned until tomorrow at 2:00 p.m.

THE SENATE

Thursday, October 5, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of His Excellency Faisal Abdel Qader Al Husseini, Head of Orient House and Head of the Steering Committee of the Palestinian Delegation to the Middle East Peace Negotiations.

Hon. Senators: Hear, hear!

THE SENATE

FELICITATIONS TO MR. CHARLES ROBERT ON HIS APPOINTMENT AS READING CLERK

The Hon. the Speaker: Honourable senators, before we proceed with the daily routine of business, I should like to draw to your attention the presence at the Table of a new Reading Clerk, Mr. Charles Robert.

Mr. Robert is presently on secondment from the Committees Branch to the Clerk's office as the Clerk's Executive Assistant. Mr. Robert's assignment to the Table is the first in a series of assignments of committee officers and senior Senate officials. On your behalf, I wish to welcome Mr. Robert.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

THE HONOURABLE GILDAS L. MOLGAT
THE HONOURABLE EDWARD M. LAWSON

TWENTY-FIFTH ANNIVERSARY OF APPOINTMENT TO THE SENATE

Hon. Joyce Fairbairn (Leader of the Government): Honourable colleagues, I rise today for a very pleasant reason, that is, to draw attention to a special anniversary for two of our friends here in the Senate.

Some 25 years ago, perhaps not on this very day but close enough to it, two of our colleagues, Senator Gil Molgat and Senator Ed Lawson, were appointed to this place. We are privileged to have had the benefit of their counsel, their participation and their friendship for so many years. We look forward to many more.

For 42 years, Senator Molgat has dedicated himself to public life, which began with his 1953 election to the Manitoba legislature in the riding of Ste. Rose, the youngest MLA in the history of that province's legislature, and extends to his appointment to the Senate in 1970 and to his further appointment as Speaker of the Senate almost a year ago next month.

He has served Canadians with honour, dignity and warmth. I will not even begin to note the time and energy Senator Molgat has contributed to the Senate, both in this chamber and in its committees, because they are too numerous to mention. However, he has done it all. In the process, he has gained the respect of both sides of this house for his fairness and his collegiality, for never losing touch with us and always making time to speak and to listen to senators, to staff and Pages alike.

Senator Molgat is an enthusiastic advocate of the Senate, of the Liberal Party, of his beloved regiment the Royal Winnipeg Rifles, of which he is Honourary Colonel, of his province and of his country. At the core of his service has been a tireless effort to foster understanding between Canadians of all regions, languages and cultures — the essence of the challenge in which our country is engaged at this time.

Senator Lawson shares this anniversary. From British Columbia, he came to the Senate in 1970 as a voice for organized labour in Parliament. He has been an active participant in the Canadian labour movement for decades, serving on the executive of the local, the provincial and the international levels of the Teamsters' Union. Although he certainly has not been in the public eye in a political sense, as has the Speaker, Senator Lawson's dedication to his constituency, the labour movement and the workers in this country is without question.

We have all had the benefit of his wisdom over the years in dealing with labour law, particularly, and regrettably, back-to-work legislation. We hope he will continue to give this chamber the benefit of his wisdom and experience for many years to come.

Yesterday, in the chamber, he asked me what I thought the current estimated value of an independent senator to be. I should like to assure both Senator Lawson and his colleagues that they represent a great value to us, as they always have in this house, both to the institution itself and to the provinces which they represent.

On behalf of senators on this side, I extend to both of our colleagues our very best wishes on this important occasion in their lives in public service.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am delighted to join in marking the twenty-fifth anniversary of the appointment to the Senate of Senator Molgat and Senator Lawson.

I first came to know Senator Molgat when he was Deputy Leader of the Opposition and I was Deputy Leader of the Government. I learned much from him. I learned a lot about trust and confidences, and about how one should behave in an adversarial system when it came to respecting the system under which we were both working.

• (1410)

One thing I certainly learned was that if you did not ask him the question, he would not give you the answer. I recall that when I was sitting where Senator Graham is now sitting, Senator Molgat got up suddenly on a Thursday afternoon, at the most unexpected of times, and moved an amendment to a bill, which rather skewered our timetable. The next time we met, I said to Senator Molgat, "You never told me you were going to move an amendment." He replied, "You never asked me." Those who are in such positions should keep that in mind.

I also remember Senator Molgat — not exactly storming the chair in which he now sits, but certainly challenging it. I am glad that he did not get too close to it, such that today he would not be sitting there.

Senator Molgat felt very strongly that we should have an elected Speaker. It is unfortunate that before he was chosen, we did not have a chance to elect a Speaker here. Had we done so, I am sure he would be sitting in the chair as our elected representative, rather than having been appointed by the government.

I do not have as many personal comments to make with regard to Senator Lawson. I have great admiration for independence and I sometimes feel that I should join him, particularly after his question to Senator Fairbairn yesterday as to whether she could determine the value of independent senators.

Senator Lawson, in the numerical position in which we find ourselves, I should like to discuss that with you at the earliest possible opportunity!

Hon. Gerry St. Germain: Honourable senators, I too would like to take this opportunity to congratulate Senators Molgat and Lawson.

Senator Molgat and I both have our roots in Manitoba, where I was born, and raised for some time. I should like to congratulate him on the many years of service that he has performed for the Province of Manitoba and for the country as a whole.

Senator Ed Lawson is now a neighbour of mine. He is a golf partner, which is very important; he is a friend; he is a British Columbian and he is a philanthropist. That is only the beginning of the description of Senator Lawson.

Many of you may not know that he was born in a great place called Gerald, Saskatchewan. Those of us who carry the name Gerald have always known that great things would come of anyone born in Gerald, Saskatchewan.

Senator Lawson then moved to Pouce Coupe in northern British Columbia. He did not have an easy childhood. He lost his parents at a very young age and moved to Fort Langley, British Columbia, in which area we both now live. He was raised by a family in that area, together with his brothers and sisters. From that family came our man, Senator Ed Lawson.

As the Leader of the Government in the Senate has so adeptly pointed out, he started off his working life as a truck driver. He often describes himself as a truck driver with a tie. Believe me, although he was most likely one of the best truck drivers, his abilities and contributions go much further than his own description.

He was the President of the British Columbia Teamsters' Union. He was the director of the Canadian Conference of Teamsters, and has been a vice-president of the International Brotherhood of Teamsters. He has now retired from that position and has taken up his rightful place in the Senate.

Those onerous duties often kept him from the Senate. On many occasions he was unfairly criticized for that, although he was serving the men and women of Canada and all of North America in his role as head of the teamsters for this country. In that position he has worked with premiers, prime ministers and presidents to improve the plight of the working men and women of this country. For that, we all salute him here today, as do they.

Honourable senators, I value Ed as a golf partner, as a neighbour, as a friend and as a great British Columbian. However, I believe that his greatest trademark is his philanthropic work with charities. Both Ed and his wife, Bev, work tirelessly on charities across North America, making better lives for the working men and women of this world, for the children of this world, and for the underprivileged.

I congratulate Senator Lawson and Senator Molgat, and I appreciate the opportunity to speak about such great men.

[*Translation*]

[*Later*]

Hon. Marcel Prud'homme: Honourable senators, needless to say, I agree with what was said by the Leader of the Government in the Senate. I hope that my friend Senator Lawson, an independent like myself, will remain so for a long time, and I hope others will join us. I wish him a long life during which he will continue a fruitful participation in the proceedings of the Senate.

To you, Honourable Speaker, an old friend, I offer my sincere congratulations. I would also ask you to transmit my best wishes to your wife who has helped us to enhance the atmosphere of civility in our beloved Senate. I am indeed delighted to hear you will celebrate your twenty-fifth anniversary on October 10.

WORLD TEACHERS' DAY

Hon. Rose-Marie Losier-Cool: Honourable senators, today I would like to draw your attention to World Teachers' Day. This special day was launched in October 1994 by the United Nations Education, Science and Culture Organization (UNESCO) and the International Bureau of Education (IBE).

The purpose of this world day is to recognize the enthusiasm and commitment of teachers as well as the important role they play in the advancement of education and society in general.

October 5 was proclaimed a special day at the 44th session of the International Conference on Education in Geneva in October 1994 by UNESCO Director General Federico Mayor.

Mr. Mayor said at the time that "teachers are often underestimated" and "that improving education should include improving the status of teachers."

[*English*]

This international day is to sensitize the public to the important role which all teachers play in the social, economic and cultural development of our country and of the world.

[*Translation*]

In October 1994, the Executive Director of Intergovernmental Relations for Education, Mr. Robert Harris, expressed his satisfaction with the launching of World Teachers' Day to honour, and I quote:

> ...those who dedicate their lives to the principle that learning leads to freedom, that education is the life blood of democracy.

Honourable senators, being a teacher by profession, I would like to take this opportunity to wish teachers a happy international day and to thank them especially for their dedication to the cause of education.

[*English*]

FAISAL ABDEL QADER AL HUSSEINI

ROLE IN MIDDLE EAST PEACE NEGOTIATIONS

Hon. Marcel Prud'homme: Today we have the honour to welcome Mr. Faisal Abdel Qader Al Husseini, who was born in 1940 in Baghdad — and I hope senators will listen to my comments to the very end, because part of this may be controversial. His father was a very prominent national leader in the Palestinian struggle against the establishment of Israel in Palestine, and was killed in 1948 in Al Qastal.

Mr. Husseini received his military and science education in Cairo, Beirut, Baghdad and Allepo, Syria. He became active in the Fatah, the largest PLO faction since its founding in 1965. In the years that followed, he became active against the occupation and was harassed by the Israelis who imposed travel bans, jailed him and put him under house or administrative detention.

In 1979, he founded the Arab Studies Society, a research and data-collecting centre in East Jerusalem. That was closed from 1987 through 1991, allegedly for anti-Israel propaganda, but was reopened after international pressure.

• (1420)

Before the start of the Madrid Peace Conference in October, 1991, Mr. Husseini led a Palestinian delegation which met with then U.S. Secretary of State James Baker to lay the ground for the start of the peace talks between the PLO and Israel. He was named head of the Palestinian team to the Middle East Peace Conference, and, despite Israeli objection to his role because he is a resident of Jerusalem, Mr. Husseini became the central figure in the peace talks that opened the door for direct dialogue between the PLO and Israel — a long-time wish of mine — along with Dr. Hanan Ashrawi, Dr. Saeb Erakat and Dr. Haidar Abdel Shafi.

Mr. Husseini turned the Orient House, an old guest house in East Jerusalem, into the controversial New Orient House, which became the headquarters of the Palestinian delegation to the peace talks. The Orient House has become the centre of Palestinian political, social, and civic activities, a development that outraged the Israeli right and led, in recent months, to campaigns to hamper the work and activities of the New Orient House. Nevertheless, the Orient House continues to be the focal point of Palestinian national activities in Jerusalem, and, in spite of Israeli pressure, foreign dignitaries continue to visit it and meet with Palestinian representatives there.

Mr. Husseini is currently a minister-without-portfolio in the Palestinian National Authority, in charge of Jerusalem affairs. He is also the highest-ranking Fatah official in the Jerusalem and West Bank areas, and a very close aide of Palestine President Yasser Arafat.

Mr. Husseini is accompanied today by the new Palestine representative in Canada, Dr. Baker Abdel Munem, Mr. Maen Areikat, assistant to Mr. Husseini for North American affairs, and Dr. Jawad Boulos, all of whom are being well cared for by a great Canadian businessman, Mr. Shawky Joe Fahel.

Before they go over to the House of Commons, where they will receive the same kind of reception, again, I join in welcoming them very warmly to Parliament.

PRIVILEGE

ORAL NOTICE

Hon. Anne C. Cools: Honourable senators, I rise to give oral notice, pursuant to rule 43(7) of the *Rules of the Senate of Canada*, and to state that I shall raise a question of privilege later this afternoon.

Earlier today, pursuant to rule 43(3), I gave written notice to the Clerk of the Senate. I shall ask His Honour the Speaker of the Senate to rule on the facts, which I shall briefly outline, as to whether a *prima facie* case of breach of privilege exists. If so found, I am prepared to move the necessary motion.

SPECIAL SENATE COMMITTEE ON PEARSON AIRPORT AGREEMENTS

Hon. Gerry St. Germain: Honourable senators, I rise on a matter which should be of great concern to all Canadians who believe in accountability in our democratic society; that is, the conflicting statements provided by the Prime Minister. I refer to the testimony given under oath at the Senate committee on the Pearson Airport Agreements, and, as well, to questions raised in both Houses in December 1994, March and April of 1995, and, again, on Friday, September 22, 1995.

The Prime Minister has responded in a number of ways to questions concerning a meeting which was attended by himself, Jack Matthews, and his former partner in Lang Michener, Mr. Paul LaBarge.

Mr. Jack Matthews, former president of Paxport, testified under oath before the inquiry on September 21 that he met with Mr. Chrétien in late 1989, early 1990. His recollection was that, at that time, Mr. Chrétien was about to enter the leadership race. He testified that, at that meeting, airport privatization and other matters were discussed. The date — close to Mr. Chrétien's entry into the Liberal leadership race — was confirmed in a transcript of a telephone conversation between Mr. LaBarge and Mr. Matthews, which transcript was released to the media after Mr. Matthews testified at the inquiry.

When this issue was first raised, you will recall that Mr. Matthews wrote to the members of both Houses on March 30, 1995, wherein he expressed his willingness to testify at any inquiry, in order to deal with issues of credibility which were affecting him and others.

You will also recall that, earlier this year, the Prime Minister's Office agreed that the meeting took place in early 1990. After some confusion between Mr. LaBarge and the Prime Minister, and after consultations between the two, another date was seized upon — in April 1989.

In testimony before the Senate committee, following Mr. Matthews' testimony, Mr. LaBarge made an effort to corroborate his version of the facts surrounding the April 1989 meeting with that of the Prime Minister's albeit revised version. Mr. LaBarge went on to further state, under oath, that he met with no clients in January 1990. This has now been proven to be untruthful and not supported by the facts.

On August 2 — long before the issue of the Chrétien-Matthews meeting surfaced at the committee — Senator Bryden — who seemed to have an interest in the diaries of the previous president of Paxport, Mr. Ray Hession — requested that Mr. Hession's diaries be tabled with the committee. I point out again that that was on August 2.

Mr. Hession's diaries proved to be helpful and useful in the search for the truth. We now have proof positive that Mr. LaBarge did meet with Jack Matthews on January 17, 1990, even though he testified under oath that he had met no clients, and that Mr. Jack Matthews was in Ottawa, just as he testified. I quote his exact words:

> The meeting took place just prior to him —

Mr. Chrétien —

> — announcing that he was going to run for the Liberal leadership. My best guess, because I do not have books from that time...is that it happened in December —

1989 —

> — January of 1990. That's my best recollection of it.

The date of the meeting, as stated in Mr. Hession's diary, was January 17, 1990, within a week of Mr. Chrétien's leadership announcement of January 23, 1990. Mr. Matthews, honourable senators, has been proven to be right.

The Prime Minister owes to all Canadians and members of both Houses an explanation and clarification of this unfortunate situation.

[*Translation*]

LA CITÉ COLLÉGIALE

OFFICIAL INAUGURATION

Hon. Jean-Robert Gauthier: Honourable senators, today we will be celebrating an historic moment in the life of francophone Ontario. Ten years ago, we could do no more than dream of a community college of our own, and now today the Prime Minister of Canada, the Right Honourable Jean Chrétien, will be officially opening Ontario's first francophone college.

La Cité collégiale was created in 1990 and moved to its new campus after doubling its students to 10,000, 3,500 of whom are full-time.

There is no doubt whatsoever that la Cité collégiale responds to a community need, and that it will be called upon to play a lead role for the federal government in coordinating French-language trade training and retraining outside Quebec.

This accomplishment has been made possible by a $100-million agreement between the federal government and the Province of Ontario. Although it took a great deal of effort to bring it into the world, this college is now tangible proof that francophones, whether in Quebec or in the rest of Canada, have a place within the Canadian federation.

[*English*]

ROUTINE PROCEEDINGS

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, October 17, 1995 at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

INCOME TAX ACT

DEDUCTIBILITY OF FEES FOR STUDENT ASSOCIATIONS—PRESENTATION OF PETITIONS

Hon. Dan Hays: Honourable senators, I have the privilege of presenting a petition from students in the Ottawa area requesting the deductibility of fees paid to student associations.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. Dan Hays: Honourable senators, I have the privilege of presenting a petition from British Columbia residents urging that legislation requiring the registration of firearms and more severe penalties for their misuse be passed.

• (1430)

Hon. Gerry St. Germain: Honourable senators, I have a number of petitions regarding Bill C-68. The first is signed by residents of the Northwest Territories and reads as follows:

> Wherefore your petitioner humbly prays that your honourable house may be pleased to reconsider the content of Bill C-68.

They are strongly opposed to the gun control legislation bill. The petition is signed by residents of the Northwest Territories from the town of Rae-Edzo and surrounding area, which is just outside of Yellowknife.

The second petition is signed by hundreds of residents of Ontario, in particular from Ajax and its surrounding area. They wish to draw our attention to what they see as flaws in Bill C-68. They advocate the withdrawal of all support for Bill C-68.

The final petition is from the voters and taxpayers in Dawson Creek and northern British Columbia. They state that gun control will not succeed in preventing criminals from acquiring guns by illegal means, and that Bill C-68 does not address the fundamental principle of problem solving. The bill focuses on the random many rather than the significant few.

Honourable senators, I lay these petitions before the Senate on behalf of these petitioners from across Canada.

QUESTION PERIOD

HEALTH

CENTRES OF EXCELLENCE FOR WOMEN'S HEALTH—OUTCOME OF SITE SELECTION PROCESS—GOVERNMENT POSITION

Hon. Janis Johnson: Honourable senators, my question is for the Leader of the Government in the Senate regarding the Centres of Excellence for Women's Health.

On March 8, the Minister of Health announced that the site selection process for Centres of Excellence for Women's Health would begin in April, with a call for letters of intent to bid. Minister Marleau also indicated in the same release that it was the intent of the government to have the submissions reviewed and an announcement made of successful applicants in the fall of this year. To date, I believe no announcement has been made.

Could the Leader of the Government find out from the Minister of Health whether an announcement will be made this fall, and whether or not the national workshop, which was held in Ottawa in April, has had input into the selection process and the terms of reference for the centres?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to do that.

TRANSPORT

PEARSON AIRPORT AGREEMENTS—EVIDENCE OF MR. MATTHEWS BEFORE SENATE COMMITTEE—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate, and refers to my statement regarding the meeting with Mr. Matthews and the Prime Minister. Would the Leader of the Government in the Senate now ascertain and confirm that the Prime Minister did, in fact, meet with Mr. Matthews in January of 1990, as substantiated by Mr. Hession's diary and other evidence given at the Pearson inquiry?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, in answer to a question in the other place, the Prime Minister has stated that that meeting was held on April 14 of 1989.

ORDERS OF THE DAY

CORRECTIONS AND CONDITIONAL RELEASE ACT
CRIMINAL CODE
CRIMINAL RECORDS ACT
PRISONS AND REFORMATORIES ACT
TRANSFER OF OFFENDERS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Landon Pearson moved the second reading of Bill C-45, to amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act.

She said: Honourable senators, I am pleased to rise today to introduce second reading of Bill C-45, to amend the Corrections and Conditional Release Act and related statutes. Bill C-45 is a key building block of the government's action plan to work for safe homes and safe streets for all Canadians. The Liberal government pledged to protect the basic right of all citizens to live in peaceful and safe communities, and this legislation is another example of how we are following through on this commitment.

During the past year, honourable senators, the Liberal government has moved forward on crime prevention, on amendments to the Young Offenders Act and to the Immigration Act, on sentencing reform, on a new Witness Protection Program, on DNA evidence, and now on managing high-risk offenders. Bill C-45 follows through on a Red Book commitment to improve public protection from repeat sex offenders.

Honourable senators, you have heard members of the other place suggest on several occasions that our criminal justice system is ill-equipped to deal effectively with high-risk offenders, particularly sex offenders. The public has become increasingly fearful and intolerant of crimes committed by these offenders, especially when they involve children. This concern is justifiable; that is why this bill is so important.

Bill C-45 will address these concerns and help restore public confidence in the corrections process by closing gaps and responding directly to identified shortcomings in the Corrections and Conditional Release Act. The bill makes improvement in six substantive areas.

[*Translation*]

Honourable senators, first, the provisions on detention contained in the Corrections and Conditional Release Act have been tightened up with respect to their application to sexual offenders preying on children.

In the new proposals, the National Parole Board will be more able to continue to detain any offender considered likely to commit a sexual offence involving a child before sentence expiry. This will be done by doing away with the obligation to prove "serious harm" has been done to the child to justify detaining the offender.

[*English*]

In other words, no longer would there be a requirement to establish that "serious harm" was caused by the commission of an offender's current sexual offence, or that "serious harm" would be caused by a future sexual offence involving a child. This change is necessary because the effects of sexual abuse on children are not always readily apparent. This problem is exacerbated because children are often misled by their molesters to believe that inappropriate sexual actions are acceptable and need not be reported. The research evidence also shows that the actual harm caused to children by sexual abuse may not become evident until many years later. These problems make it difficult, if not impossible, to detect serious harm in children.

In ratifying the UN Convention on the Rights of the Child, Canada has undertaken "to protect the child from all forms of sexual exploitation and sexual abuse" as detailed in article 34, and Bill C-45 will close this gap. The National Parole Board will be given the legal authority it needs to detain any offender considered likely to commit a sexual offence involving a child before sentence expiry.

I wish to emphasize, honourable colleagues, that this is a responsible piece of legislation based on the most recent research evidence. It was supported by many of the witnesses who appeared before the parliamentary Standing Committee on Justice and Legal Affairs during its consideration of Bill C-45. In particular, clinical experts representing the Canadian Psychological Association told the committee that the proposal makes good clinical sense. This is because, and I quote:

> ...individuals who experience a sexual arousal disorder towards children, clinically referred to as paedophiles, represent a much higher risk of re-offending and may not appear treatable with therapeutic intervention.

By focusing on those offenders who pose the most threat to the safety and well-being of our children, the bill goes a long way toward addressing a real concern of Canadians.

I should like to make it clear, however, that this change for child sexual offenders in no way signals that other sexual offences are not regarded as serious. All sexual offences, irrespective of the age or gender of the victim, are of equal concern to the government.

Honourable senators, the measures outlined in this bill are needed, not because sexual offences against children are considered to be worse than those against adult victims, but because the current legislation has proved less effective in these cases.

• (1440)

Combined with this change will be improvements in the availability of treatment for sex offenders in the institution and in the community. The Correctional Service of Canada and the National Parole Board will continue to encourage offender participation in these treatment programs as a requirement for release consideration.

While we know, for example, that there are some offenders who cannot ever lead law-abiding lives in the community, we also know that simply locking up more offenders for longer periods of time will not achieve the safety of our communities that we all care about.

I believe that Bill C-45 provides a balanced approach to criminal justice reform. It makes important reforms that demonstrate forward movement.

[*Translation*]

The second key area of improvement in the bill concerns the credibility and accountability of the National Parole Board. This issue is a source of both government and public concern. It is therefore vital that board members be subject to the most stringent standards of professional behaviour and that they assume responsibility for decisions which impact directly upon the safety and well-being of whole communities, as well as upon victims and their families.

[*English*]

The bill that is before you will strengthen the accountability of the National Parole Board by establishing a disciplinary scheme for board members. This scheme will allow the Solicitor General, on the recommendation of the chairperson, to appoint a federal court judge to inquire into the conduct of a board member if it has fallen below accepted standards. The judge will be able to recommend remedial action, including dismissal, should cause to do so be found. The objective of this mechanism is not to punish board members for cases that have gone wrong despite everyone's best efforts. Rather, it is designed to establish the facts where it is alleged that a member is clearly not performing up to acceptable standards, or that misconduct is suspected, and to recommend corrective action where necessary.

The third main area of reform in the bill deals with the way sentences are calculated for offenders serving multiple terms. Under the current law, it is sometimes possible for an offender, on conditional release to receive a new sentence of imprisonment yet remain eligible for immediate parole. Under the new proposals, an offender on conditional release receiving a new sentence will automatically have his or her release revoked and be returned to custody. Where a court imposes a new consecutive sentence of imprisonment, at least one-third of the new sentence will have to be served before the offender becomes eligible to be considered for conditional release. These changes represent a tightening of the system, which has been recommended by the law enforcement and corrections communities.

The fourth area of improvement in the bill relates to strengthening the schedules in the act by which an offender can be referred to detention. Detention entails holding an offender in custody without entitlement to statutory release if the offender is likely to commit a serious drug offence or an offence causing death or serious harm before warrant expiry.

Schedules I and II will now be expanded to include additional personal violence and serious drug offenses, namely conspiracy to commit serious drug offenses, serious drinking and driving, criminal negligence offenses resulting in bodily harm or death, criminal harassment, and break, enter and commit when the underlying offence is on Schedule I.

The last addition means that an offender who breaks and enters into a dwelling to commit a serious offence such as sexual assault will no longer be eligible for accelerated parole review, and will be included in automatic detention review.

Also, a number of repealed sexual offences will be added to Schedule I to deal with offenders in the correctional system who are serving sentencing for these old offences. These changes will ensure that public safety is not compromised because of loopholes in the detention legislation.

The fifth area of improvement relates to residency conditions for certain high-risk offenders who fall short of meeting the detention criteria. This has been called for by members of the Standing Committee on Justice and Legal Affairs, the former Standing Committee on Justice and the Solicitor General, the Stephenson Inquest Jury in Ontario, and the Canadian Police Association. In response to these recommendations, the government brought forward motions to amend the bill during the committee's clause-by-clause review which was subsequently endorsed by the House of Commons.

These amendments will enable the National Parole Board to impose a condition for statutory release requiring an offender to reside in a community-based residential facility if the offender does not meet the detention criteria but requires additional support in the community. This condition will enable the board to improve the control and management of those offenders, and will ensure better risk management, provide a more stable structure for supervisory release, and facilitate community reintegration.

[*Translation*]

Finally, the bill contains further amendments to the Corrections and Conditional Release Act and related acts.

One of the key elements of these changes expands the powers of Correctional Service Canada to deduct a percentage of inmates' earnings as partial payment for their room and board. The authority to make such deductions would be expanded to apply to earnings from work done outside the penitentiary or work done by an inmate transferred to a half-way house.

[*English*]

Other amendments include clarification of the legislative intent of various provisions, identification of areas where agreement on greater integration of federal and provincial-territorial management of offenders has been reached, and a number of technical housekeeping changes such as the correction of discrepancies between the English and French text and wording changes to ensure consistency of terminology throughout the act.

This bill and supporting initiatives respond to the many concerns of Canadians about our corrections and parole systems. The result will be a stronger system which provides better protection for the public through more stringent measures for serious and repeat ofenders.

Only by taking a balanced approach to criminal justice reform can we truly lay the foundations for a safe and secure country where all Canadians and their children can live free from fear of violence and molestation.

Because of the strong public interest in seeing these reforms implemented, I would urge honourable senators to give this bill the thorough consideration it deserves and then, without undue delay, give it their approval.

Canadians have been waiting for the reforms contained in this bill for some time, and I believe those reforms should be put in place at the earliest opportunity.

On motion of Senator Kinsella, for Senator Balfour, debate adjourned.

THE ENVIRONMENT AND CONSERVATION

INQUIRY

Hon. Janis Johnson rose pursuant to notice of June 21, 1995:

> That she will call the attention of the Senate to the environment as it relates to environmental conservation.

She said: Honourable senators, I rise today to offer you the second instalment of my ongoing personal inquiry into the state of the environment. I call this a personal inquiry because in no way do I consider myself to be an expert. However, I undertake this inquiry not only as a senator but as a Canadian citizen who believes that the issue of environmental degradation is the most crucial issue facing society today.

• (1450)

When I look around this chamber, I see men and women who enjoy extraordinary privilege and power in Canadian society, men and women who have provided thoughtful perspectives on issues as diverse as euthanasia and child poverty. I hope that you will now consider devoting a portion of your energy, your wisdom and your considerable social influence towards the cause of environmental conservation.

Let me say that my interest in this issue arises out of a personal concern. I grew up in a lovely part of rural Manitoba, on the shores of one of the largest lakes in Canada. My neighbours were farmers and fishermen and country people who relied on nature's bounty to provide a living for their families and for themselves. In my own lifetime, I have seen the evidence of deterioration in Manitoba's lakes, rivers and wildlife. If you were to look around the area of the country from which you come, I am sure you would see similar environmental destruction.

Meanwhile, we need only follow the news to observe an inexorable decline in natural resources around the world. It is not my intention to belabour anyone with lectures or to waste anyone's time with doom and gloom prophecies. I hope instead to undertake a fair-minded analysis of some of these environmental problems in an effort to determine if there are rational solutions.

The more I study the so-called environmental crisis, the more I am struck by the fact that we are not dealing with a terribly complex, multi-faceted problem. All of the environmental crises around the world, including our own, are based on the same stubborn refusal to live within our means. This is the simple problem and we need to find within ourselves the simple courage to face that fact.

The natural world seems to operate much like a bank: There is a certain amount of capital within the system, and we must learn to live off the interest and leave the principal intact. Historically, we have behaved as if our resources, and indeed our cash, were in infinite supply. The time has come, as we approach a new millennium, to recognize that, just as there are limits to spending, there are also limits to our natural resources. We simply must bring our "environmental spending" within sustainable limits. If we do not, the world we leave to our children and grandchildren will be one which is environmentally bankrupt.

The idea that our consumption of resources should be kept within manageable or "sustainable" limits is called the principle of sustainable development. Sustainable development has become a popular "buzzphrase" within the global community. The United Nations has devoted considerable energy towards achieving long-term sustainability in world development.

Environmental groups tend to view sustainable development with some cynicism. They argue that governments like to pay lip service to the idea of sustainable development, but when the goals of sustainable development are in conflict with short-term political goals, the environment loses out.

There is some truth to this argument. When I watch the manner in which commercial development proceeds in my own part of the country, I see very little importance given to environmental concerns. If, for example, you were a developer who was planning to build a tourist resort on Lake Winnipeg, you would spend far more time consulting with bankers, government bureaucrats, lawyers and accountants than you would with biologists. However, only a scientist who has studied the lake, its wildlife and its flora, can honestly assess whether your tourist resort will permanently damage the local environment.

I am not suggesting that we should be blockading economic development; however, the time will come in Canadian society, I assure you, when environmental concerns will be given as much attention as financial considerations. We have a long way to go before we achieve true sustainability in Canadian society. The journey will not always be an easy one.

Businesses do not ordinarily assign much importance to environmental concerns; we should not expect them to do so. These changes will only come through decades of hard-fought legislation. As senators, we must rest assured of the necessity of supporting such legislation.

If environmental concerns are continually regarded as optional niceties, always placed second in line after profits and votes, the term "sustainable development" will continue to have no meaning whatsoever.

In essence, I believe that it is appropriate for the Senate to act as a voice of conscience on the issue of sustainable development. We can and should provide a sensible non-partisan approach to environmental matters.

You might ask, when do nature's interests override economics? Again, the answer is not all that complicated. All natural populations of fish, trees and wildlife create a surplus every year. This surplus can be used by consumers such as human beings without any long-term damage to the resource itself.

In Manitoba, white-tailed deer is an abundant and prolific species, numbering usually about 100,000 animals. Predators, including human hunters, harvest about 25 per cent of these deer every year without reducing the overall population. This can be seen as the natural "interest" produced by our deer herd. The reproductive ability of the deer population matches or exceeds the annual attrition of hunting, road accidents and other factors. Today, according to our provincial biologists, our deer population is actually increasing. The Manitoba Ministry of Natural Resources congratulates itself, in this case at least, for managing white-tailed deer according to the true spirit of sustainable use.

How are we doing in other areas? Not so well in the realm of agriculture. Toxic chemicals are continuing to build up in our soil and water. Today, 70 per cent of all toxic chemicals used in Canada are applied by farmers. The agriculture industry applies millions of kilograms of pesticides every year to the foods that we eat, but only about one-tenth of 1 per cent of those chemicals actually reaches the target insects. The rest leaches into the environment and kills off beneficial insects, fish and important bird species like the burrowing owl and the peregrine falcon.

Pesticides have also been identified as a potential carcinogen. One does not need to be a medical researcher to hypothesize that something which kills insects and fish is probably not the best substance to sprinkle on your dinner. On the other hand, hard-pressed farmers argue the need for pesticides to control the insects which endanger their crops. In cases like this, legislators are tempted to strike what is usually referred to as a compromise. With toxic chemicals steadily building up in our lakes and soils, I doubt that coming generations will admire us for our mild-mannered approach.

If we agree that the use of massive amounts of pesticides is not sustainable in the long term, then obviously we must bring down these amounts to a manageable level. Regulation plays an important role in environmental management, but so does research. According to the World Wildlife Fund, Sweden and other European countries have devised cost-effective strategies for reducing agriculture pesticide use by 75 per cent. As senators, we can make a valuable contribution by staying abreast of these issues and, when it is appropriate, proposing common sense, long-term solutions.

Our agricultural industry has also been striving to achieve better methods of soil conservation. It has been a little over 10 years since Senator Sparrow and his committee released a farsighted study called "Soils at Risk." Senator Sparrow recently told me that one of the most difficult aspects of that study was actually convincing people that soil was an important issue. Across North America, farmers have been losing millions of tons of topsoil annually through wind and water erosion, but in 1984, no one seemed to believe that that was important. Most people simply do not believe that there is anything very interesting about soil — that it has no inherent value. "It's as cheap as dirt." Or is it?

Perhaps the problem is our own woeful ignorance. We take life for granted. We walk on the soil every day, but we never stop to consider its role in our geography, our history, even our existence as a wealthy western nation. In my own rudimentary studies of humble elements like water and soil, I have experienced great joy in discovering how important are these simple components of life.

• (1500)

For example, let me describe briefly the importance of soil in the history and the development of Manitoba. Manitoba soil is about 12,000 years old. It was created in the days after the glaciers receded when southern Manitoba was only a bleak wasteland of rock, rubble and rotting ice. In the heat of the spring, sunlight and rain encouraged the growth of tiny microbes. As these microbes died by the billions, a thin mould-like fur grew around the edges of the meltwater. Drifting seeds soon found root in this vestigial soil. As these plants and grasses themselves died, the soil began to build up.

With each season a new generation of plant, fish and animals contributed their decaying bodies to the ever-growing biomass of the soil. Soon the wetlands became rippling expanses of prairie, populated by a tall spectacular grass species called "big bluestem." Emerald green, flashing ocean-blue in the wind, big bluestem grew thick and tall enough to conceal the buffalo that migrated through its tangled pathways.

As generations of grass lived and died, and 100 centuries passed, those deep layers of decayed big bluestem became one of the most fertile soils on earth — "Red River gumbo."

Soil has all the components of life within it. A cupful of prairie soil contains the 19 elements required to make a flower, a galloping buffalo or a Canadian senator. When the minister says "dust to dust" he is not speaking in metaphor. We are dust. Soil is life itself. It does not belong to governments or to agri-business — it belongs to the earth. It is our responsibility to conserve it.

Today, honourable senators, Manitoba farmers are harvesting a bounty that has been 12,000 years in the making. By breaking the soil with a plough, farmers expose it to wind and water erosion. After only a century of farming, a substantial portion of our precious topsoils have dried up and blown away.

However, in the 10 years since the release of the Senate's report on soil conservation, there have been some encouraging gains. This is where this institution can continue to play a role. I certainly hope we will. Farmers are now beginning to adopt "zero till" farming, which means planting crops without actually breaking the sod and exposing the soil to erosion. Wetland conservation is also making strides. Decades ago, too, wetlands were seen as wastelands. Marshes were drained and swamps burned so that farmers could use every acre of available land.

Today, through the efforts of agencies such as Ducks Unlimited and the World Wildlife Fund, farmers are encouraged to leave wetlands as they are. This is critical because wetlands stabilize the topsoil and act as filters for water that has been contaminated with pesticides and fertilizers. Like canaries in a coalmine, waterfowl are good indicators of the health of the prairie wetlands. Only 10 years ago, prairie waterfowl numbers were plummeting at an alarming rate. In the last couple of years, however, waterfowl populations have begun to stabilize. This is a

good indicator that conservation measures have begun to reverse a very serious decline in land quality in Western Canada.

Principles of sustainable development can be applied to all areas of economic activity. If natural topsoil creation is 1.25 millimetres per year, then average soil loss should not exceed that amount. Again, this is not a complicated matter. The difficulty lies in finding the courage to live within our means. By taking more than our share of natural resources, we are in effect stealing from future generations.

As our federal government rushes to devolve its responsibilities to the private sector, it must be remembered that governments have the leading role to play in the management and regulation of our natural resources. The current fiscal crisis has been caused by 30 years of overspending.

Overconsumption of our natural resources would be an extension of the same folly. In the current shake-up between the government and the private sector, it must always be remembered that it is primarily the responsibility of government to manage the environment.

How well are governments currently handling that responsibility? The federal government is reducing the size of Environment Canada by approximately 30 per cent. The provinces are sending out the same signals, that the profit motive is once again beginning to overpower concern for the environment.

In Manitoba, the provincial government has pegged the sustainable harvested trees around Swan River at 45,000 cubic metres per year. This is the government's own figure arrived at through consultations with provincial foresters. Recently, however, the province signed a deal with a large multinational firm called Louisiana Pacific. This firm will manufacture a wood product called oriented strand board, which will soon replace plywood as the number one sheeting material for house construction. The Louisiana Pacific plant in Swan River, Manitoba, will be the largest manufacturer of oriented strand board in the world. This is surely a good news story for Manitoba. Or is it?

To close the deal, the province has granted Louisiana Pacific a licence to cut twice the allowable harvest of aspen, or 90,000 cubic metres per year. Federal wildlife biologists have said that wildlife populations around Riding Mountain and Duck Mountain Parks will be severely disrupted by the logging. Clear-cutting on the steep slopes of the parks will inevitably cause flooding in the lowland communities as well. Logging will also encroach on parkland. The World Wildlife Fund is so concerned that it has downgraded my province from an A to a B rating in 1993 and to a C this year.

Forestry experts say that Louisiana Pacific's harvest will grossly exceed the ability of the forest to regenerate itself. Even from a strict dollars and cents point of view, the deal is remarkably unattractive.

Ontario charges $6 a cubic metre in provincial stumpage fees. In Alberta, Louisiana Pacific's rivals pay $6 to $10 in stumpage fees. Manitoba is giving away twice the allowable yield for $1.17 per cubic metre. Based on market prices for oriented strand board, industry experts estimate that Louisiana Pacific will turn these numbers into net profits of $100 million per year. In return, Louisiana Pacific will pay the province a grand total of $1 million per year. The Louisiana Pacific project is a case study, a classic example of old-style development undertaken for short-term profits.

Heavily forested provinces like Manitoba have unlimited potential for tourism, sustainable logging and other non-destructive industries. However, those in provincial government must be aware that the public is becoming increasingly distressed by the contradiction between non-sustainable forest activities on the one hand and promises to pursue sustainable development on the other. In this day and age, provinces must be made aware of their responsibilities in regulating the harvest of natural resources. Any development of our forests must be carried out in a modern and sustainable manner.

What can we do as senators? This is my second speech on this subject. I will be giving another one because the subject is so important to me, but also because I believe that we in this chamber have the responsibility to inform the Canadian public on these important matters.

The Senate has a long and honourable career in lobbying for wise and sensible legislation that affects the future of Canada. I implore honourable senators to apply their own considerable influence to ensure that the government pursues sustainable development with the same enthusiasm as they use when referring to it in their press releases. The federal government must lead the way.

The Hon. the Speaker *pro tempore*: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

QUESTION OF PRIVILEGE

MOTION PURSUANT TO RULE 43

Hon. Anne C. Cools: Honourable senators, I rise today to raise a question of privilege pursuant to rule 43(1)(*a*) of the *Rules of the Senate of Canada*. I raise this question of privilege and ask the Speaker of the Senate to rule whether there is a case of prima facie breach of privilege. I am prepared to move the necessary motion.

• (1510)

Honourable senators, it has come to my attention that a witness who appeared before the Standing Senate Committee on Legal and Constitutional Affairs on September 20, 1995, has cast reflections on the Senate and on senators. That witness was Ms Arlene Chapman, provincial coordinator of the Alberta Council of Women's Shelters.

In an October 4, 1995 article by staff writer Michelle Nicholson published in *The Edmonton Sun*, Ms Chapman described the Senate committee hearings on Bill C-68, respecting firearms and other weapons, as a "sham." Ms Chapman further maligns the members of the committee with the rude and ugly words, "Well, I'm sorry, but I'm sick of taking that from those dolts."

Such comments, honourable senators, are indicative of the views of certain radical feminists who have no respect for the

truth, or for voices other than their own. While the committee members extended time and due consideration to Ms Chapman to present her comments and her views, she does not reciprocate that courtesy to the senators. By her statements, she does herself, in particular, and women, in general, a great disservice. Ms Chapman is reported in the article as saying that the transcripts from our committee hearings indicate that women's groups are being dismissed.

Honourable senators, it is not unusual for certain radical feminists to express hostility to any institution, process or person that is not a prisoner of their own narrow and self-righteous agenda. They display mean-spiritedness and manipulativeness as they attempt to control politicians by using the devices of public embarrassment and public malignment.

Having made a presentation before our committee that was far from excellent and not distinguished, it is the height of arrogance and contempt for Ms Chapman to describe the Senate's hearings on Bill C-68 as "a sham." Quite personally, my sense of charity would inhibit me from describing her testimony, lacking though it was, as a sham. Her carelessness reflects her hostility and does enormous disservice to the concerns of women who suffer domestic abuse. Numerous women in this country suffer terribly.

Ms Chapman, and others like herself, claims to speak on behalf of all women. Fortunately, honourable senators, they merely and barely represent a bitter and unhappy minority, unable and unwilling to participate in a democratic process.

My intention, honourable senators, is to draw your attention to the mischief of this radical feminist. Her comments in *The Edmonton Sun* article demonstrate her contempt for the Senate and for parliamentary process and make manifest the true reasons she appeared before the Senate committee.

If Ms Chapman had felt such disregard for the Senate, it was surely a waste of her time, as well as that of the senators, to have testified before the Senate committee. It was also a waste of taxpayers' money. In this era of fiscal restraint, it is unfortunate that such resources should have been devoted and utilised on her appearance before the Senate committee. These resources could obviously have been better used. The wanton disregard demonstrated by her comments in the article reveal much. They reflect candidly on her and her lack of respect for Parliament and for this chamber.

Honourable senators, I sincerely believe that the behaviour of those of us who sat on the Senate committee during her testimony was exemplary. Our behaviour — mine and that of the other senators present — can stand full scrutiny. It was truly exemplary behaviour. I work with these men and women.

Her suggestion that the Senate mistreated her during her appearance before the committee is a flagrant dishonesty, obviously founded in an active imagination. The suggestion that the Senate has mistreated her constitutes an act of verbal aggression and provocation. In addition, such behaviour is an insult to the people of Canada, especially to the women of Canada.

Honourable senators, her comments, however, should not deter the Senate from continuing its work on Bill C-68. The Senate committee should continue its hearings on Bill C-68 and should continue to listen to Canadians on this issue.

Ms Chapman's bold assertions that the Senate and senators have abused, mistreated, neglected, dismissed, disregarded and ignored women, or have refused to hear women's groups, are blatantly false. These false assertions are libelous and slanderous, cast reflections on the Senate of Canada, and are a breach of the privileges of the Parliament of Canada.

About such reflections on the Houses of Parliament as a whole, Beauchesne, at page 18, tells us that:

> Traditionally, articles in the press reflecting badly on the character of the House have been treated as contempts.

Beauchesne also tells us, on the same page, that the houses of Parliament have judged such articles:

> ...to be a "scandalous, false and malicious libel upon the honour, integrity and character of this House, and of certain Members thereof, and a high contempt of the privileges and constitutional authority of this House"...

The intent and spirit of Ms Arlene Chapman's statements are replicated in some press releases, all dated October 4, 1995, received by my office this morning. These press releases are from certain organizations, including the Montreal Assault Prevention Centre, the Manitoba Action Committee on the Status of Women, the Canadian Federation of University Women, the YWCA of Canada, and the Jewish Women International of Canada. According to that same *Edmonton Sun* article, these press releases emanate from a 10:00 a.m. meeting which was held at the office of Ms Chapman's Alberta Council of Women's Shelters on October 4, 1995.

Honourable senators, it seems that persons like Ms Chapman believe that they are supported by Minister Allan Rock's statements, as reported in *The Toronto Star* of August 30, 1995. *The Toronto Star* of that day reported, about Minister Rock, that "he made it clear he expects his gun control package to become law without amendments." That article quotes Minister Rock as stating that "they" — senators — "will perform their important but limited function."

Honourable senators, if persons like Ms Chapman believe that they can rely on these statements of Justice Minister Rock in their committing of a contempt of Parliament, they are mistaken and should be so informed by this chamber.

Honourable senators, I ask His Honour the Speaker to rule on a *prima facie* case of breach of privilege. If the Speaker so finds a *prima facie* breach, I am prepared to move the necessary motion referring this matter to the appropriate committee.

Honourable senators, I thank you for your attention and I hope you will commend me for having raised this matter at the earliest convenience. I was very attentive to being right on time this time around.

Hon. Noël A. Kinsella: Honourable senators, I salute my colleague, Senator Cools, for her vigilance in wanting to fulfil the requirement of rule 43, that the preservation of the privileges of the Senate is the duty of every senator. However, in all candour and frankness, I do not think that the matter that has been raised meets the test of a prima facie case of breach of privilege at all.

I read the article which appeared in *The Edmonton Sun* on Wednesday, October 4, to which she referred. Whilst the language was poetic, I do not believe that a word such as "sham" is even unparliamentary. If you examine the records of the Standing Senate Committee on Social Affairs, Science and Technology of a few years ago when it was examining the amendments to the Immigration Act, one honourable colleague opposite repeatedly called the hearings of that committee a sham. The term finds expression in our record. When you look at that word at face value, I do not think that there is any breach of privilege by one using that word.

• (1520)

It is terribly important that the test for a *prima facie* case of privilege must be relatively onerous. It must be substantive. Otherwise, we demean the value of privilege and the importance of protecting the integrity of this chamber.

I find this matter somewhat frivolous, and do not think that Your Honour should find the case meeting the test of breach of privilege in the prima facie fashion.

Senator Cools: Honourable senators, perhaps I should attempt to clarify that my sense of offence was not only at being called a "dolt." I have been called that, and many worse things before. Perhaps I did not make myself clear enough and should try harder. Perhaps if I had had more time to prepare, I might have been able to do better.

The essential point I was trying to make is that there are press releases and press statements now going out across this country which misrepresent the Senate by saying that senators are inattentive to women's groups, that senators are ignoring women's groups, or that somehow senators are improperly treating women's groups. That, to my mind, is the central issue which I am asking His Honour to examine.

I understand, of course, that on the other side many senators are much more prone to disagree with me than other persons. I understand that, and I accept that. I would ask His Honour to give the matter judicious consideration, particularly in view of the fact that senators have been damaged and injured in this regard. What is being said about the Senate is simply not true. Senators have been very attentive and have given proper consideration to everything that is being said to them in committee, and are considerate of all groups, including women's groups.

As a matter of fact, most of us are gentlemen and gentle ladies. We are not in the habit of treating people as the remarks within these articles, press releases, and statements purport. We really are quite a gentle and decent group of people.

Hon. Richard J. Doyle: Honourable senators, I think any member of the committee who reads or listens to Senator Cools would feel some pleasure at hearing her angry words. It does not hurt us to get angry every now and then; even jump up and down and spit, if that will help.

However, I do not think that there really is a case here that we can take to some higher authority and expect them to pronounce us madder than we are, or as mad as we are thought to be.

Having said that, I think we should go to the next meeting of the Standing Senate Committee on Legal and Constitutional Affairs and give them more of the same.

The Hon. the Speaker: If no other honourable senators wish to speak, I will take the matter under advisement and report back at a later date.

Motion adjourned to await ruling of the Speaker.

The Senate adjourned until Tuesday, October 17, 1995, at 2:00 p.m.

THE SENATE

Tuesday, October 17, 1995

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to call to your attention the presence in the gallery of His Excellency Jozef Skolc, President of the National Assembly of the Republic of Slovenia and His Excellency the Ambassador of Slovenia to Canada. I know that all honourable senators welcome our distinguished guests.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

FELICITATIONS TO NOVA SCOTIANS ON RECENT ELECTION SUCCESSES

Hon. J. Michael Forrestall: Honourable senators, I rise briefly to make two observations: The first is with respect to a fellow Nova Scotian, albeit a native of Ottawa, Alexa McDonough, and to extend to her our warmest congratulations, together with those of thousands of other Canadians.

I knew Ms McDonough even before she entered politics in Nova Scotia. She is one of those people of whom I have often said that I wished she were a conservative democrat rather than a social democrat. Whatever her choice, she has followed it with honesty and vigour, and with the determination that the left in politics in our country should not be without a voice. She has shown determination that the views of social democracy should be kept alive, not only so that Canadians might have a choice, but also because she believed and continues to believe very strongly in those principles.

I wish her well. Given the opportunity, I would say to Mary Clancy that she should be trembling in her shoes. I would also say to Ron MacDonald that I found his comments with respect to Ms McDonough simply not acceptable, and that they caused me some embarrassment when I read them.

Conservatism is alive and well, although the Canadian Press has forgotten what the words "Progressive Conservative" mean. All they have been able to print in their articles in recent years have been the words "Tory" or "Toryism," or some other euphemism. Alfie MacLeod won a by-election in Cape Breton, a bastion of Liberalism. He took the seat away from them and added it to those of Terry Donahoe, the leader. More important, now he will take his seat when the new leader of the Nova Scotia Progressive Conservative Party starts that very short and quick march to the premier's office in our great province.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I should like to associate myself with the remarks of Senator Forrestall in congratulating a Nova Scotian on achieving the leadership of a national party. Alexa McDonough and her family have served the province politically and with industry for many years. All members of the family have not always been on the same side of the fence politically, but she has demonstrated an enormous strength, a willingness for service, and the kind of dedication which, I am sure, will serve her party, her province and all Canadians well.

I do not know where she intends to run, but I want to assure Senator Forrestall that Mary Clancy, the distinguished member of Parliament for Halifax, is in no way quaking in her boots and is looking forward to many years of service as the Liberal member of Parliament for Halifax.

Senator Forrestall: Want to bet?

Senator Graham: I should also comment on the other comments that Senator Forrestall made with respect to the election in Cape Breton West. One must look at the overall numbers in Nova Scotia and, as all Liberals do, look with confidence to the future and to the next election in that province.

WOMEN AND LITERACY

Hon. Erminie J. Cohen: Honourable senators, having recently participated in the United Nations Fourth World Conference on Women in Beijing, and having learned so much more about literacy throughout the world, and secure in the belief that women and girls' access to literacy is a major obstacle to equality and quality of life, I wish to share with you a recent moving experience.

At the beginning of October, I was privileged to attend the Saint John Learning Exchange's first Luncheon for Literacy and the introduction of their second production called *The Day I Disappeared*. What a message! The cast of 27 students of varying ages presented a stirring account of the feelings and frustrations of the uneducated as they strive for self-esteem and recognition. At one point in the play, the female lead said, "They all think I am a loser." She was attending a funeral with many relatives who looked down their noses at her. She went on to say, "They're all university graduates and business people and I am nothing to them; I can see it in their eyes."

It was an emotional presentation and drove home to each of us in the audience the feelings that these people live with every day such as lack of social acceptance, loss of self-esteem, being on the outside looking in, feeling ashamed.

The Day I Disappeared, performed on a makeshift stage, presented a journey through an educational system that often fosters frustration and the isolation of people who fail in public schools or slip through the cracks. It convinced many of us that people who have not been successful in a formal educational atmosphere thrive in programs such as this. They require a non-traditional learning environment.

Drama is empowering for everyone involved. It provides opportunities for people to grow and recognize their own strengths, courage and talents. It is an effective tool in building the confidence of its pupils while at the same time providing the public with insights into literacy and educational issues.

The Saint John Learning Exchange is a not-for-profit literacy education training centre dedicated to the empowerment of individuals, be they adults, children or youth. Those of us present marvelled at the level of talent and skills we witnessed, and you could see the pride and self-esteem of the actors as they listened to the applause and the praise of the audience.

At the end of the performance, one of the performers shared this comment with a newspaper reporter: "Somehow," she said, "because of hardships in your life, you feel like you are a failure, but what I have learned through this program is that there is always hope. There are places to go if people want to learn, and you don't have to feel stupid about it. I am very proud to be here."

So my message to you, honourable senators, is to keep that hope alive, visit the learning exchanges in your province. Be ever vigilant. In these days of shrinking funds it is important that we support literacy so we can give these students a second chance to feel good about themselves.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

PEARSON AIRPORT AGREEMENTS

SECOND REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Finlay MacDonald, Chairman of the Special Committee of the Senate on the Pearson Airport Agreements, presented the following report:

Tuesday, October 17, 1995

The Special Committee of the Senate on the Pearson Airport Agreements has the honour to present its

SECOND REPORT

On May 4, 1995, pursuant to a motion adopted by the Senate, your Committee was appointed to "examine and report upon all matters concerning the policies and negotiations leading up to, and including, the agreements respecting the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport and the circumstances relating to the cancellation thereof."

In order to carry out this mandate, it is crucial that your Committee be granted access to the Treasury Board Submissions of August 1993 concerning the Pearson Airport Agreements. Your Committee is satisfied that the release of these documents is in the public interest and constitutes a reasonable exception to the customary practice of respecting Cabinet confidentiality.

Therefore your Committee recommends that a humble address be presented to His Excellency the Governor General praying that he will cause to be laid before the Senate a copy of the Submissions to Treasury Board in August 1993 relating to the Pearson Airport Agreements.

Respectfully submitted,

FINLAY MACDONALD,
Chairman

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

Senator MacDonald: Honourable senators, because this is a select committee, I am obliged to give two days' notice. I suggest that it be placed on the Orders of the Day for consideration on Thursday next.

Motion agreed to and bill placed on the Orders of the Day for consideration Thursday next, October 19, 1995.

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until Wednesday, October 18, 1995, at one-thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

FIREARMS BILL

NOTICE OF MOTION TO INSTRUCT COMMITTEE TO TABLE FINAL REPORT

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, pursuant to rule 58(1)(*f*), I give notice that on Wednesday, October 18, 1995, I will move:

That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Tuesday, November 7, 1995, it present its final report to the Senate on Bill C-68, an Act Respecting firearms and other weapons, referred to it on June 22, 1995.

EXPLOSIVES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-71, to amend the Explosives Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday next, October 19, 1995.

• (1420)

BILL CONCERNING KARLA HOMOLKA

FIRST READING

Hon. Anne C. Cools presented Bill S-11, concerning one Karla Homolka.

Bill read first time.

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

On motion of Senator Cools, bill placed on the Orders of the Day for second reading on Thursday next, October 19, 1995.

[*Translation*]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

MEETING HELD IN PARIS—REPORT OF CANADIAN DELEGATION TABLED

Hon. Gérald-A. Beaudoin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-France Inter-Parliamentary Association to the meeting of the standing committee of the association, which was held in Paris on May 23 and 24, 1995.

[*English*]

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

SIXTH ANNUAL MEETING HELD IN TOKYO AND OSAKA, JAPAN—REPORT OF CANADIAN DELEGATION TABLED

Hon. Dan Hays: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the sixth annual meeting of the Canada-Japan Inter-Parliamentary Group, which was held in Tokyo and Osaka on September 9-16, 1995.

If I may comment, honourable senators, Japan is Canada's largest trading partner after the United States. Volume of trade has more than doubled since 1985 and is increasingly diversified in composition. In 1994, Canada's exports to Japan rose by 13 per cent to $9.5 billion, resulting in an increase of over $1 billion for the second year in a row.

Ignoring the impacts of liberalized Japanese markets and increased Canadian competitiveness, projected exports from Canada to Japan will climb to $14 billion in 2002, which is 80 per cent greater than 1993 levels.

Honourable senators, while in Japan, members of this delegation were able to express Canadian concerns and promote Canadian excellence with our Japanese counterparts. This will help ensure a growing Canadian presence in the Japanese market and will allow us to work with our own business communities in encouraging increased commercial activity with Japan.

TRANSPORT AND COMMUNICATIONS

CANADA'S INTERNATIONAL COMPETITIVE POSITION IN TELECOMMUNICATIONS—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE FOR FINAL REPORT ON SPECIAL STUDY

Hon. Donald H. Oliver: Honourable senators, I give notice that tomorrow, Wednesday, October 18, 1995, I will move:

> That notwithstanding its order of reference of April 5, 1995, the Standing Senate Committee on Transport and Communications be authorized to continue its special study on Canada's international competitive position in telecommunications; and
>
> That the Committee present its report no later than March 29, 1996.

UNITED NATIONS

FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA—NOTICE OF INQUIRY

Hon. Landon Pearson: Honourable senators, I give notice that on Tuesday next, October 24, I will open an inquiry into the Fourth World Conference on Women held in Beijing, September 4-15, which Senator Erminie Cohen and I had the privilege to attend as parliamentary observers on behalf of the Senate.

[*Translation*]

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. Rose-Marie Losier-Cool: Honourable senators, I have the honour of presenting a petition signed by the residents of Anjou and Rivière-des-Prairies. The petitioners earnestly support Bill C-68 on firearm control and registration. I am submitting this petition to the Senate on behalf of these citizens, who are concerned with improving their safety and their future.

[*English*]

QUESTION PERIOD

NATIONAL FINANCE

REPORT OF AUDITOR GENERAL ON NATIONAL DEBT—GOVERNMENT POSITION

Hon. Duncan J. Jessiman: Honourable senators, my question is for the honourable government leader and concerns the national debt and the recent report of the Auditor General.

Earlier this month, the Auditor General submitted a well-articulated report on the need for national long-term debt strategy. When questioned about this report in the other place, the Minister of Finance simply reiterated his message of setting two-year deficit targets. I think he is missing the point, which is with respect to the sustainability of our current debt levels, not our current deficit levels.

The Auditor General said further:

> To date, discussions about fiscal policy have focused on deficit reduction and balanced budgets. They have not given enough consideration to the larger question of how much debt we can sustain over the long haul, and how that fits within our view of taxation and the role of government.

The Auditor General went on to say:

> We believe that the government should engage Parliament in developing this vision.

My question for the government leader is simple: Does she agree with the words, "We believe that the government should engage Parliament in developing this vision"?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Minister of Finance, perhaps more than any of his predecessors, has engaged Parliament and the people in the discussion of these issues. He has done so through references to parliamentary committees which have conducted public hearings in this country. He has done so with his annual financial report that came out last year. He has provided more information than ever before on tax expenditures. He has given updates to his program. His whole budget process has been opened up, unlike the practice at any other time in my experience on Parliament Hill, which goes back a very long way. It was a very secretive process at one time.

The Minister of Finance and the government could not agree more with the Auditor General, first, with regard to the level of debt in Canada and, second, insofar as following his suggestions to have more information produced. I believe that my colleague the Minister of Finance will continue to follow that program.

Senator Jessiman: I am not quite sure that the Leader of the Government in the Senate has answered my question, but I take it that the answer is "yes" since she seems to agree that Parliament should be engaged in this vision.

The Auditor General also said:

> In our view, only when government is committed to a vision about how much debt it is prepared to carry, and crafts budgets with that in mind, will it be possible for Canadians to assess how annual budgets fit into a longer-term vision for sustainable debt.

He went on to say that that involves not only Ottawa, but governments at all levels. He then continued:

> The reality is that there are three levels of government taxing us and borrowing on our behalf. If we are ever to look beyond each jurisdiction in isolation and ask the question how much debt can Canadians carry, we need to know how much debt is owed by all levels of government in Canada. Information currently available doesn't answer that question very well.

Would the Leader of the Government in the Senate agree that the debt is a national problem that demands national attention?

Senator Olson: It is a Conservative disaster.

Senator Fairbairn: I can certainly agree with my honourable colleague's final statement that the national debt is a national problem that requires national attention. However, I do not believe there is anyone in this country who has devoted himself more assiduously to that problem than the current Minister of Finance. My honourable friend uses the word "vision." The Minister of Finance set forward a plan which was indicated during the last election campaign, and he will adhere to that plan in relation to our deficit reduction program. He has made it very clear that our ultimate goal is a balanced budget. He has also made it very clear that it is only through adhering systematically to a plan that can be achieved that we will then cut to the heart of this overwhelming debt which burdens our country.

Senator Jessiman: The government was offered the chance to respond publicly to the Auditor General's report, but did not. They did, however, send a letter to the Auditor General, thanking him for the advice, but requesting that the letter not be published. Will the Leader of the Government in the Senate look into this matter and advise this chamber of the reason for the government's refusal to publish its reply to the Auditor General on this matter? If the government is willing to make its reply public, will she undertake to table it?

Senator Fairbairn: I will pursue my honourable friend's question with my colleague the Minister of Finance.

HEALTH

BOVINE GROWTH HORMONE—EVALUATION OF HEALTH RISK—REPRESENTATIONS FROM UNITED STATES—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, I have a question for the Leader of the Government in the Senate. Canada is still in a holding pattern on the question of allowing the sale of rBST, the controversial bovine growth hormone. There are fears among public health advocates in the United States that high-level pressure has been applied on this government to influence the outcome in favour of the multinational companies that produce rBST.

My question for the Leader of the Government in the Senate is straightforward: Can she confirm or deny whether our officials have refused any formal or informal representations on the matter from the office of the U.S. trade representative Mickey Kantor? If there has been such representations, what has been the response?

Hon. Joyce Fairbairn (Leader of the Government): To my honourable friend, I will follow up her inquiry. I know that she is aware that Health Canada is continuing its evaluation of rBST for safety and effectiveness. Until this evaluation is completed and a decision made, there is absolutely no question that rBST cannot be sold for use in Canada.

I will follow up on my honourable friend's specific question, but I wished to reiterate the position that we have taken in the past so that she will know that that position still holds.

Senator Spivak: I thank the Honourable Leader of the Government. I am aware through answers to my previous questions that Health Canada is still evaluating this matter. Perhaps the government leader can tell us whether she has any indication as to when we can expect some result on that particular evaluation?

Senator Fairbairn: I cannot give my honourable friend a definite date, but I will try to communicate with her perhaps later this week, if possible.

TRANSPORT

MERGER OF CANADIAN COAST GUARD WITH DEPARTMENT OF FISHERIES AND OCEANS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: My question is for the Leader of the Government in the Senate. It arises out of speculation in the press — as yet unconfirmed — that the merger of the Department of Fisheries and Oceans with the Canadian Coast Guard will probably result in the elimination of some 150 shipboard jobs and 24 vessels from the service, and the closure of the Coast Guard base at Dartmouth.

Can the leader confirm for us whether or not these reports are accurate? If they are accurate, inasmuch as they are alleged to be based on internal studies and documents, could those internal studies and documents be made available?

With the elimination of some 24 vessels and the closure of the Coast Guard base, at issue, of course, is the safety of in-shore, near-shore, and certainly gulf marine activity.

Hon. Joyce Fairbairn (Leader of the Government): My first response will be to clarify the validity of the reports that my honourable friend has raised and, contingent on that, the question of documentation.

Senator Forrestall: It is our understanding from press reports in Atlantic Canada that these alleged studies went to a certain point, but that the Minister of Transport, Mr. Young, and the Minister of Fisheries and Oceans, Mr. Tobin, then went beyond the recommendations of their officials to some extent.

Can the Leader of the Government in the Senate determine whether or not there is any truth in that rumour? It is a very alarming rumour to have floating around and, if there is no truth to it, it should be put to rest.

Senator Fairbairn: I will do my best, Senator Forrestall.

CANADA-CHINA RELATIONS

VISIT TO CANADA OF CHINESE PREMIER—RAISING OF HUMAN RIGHTS ISSUES—GOVERNMENT POSITION

Hon. Noël A. Kinsella: My question is for the Leader of the Government in the Senate. Will she relate to Canadians what the Prime Minister of Canada had to say to the Prime Minister of China with respect to human rights abuses in that country?

We all know that a great number of Canadians have manifested their concern with the delinking of human rights from Canadian foreign policy and Canadian trade policy. Would the minister be able to advise this house and Canadians as to what exactly the Prime Minister said to the Chinese Prime Minister about human rights violations in China?

Senator Olson: That is a fabrication of information.

Senator Lynch-Staunton: The Prime Minister said that we had no influence; that we are too small, and too inconsequential.

Hon. Joyce Fairbairn (Leader of the Government): To my honourable friend, the Prime Minister has indicated that, as always in his talks with Li Peng, he raised the issue of human rights. He did so again on the occasion of the most recent meeting, as he did on the visit to China and on other occasions in the past. I was not present at the discussions, so I could not tell my honourable friend exactly what was said.

However, the Prime Minister has made it clear repeatedly, and in particular in recent exchanges in the House, that Canada does express itself vigorously and forcefully on the issue of human rights.

Canada does not shirk its bilateral responsibilities, nor does it hold back from expressing its views at the United Nations. Canada also believes that with countries where human rights are of concern, improved contact in terms of economics, trade and social development will have a profound influence upon the progress of human rights and will serve to bring those countries even closer to the rest of the world. China falls within that category.

Senator Lynch-Staunton: Like in Cuba or Singapore?

TRADE IN GOODS MANUFACTURED IN LABOUR CAMPS—GOVERNMENT POLICY

Hon. Noël A. Kinsella: Will the Government of Canada refuse, as a matter of policy, to trade in goods manufactured in the People's Republic of China by those who are incarcerated in work camps?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would need to seek advice on that particular question. However, I also wish to underline the importance of the visit of the Premier of China to Canada. Many benefits to Canadians will arise from that visit. Considerable benefits will also accrue to the people of China. That mutual benefit underpins the government's interest in pursuing not just trade but the betterment of society in China and other such countries. The Prime Minister will continue to visit these countries during his administration and to carry to them the same message.

Senator Lynch-Staunton: It sounds like we are sending missionaries.

Senator Fairbairn: Certainly, I would consider the Prime Minister of Canada and the premiers of nine of our provinces as extremely potent missionaries in this world.

Senator Lynch-Staunton: Yes, and the almighty dollar is our God.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 25, 1995, by the Honourable Senator Andreychuk, regarding the commitment to intervention with transgressor countries; a response to a question raised in the Senate, May 25, 1995, by the Honourable Senator Kinsella, regarding the possibility of imposing embargoes on transgressor countries; a response to a question raised in the Senate, June 6, 1995, by the Honourable Senator Lynch-Staunton, regarding the inclusion of Chile in NAFTA; a response to a question raised in the Senate, June 6, 1995, by the Honourable Senator Nolin, regarding the extension of NAFTA to include Chile; a response to a question raised in the Senate, June 9, 1995, by the Honourable Senator Kinsella, regarding the relationship to aid and trade; a response to a question raised in the Senate, June 28, 1995, by the Honourable Senator Nolin, regarding negotiations towards inclusion of Chile in NAFTA; a response to a question raised in the Senate, July 11, 1995, by the Honourable Senator Comeau, regarding the Canada Post Corporation; and a response to a question raised in the Senate, July 12, 1995, by the Honourable Senator Prud'homme, regarding the scrutiny of Mr. David Berger's views prior to his appointment as Ambassador to Israel and Cyprus.

HUMAN RIGHTS

COMMITMENT TO INTERVENTION WITH TRANSGRESSOR COUNTRIES—GOVERNMENT POSITION

(Response to question raised by Hon. A. Raynell Andreychuk on May 25, 1995)

The Government will continue to exercise leadership in promoting respect for human rights and will use a variety of means to do so including both bilateral and multilateral diplomacy and assistance to governments building democratic institutions.

As a general rule, dialogue and engagement, rather than isolation, represent the most effective avenues for influencing governments to respect international human rights obligations.

These obligations originate in the UN Charter which requires all United Nations members to promote universal respect for human rights and in the 1948 Universal Declaration of Human Rights, as well as several UN human rights treaties.

Canada continues to exercise leadership on a broad range of human rights and democratic development issues in the UN and other multilateral fora. For example, this government played a key role in the creation of the post of United Nations High Commissioner for Human Rights and continues to work actively in support of his work and efforts to strengthen the UN human rights system. Canada successfully led efforts to create a UN Special Rapporteur on Violence Against Women and continues to take a lead in international efforts to integrate women's rights into the mainstream of human rights mechanisms in the UN (including at the World Conference of Women), OAS, Commonwealth and Francophonie.

One of the six priorities for Canada's official development assistance is human rights, democracy, and good governance. Through CIDA the government will support activities aimed at strengthening legislative and judicial systems and increasing the capacity of people to participate fully and effectively in decision making in their countries, as well as peace and reconciliation initiatives, human rights education and electoral assistance.

Canada played a lead role in efforts to ensure the reinstatement of democracy in Haiti, and both through participation in UN operations and through the training of Haitian police, is contributing to the nation-building exercise underway in that country.

The Government engages in ongoing consultations with human rights nongovernmental organizations on a broad range of international human rights issues. These discussions are important in determining our policy priorities in the field of international human rights.

POSSIBILITY OF IMPOSING EMBARGOES ON TRANSGRESSOR COUNTRIES—GOVERNMENT POSITION

(Response to question raised by Hon. Noël A. Kinsella on May 25, 1995)

The government is not contemplating imposing an embargo on any country in the world at present. In most cases, the government believes that Canada can maximize its influence by maintaining dialogue and engagement with a particular government rather than by isolating it. Embargoes are most effective when imposed multilaterally, i.e., by the whole international community.

NORTH AMERICAN FREE TRADE AGREEMENT

INCLUSION OF CHILE—INFLUENCE ON EXISTING AGREEMENT—GOVERNMENT POSITION

(*Response to question raised by Hon. John Lynch-Staunton on June 6, 1995*)

The first detailed, all-chapter negotiating session on Chilean accession to NAFTA took place in Mexico City July 25 – August 1. Under the direction of chief negotiators from Canada, the United States, Mexico and Chile, various working groups discussed a full range of technical issues required for Chile's accession.

An August 2 meeting of the U.S. Trade Subcommittee on the House Ways and Means Committee, which was scheduled to consider fast track legislation, was cancelled. It is not yet known when the Republican Congressional Leadership will present the draft legislation for deliberation by appropriate committees.

Canada entered these negotiations on the clear understanding with its NAFTA partners that the addition of a fourth member might require limited and very technical adjustments to the NAFTA text to accommodate a new member. The negotiations should not entail a reopening or rebalancing of the rights and obligations between the NAFTA's current members.

EXTENSION OF AGREEMENT TO INCLUDE CHILE—GOVERNMENT POSITION

(*Response to question raised by Hon. Pierre Claude Nolin on June 6, 1995*)

Presently the Chilean investment system is transparent and open. Chile welcomes foreign investment. Canadian businesses investing there have no fundamental problems with current practices. Chile's accession to the NAFTA, including its high-quality provisions on non-discriminatory treatment for foreign investment, will provide a kind of longer-term insurance policy protecting Canadian investors if, at some point in the future, Chile were to consider the introduction of practices that might discriminate against Canadian investors. Chile's membership in the NAFTA means that it will no longer be necessary to seek to negotiate a bilateral foreign investment protection agreement with Chile.

HUMAN RIGHTS

RELATIONSHIP TO AID AND TRADE—GOVERNMENT POLICY

(*Response to question raised by Hon. Noël A. Kinsella on June 9, 1995*)

The Government's policy on human rights remains as outlined in its response to the foreign policy review: human rights are fundamental to Canadian values, crucial to the promotion of international peace and security, and integral to Canada's foreign policy.

The issue is not whether, but how the Government can best promote human rights internationally. While the Government does not contend that trade automatically enhances human rights, only in the rarest cases are the pursuit of trade and the promotion of human rights incompatible. The Government believes that, in most cases, trade reduces isolation and generates the economic growth required to sustain social change and development.

As stated in the response to the question put by Senator Kinsella on March 23rd, regular and systematic reporting on human rights and democratic development is an integral part of the work of Canadian diplomatic missions in support of these and other objectives set in the foreign policy review.

With respect to the incarceration of a number of Chinese human rights activists, this issue was raised by senior Departmental officials in Ottawa with the Chinese Ambassador.

FOREIGN AFFAIRS

NEGOTIATIONS TOWARDS INCLUSION OF CHILE IN NAFTA—REQUEST FOR PROGRESS REPORT

(*Response to question raised by Hon. Pierre Claude Nolin on June 28, 1995*)

Initial talks on Chile's accession to NAFTA have begun. However, the Chilean government has stated that it will not engage deeply in negotiations on core sensitivities until the disposition of fast track legislation in the U.S. Congress is much clearer. (Fast track allows trade agreements, once negotiated, to move through Congress without formal amendment.)

On September 21, 1995, the House Ways and Means Committee approved a bill on fast track trade legislation. If the bill moves through Congress successfully, it will encourage Chile to engage more deeply in negotiations. However, the disposition of the bill remains uncertain, as it was approved along party lines. Successful passage through the full Congress will require bipartisan support as has been the tradition in the past in the U.S. on trade legislation. It is uncertain whether or not the Administration and Congressional leadership can resolve their differences. Discussions are ongoing.

Detailed work to bring Chile into NAFTA began formally in Toronto, in June, in a meeting of the trade ministers from NAFTA countries and Chile. The first detailed, all-chapter negotiation session on Chilean accession took place in Mexico City July 25 – August 1st. Two more negotiating sessions took place in September. Chief Negotiators will report their progress to Ministers who will assess progress and determine the next steps in the negotiations.

CANADA POST CORPORATION

EXTENSION OF CONTRACT ON LEASES—REQUEST FOR INFORMATION ON MEMBERS OF CONSORTIUM

(*Response to question raised by Hon. Gerald J. Comeau on July 11, 1995*)

There was no extension of the consortium's contract. Rather, there was a new contract, the details of which are outlined in the press release below.

The members of the consortium are included in this press release.

The management and daily operations of Canada Post are carried out at arm's length from the government.

PROFAC SIGNS CONTRACT WITH CANADA POST FOR PROPERTY MANAGEMENT SERVICES

Ottawa – December 7, 1994 – PROFAC Management Limited, a facilities management company owned by Bracknell Corporation, SNC-Lavalin Inc. and Enterprise Investments Inc. has signed on November 16, 1994, a five and a half year contract with Canada Post Corporation to provide property management services for the Corporation's facilities in Central and Eastern Canada. The contract is valued at approximately $350 million.

PROFAC's services will include the implementation of a wide range of planning improvements designed to achieve cost savings and improve services in over 530 locations representing more than 11 million square feet of space in Ontario, Québec and Atlantic Canada.

PROFAC's seven regional offices will also provide technical and contract support to local postmasters to ensure the efficient maintenance of about 1,400 smaller buildings.

With this contract, PROFAC, which was founded in 1992, becomes one of Canada's leading facilities management firms. Its shareholders are all recognized as leaders in their fields.

Bracknell Corporation is a construction and specialty services company which through operating subsidiaries is a major facilities management specialist with over 1,500 employees offering construction, technical, operations and maintenance services across the country. Bracknell is listed on the Toronto Stock Exchange and is a member of the TSE 300 Composite Index.

The SNC-Lavalin Group is a Canadian company with operations in engineering-construction and manufacturing, with more than 5,000 employees, offices in 26 countries, currently working internationally in some 90 countries. It is listed on the Montreal and Toronto Stock Exchanges.

Enterprise Investments Inc., through its subsidiary Enterprise property Group Limited, is Canada's largest independent third-party real estate management services company providing specialized management services to over 20 million square feet of space.

HIS EXCELLENCY DAVID BERGER

SCRUTINY ON VIEWS PRIOR TO HIS APPOINTMENT AS AMBASSADOR TO ISRAEL AND CYPRUS—GOVERNMENT POSITION

(*Response to question raised by Hon. Marcel Prud'homme on July 12, 1995*)

Mr. Berger completed a period of intense consultations for his new assignment. The government has every confidence that he will faithfully and vigorously advocate Canadian Policy. It should be noted that his consultations included extensive meetings with leaders of both the Canadian Jewish and Arab communities, meetings that proved uniformly productive. Finally, Mr. Berger looks forward to working with the mayor of Bethlehem and other Palestinian leaders as he takes up his assignment.

Mr. Berger has had a distinguished career in Parliament and certainly is not new to Middle East issues. He has a keen sense for Canadian values of openness and fair-play, values the government knows will bring to bear to great effect in his new assignment. With respect to his remarks during Mayor Freij's visit, Mr. Berger formally apologized in the House, on the day following the incident in question – (June 15, 1983).

ORDERS OF THE DAY

CODE OF CONDUCT

REPORT OF SPECIAL JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report (Extension of deadline) of the Special Joint Committee on the Code of Conduct, presented in the Senate on October 3, 1995.

Hon. Donald H. Oliver: Honourable senators, I move the adoption of this report.

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

Motion agreed to and report adopted.

The Senate adjourned until Wednesday, October 18, 1995, at 1:30 p.m.

THE SENATE

Wednesday, October 18, 1995

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

Prayers.

SENATORS' STATEMENTS

STATUS OF WOMEN

ANNIVERSARY OF PRIVY COUNCIL DECISION—
CONGRATULATIONS TO WINNERS OF 1995 PERSONS AWARDS

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it is difficult for all of us to imagine that it was only 66 years ago, on this eighteenth day of October, that women in Canada were deemed to qualify legally and constitutionally as "persons." The decision rendered by the Privy Council in London, England, capped a lengthy and courageous battle by five firebrands from Alberta.

We can thank the efforts of those "famous five" whose names and stories are on permanent display in the lobby of this chamber. They are: Emily Murphy, a magistrate and social activist; Henrietta Muir Edwards, a journalist and artist; Nellie McClung, a novelist and an Alberta MLA; Louise McKinney, a temperance worker and member of the Alberta Legislative Assembly; and Irene Parlby, who was also an Alberta MLA — political and social activists all.

While women had won the right to vote and to run federally in 1918, the battle for civic equality had really only just begun. The spark to ignite this fight occurred when the authority of Magistrate Emily Murphy to preside at the women's court in Edmonton was questioned. It was challenged by a defence lawyer citing English common law which stated:

> Women are persons in matters of pains and penalties, but are not persons in matters of rights and privileges.

Thankfully, this attempt to exclude women from the bench was later overruled. However, the difficulty with the definition of "persons" persisted when it came to the question of the Senate.

In 1927, Emily Murphy joined with the rest of the "famous five" to ask the Supreme Court of Canada for a reinterpretation of section 24 of the British North America Act which states:

> The Governor General shall...summon qualified persons to the Senate.

When the Supreme Court of Canada ruled against their case the following year, Mary Ellen Smith, a member of the British Columbia Legislature, commented:

> The iron dropped into the souls of women in Canada, when we heard that it took a man to decree that his mother was not a "person."

Not to be denied, these five tenacious Albertans turned to the Judicial Committee of the Privy Council, then Canada's highest court of appeal. After four days of deliberation, the Privy Council decided in their favour declaring that:

> The word "persons" in section 24 includes members of both the male and female sex.

Ironically, and sadly, while none of the Alberta crusaders were ever appointed to the Senate, a year later this chamber welcomed its first female member, Cairine Wilson of Ottawa. Today, women number 22 in this chamber.

It was not until 1979 that an Alberta woman entered the Senate when then Prime Minister Joe Clark appointed our former colleague, Martha Bielish. That same year, with the encouragement of Mr. Clark, an Albertan, the Governor General established commemorative awards for women who, much like the "famous five," have made outstanding contributions toward promoting equality and opportunity for women in Canada.

Honourable senators, I want to take this opportunity to congratulate this year's winners: Marthe Asselin Vaillancourt of Jonquière, Quebec; Dr. May Cohen of Burlington, Ontario; Ruth Flowers of Makkovik, Labrador; Sheila Kingham of Victoria, British Columbia; Carolyn G. Thomas of Dartmouth, Nova Scotia; and Alice E. Tyler of Edmonton, Alberta.

These women have made great progress in furthering the cause through their work in many facets of our society — protection against family violence, human rights, medicine, social activism, arts and culture. We extend our appreciation and our good wishes to this year's recipients of the Persons Awards as we salute the memory of the five Alberta women who made possible the celebration today.

Hon. Mira Spivak: Honourable senators, as you will have noticed, at the entrance to this elegant red chamber are two bronze busts of women, one on the left and one on the right. One of those busts is of Cairine Wilson, the first English-speaking woman to be appointed to the Senate, and the other is of Marianna Jodoin, the first francophone woman to be appointed senator. You will note that there are no busts of men senators; there are only gargoyles. It is evident why this should be so.

The Senate is a powerful symbol in the struggle for women's equality in Canada, for you will recall, as the leader has pointed out, that before October 18, 1929, women, by English law, were persons in the matter of pains and penalties, but not in the matter of rights and privileges and, thus, were not entitled to be appointed senators. It was through the efforts of Judge Emily Murphy, the feminist, activist and author, and the "famous five," that the Privy Council overruled the Supreme Court of Canada on that date and deemed that the word "person" meant women as well as men, and that women were, indeed, entitled to sit in the

Senate. This landmark ruling was part of an amazing revolution that has spanned my lifetime; a revolution without armies, without secret caches of arms, but more far-reaching and profound in its impact than any of the other revolutions of the twentieth century.

• (1340)

The women's movement has sparked the most fundamental social changes of our time, and it points toward more. The first wave occurred in the late nineteenth and early twentieth century, when women got the vote. A tremendous wave of feminism, the second wave, rolled through the 1970s when at last, after a long silence, women took to the streets. In North America and parts of Europe, in the two decades of radical action that began in the 1970s, western women gained legal and reproductive rights, pursued higher education, entered the trades and the professions, and overturned the old beliefs about their social role.

In Canada, this revolution was sparked by the Royal Commission on the Status of Women in 1970, which documented the unequal status of Canadian women in criminal law, child care, reproduction, employment, education, housing, marriage and divorce, pensions, maternity leave, pay, politics, and poverty. That commission made 167 recommendations aimed at dismantling the legal and economic barriers to women's equality. It was, and is, an amazing and audacious attempt to transcend the limits of the human condition, brought about by mainly women's groups and organizations.

Women are not typical revolutionaries, and so the revolution has been non-violent. It has gained its powers and momentum from numbers — more than half the population of the world. Its victories have been legal and attitudinal. Of course, the heart of the matter is that the cause is so just.

As the Leader of the Government mentioned, we now see 22 women in this chamber as a result of the Persons Case which opened the door to the first woman senator, Cairine Wilson. It is interesting to recall as well that the National Action Committee on the Status of Women, during the debate on the Charlottetown Accord, called for gender equality in this Senate. We still have some way to go towards full equality in Canada.

I end with a quote from Emily Murphy, who said:

> I believe that never was a country better adapted to produce a great race of women than this Canada of ours, nor a race of women better adapted to make a great country.

Hon. Raymond J. Perrault: Honourable senators, I appreciate very much the eloquent statement made today by the Leader of the Government in the Senate, and the remarks of Senator Spivak. Mention was made to Mary Ellen Smith in my leader's presentation.

Mary Ellen Smith was a great Canadian who lived in British Columbia. She was a woman who had very few monetary resources, but spearheaded much of the social reform in the Province of British Columbia. She was the first woman cabinet minister in the Commonwealth, and also within the Empire, as it was known at that time.

Mary Ellen Smith made a great contribution toward the establishment of Old Age Pensions and mothers' pensions in the Province of British Columbia. It was Mary Ellen Smith who said that there is no such thing as an illegitimate child; there are, perhaps, illegitimate parents. When she died, she left only a few dollars in the bank, but she left behind her a legacy for all Canadians of a compassion for the dispossessed — the friendless, the homeless, and the people unable to help themselves.

I appreciate the reference to Mary Ellen Smith, who is regarded in our province as one of the great heroines of our history but, more important, a great Canadian.

Hon. Bill Rompkey: Honourable senators, I wish to underline as well the remarks of the Leader of the Government in the Senate on the events of yesterday, and the awards in commemoration of the Persons Case. It was an honour for me, as one of my first acts as a senator, to participate in that ceremony.

In particular, I wish to pay tribute to one of the recipients, and that is Ruth Flowers from Makkovik, Labrador. I acknowledge the singular contribution that Ms Flowers has made, which earned for her the 1995 Governor General's Award in commemoration of the Persons Case.

Ruth Flowers has been the voice of women in her community. She has sought to protect women who have been victimized by violence, to involve women in community and economic development, and to preserve and promote the traditional culture of Inuit women.

A committed advocate of women's rights, Ruth was the catalyst behind the creation of Inuit women of the Torngats, and its first president. Under her leadership, the organization established the first safe house for abused women on Labrador's north shore.

For her dedication and her selfless efforts on behalf of the women of the north shore of Labrador, the Government of Canada yesterday honoured Ruth Flowers with the 1995 Governor General's award in commemoration of the Persons Case. I ask all my colleagues to join me in conveying to her our congratulations.

ROUTINE PROCEEDINGS

EMPLOYMENT EQUITY BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-64, respecting employment equity.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-90, to amend the Excise Tax Act and the Excise Act.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

QUESTION PERIOD

TRANSPORT

SEARCH AND RESCUE—REPLACEMENT OF SEA KING AND LABRADOR HELICOPTER FLEETS—STATUS OF EH-101 CONTRACT—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I am in receipt of a reply to a question I asked last June having regard to the EH-101 contract and the settlement of the costs involved therein. Inasmuch as that was June and the House is now well into its fall session, it begs the question as to whether she can or cannot provide us with a status report at this time on any progress that may have been made in relationship to the purchase of new helicopters to replace the aged Sea Kings and Labrador helicopters.

• (1350)

As the Leader of the Government in the Senate is no doubt aware, in the last couple of weeks or so we have had two more serious incidents involving Sea King helicopters. A Sea King went down in Quebec in mid-September, and on September 29, another Sea King, with a crew of six on board from CFB Shearwater, was forced down between West Dover and Peggy's Cove in Nova Scotia. Fortunately there were no injuries in either of these two mishaps, but every time another one of these choppers goes down, one cannot help but compare the situation to "Russian Roulette."

Despite the fact that the Minister of Defence said the Sea Kings are fit to fly to the year 2000, do these recent incidents not give this government some cause to reflect or exhibit concern? When will we see some decisive action on the part of this government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as I have indicated before in this chamber, the government intends to purchase replacements for the Sea King helicopters used on board ships and also the Labradors used for search and rescue.

Honourable senators, I am unable to satisfy my friend on the question of timing. The government is still considering all the options, and no contract for replacement of helicopters has been approved at this date.

Senator Forrestall: Honourable senators, God help us.

One of the reasons it is so difficult to understand this enormous delay is that $166 million in pre-engineering work and studies has already been completed. Does the government leader not agree that the $166 million in compensation paid to UNISYS for computer design work on the EH-101 will certainly have to be included as associated costs in any new purchase, since some of this work has been transferred to the Department of National Defence? Does she not agree that the lengthy period of time to achieve this type of computer-driven engineering workup has been overtaken by the work already in hand? The Department of National Defence has had this information for three or four years.

Honourable senators, this situation causes grave concern for families who watch their husbands and relatives climb on board those old Sea King helicopters and fly out over water. I wish my honourable friend would convey to her colleagues in government that it is time to put this damned mess behind them and to move on in a positive direction, one that reflects the concern of legislators for the well-being of those we ask to put their lives on the line for us. Would she instill in them some sense of concern and urgency, not just the politeness of commerce?

Senator Fairbairn: Honourable senators, I know the concern of Senator Forrestall, and I think every senator in this chamber shares it. I think the Minister of National Defence shares the concern that our Canadian Forces, wherever they may serve, be well protected and served by whatever equipment they use, so they can do their jobs.

I understand my honourable friend's frustration at the time that has elapsed on this issue. I can only assure him that this issue is very much in the mind of the Minister of National Defence. I will be more than pleased to convey my honourable friend's strong, personal concerns to my colleague.

HEALTH

CONTROLLED DRUGS AND SUBSTANCES BILL—REQUIRED AMENDMENTS—GOVERNMENT POSITION

Hon. Erminie J. Cohen: Honourable senators, physicians, herbalists, natural food advocates and other groups in Canada are very concerned about the government's proposed legislation, Bill C-7. This bill is in effect a reintroduction of Bill C-85, which was introduced by the previous government and died on the Order Paper in the last Parliament.

Many of the amendments recommended by the legislative committee on Bill C-85 were incorporated in Bill C-7, but there are still concerns which have not been addressed. There is a need for criminal law to be precise and clear because of the serious

consequences associated with breaking the law, but this bill is neither. For example, there is fear that clause 3 in the bill could lead to many herbs, vitamins and food supplements being put on a list of controlled substances and, as a result, available only by prescription. Not only could this bill deny Canadians the right to make their own health care choices, but non-traditional health care workers could face criminal sanctions. Physicians are also worried that the lack of clarity in clause 3 may leave them open to charges of drug trafficking.

Honourable senators, in the interest of making sure that Canadians are not saddled with an overreaching bill that affects the ability of traditional and non-traditional health care workers to provide quality care, would the Leader of the Government ask the Minister of Health whether she is prepared to make amendments to clarify the worrisome provision in Bill C-7?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am prepared to convey my colleague's comments and also to bring back from the minister any comfort or reassurance that I can.

HUMAN RESOURCES DEVELOPMENT

PROPOSED SOURCE OF FUNDING FOR CREATION OF CHILD CARE SPACES—GOVERNMENT POSITION

Hon. Brenda M. Robertson: Honourable senators, my question is to the Leader of the Government in the Senate.

Recently, Minister Axworthy was quoted in the press regarding a proposal for the creation of more child care spaces. We know that in the near future health and higher education portions of the Canada Assistance Plan will be rolled into block funding. We also know that many of the spaces in provincial daycare centres are supported by Canada Assistance Plan dollars. When Minister Axworthy makes his announcement about a federal contribution, will those dollars be in addition to the block funding, or will the provinces have to take that daycare money out of the block funding that we anticipate will come in the next 12 months?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I should like the opportunity to refer my honourable friend's question to the minister for a more precise answer than I can give today. This is an important issue.

AGRICULTURE

CANADIAN WHEAT BOARD—PROPOSED INCREASE IN INITIAL PRICE OF GRAIN—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators will know that in the last 10 years, international grain prices have risen to an all-time high. Yet, farmers are only receiving around $3 for their wheat. Has the Minister of Agriculture given any indication as to when the government will increase the initial price of grain to grain farmers? The cost of everything is rising. I hear that the Canadian Wheat Board has quoted a price of $6 a bushel for grain. Surely it is time for action to be taken to increase the amount of money farmers receive for selling their grain.

• (1400)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am advised by my colleague Senator Olson, an expert in these matters, that some increases were announced last week. I will convey your questions to the Minister of Agriculture and attempt to get more information on what has been accomplished thus far, as well as the minister's plans for future pricing.

Senator Gustafson: Honourable senators, it is my understanding that the Minister of Agriculture simply made some statements about something that might be forthcoming. Playing politics with such suggestions does nothing to put any money in the farmers' pockets. We need to see the increase at the elevator. Those of us who are active in agriculture know that such an increase has not arrived.

Senator Fairbairn: Honourable senators, with the comments of both my colleagues in this house ringing in my ears, I will take these words as notice, and I will bring word from the minister to my colleagues.

ORDERS OF THE DAY

CORRECTIONS AND CONDITIONAL RELEASE ACT
CRIMINAL CODE
CRIMINAL RECORDS ACT
PRISONS AND REFORMATORIES ACT
TRANSFER OF OFFENDERS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poulin, for the second reading of Bill C-45, An Act to amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act.

Hon. R. James Balfour: Honourable senators, I rise today to speak to Bill C-45, to amend the Corrections and Conditional Release Act and related statutes. As Senator Pearson has outlined for us, the main provisions of this bill include: allowing convicted sex offenders whose victims were children to be kept in prison for their full sentences, a provision that at least one-third of the second sentence in consecutive sentences must be served before eligibility for parole, and instituting more comprehensive measures for removing members of the National Parole Board who are guilty of incompetence or unacceptable behaviour.

I do not intend to speak at any length on this bill today. We will have ample time to examine it in committee. However, it is incumbent upon me to correct the impression left by Senator Pearson's speech that this bill is somehow the child of the Liberal

election book. The Corrections and Conditional Release Act was first adopted by the Progressive Conservative government in 1992. It replaced the Penitentiary Act and Parole Act. This new legislation made protection of the public the main consideration in decisions involving the release of criminal offenders into society.

In 1993, a further bill was introduced by the Conservatives which would have permitted the National Parole Board to keep high-risk sex offenders in prison indefinitely. That bill, however, was never adopted. Bill C-45 is based in part on that 1993 proposal. It is also a comprehensive overhaul of the 1992 Corrections and Conditional Release Act.

Bill C-45, in other words, is part of a broader series of ongoing improvements to the federal corrections system begun by the previous Progressive Conservative government and not, as Senator Pearson has told us — I am sure not by design — a purely Liberal measure.

Senator Pearson's comments in introducing this bill brought two other points to my mind. The first relates to her claim that it will help restore confidence in the corrections process. I am as aware as anyone of the various sex-related cases which have received high profile treatment in the media in the past couple of years. However, I must admit that I fail to see any link between these cases and the apparent breakdown in our corrections system. Possibly during our discussions in committee, Senator Pearson will be able to enlighten us further.

The second point relates to the bill's apparent singling out of children as a special category in regard to sexual offences. This issue has already been raised in the other place. It has been claimed that the government is, in effect, saying that sexual attacks on adults are of a secondary or less important nature. I was heartened to read Senator Pearson's remarks that this is not the government's position, and that all sexual attacks are to be condemned.

Honourable senators, Bill C-45 is a long bill. It contains many technical amendments. It does not address basic precepts underlying the detention of offenders. Rather, it deals with the mechanics of their release. The aim, as I understand it, is to improve the efficiency of the parole system and the National Parole Board.

On first reading, I find many of the proposed changes timely and well considered. I agree, for instance, with the notion of punishing recidivism, which I believe encourages a lack of respect for our country's system of justice. The same is true for those who violate the conditions of their parole.

On the other hand, as I sat and read through the bill the other day, a number of questions came to my mind which should be addressed in committee. Why has the government failed to make programs mandatory for the rehabilitation of people guilty of sex-related crimes? Where are the provisions to properly supervise offenders who have served their full time in prison, but who still constitute a risk to society following their release? Why are people who receive additional sentences for offences committed while on parole not obliged to serve the full extent of both sentences?

Honourable senators, any piece of legislation could be criticized *ad infinitum*. This is not my intention. However, you will perhaps agree with me that issues such as sex crimes involving children, programs designed to help reform those guilty of such crimes and propositions to keep these people away from society for long periods need to be discussed fully. When I say fully, I mean by both sides of this chamber. These are issues which affect us all. It is not a question of delaying the bill for the sake of politics or partisanship. It is a question of balance.

We are today surrounded by a rising tide of rhetoric about the supposed Americanization of our society, the rise in violent crime, the weakness of our criminal justice system, and the need to get tougher with offenders. Instances of poor judgment on the part of prison or parole officials are often blown out of proportion in order to prove a political point. Particular cases such as the penitentiary — wherever it is — that has a nine-hole golf course for its inmates, are portrayed as the general rule.

I am not saying that there is not a grain of truth in much of what is said. The justice and parole systems are not perfect. However, it is extremely important that we take a moment to separate the chaff from the grain. We must distinguish rhetoric and prejudice from facts and realities. As legislators, we attempt to find a moderate position somewhere between the demands of those who would go too far and the equivocation of others who would do too little. It is not an easy task, as you are all well aware.

This is especially true when we deal with contentious subjects such as the sexual abuse of children. We must weigh the arguments for retribution against those for compassion and rehabilitation. Our deliberations must take place within the context of the greatest good for the greatest number. As individuals and as senators, we have responsibilities to society, responsibilities which include keeping our streets and schools safe for our children. We should be ready to support any measure that, within reason and without excessive intrusiveness, furthers this goal.

Honourable senators, Bill C-45 appears to be such a step. In conclusion, I support the principle of this bill. It addresses an issue which has become a subject of growing concern in our communities in the past few years. It closes some important loopholes which have allowed certain types of offenders to escape the full rigour of the law. Finally, it continues along the path laid out by the previous Conservative government by maintaining the protection of the public as a primary consideration in parole legislation.

Once in committee, we will be able to look more closely at the different provisions of this bill, to question officials and to see if this bill is as substantive as the government would have us believe.

• (1410)

The Hon. the Speaker *pro tempore*: Honourable senators, if the Honourable Senator Pearson speaks now, her speech will have the effect of closing the debate.

Hon. Landon Pearson: Honourable senators, I move second reading of this bill.

Motion agreed to and bill read the second time.

REFERRED TO COMMITTEE

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

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

FIREARMS BILL

MOTION TO INSTRUCT COMMITTEE
TO TABLE FINAL REPORT, AS AMENDED, ADOPTED

Hon. Joyce Fairbairn (Leader of the Government) moved:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Tuesday, November 7, 1995, it present its final report to the Senate on Bill C-68, An Act respecting firearms and other weapons, referred to it on June 22, 1995.

She said: Honourable senators, I move this motion today in response to citizens across this country who want Parliament to make up its mind on the crucial issue of gun control. I do not think anyone in this house could deny — or would wish to deny — the depth of concern among Canadians for safety and security for themselves and for their families, and that concern takes in every part of our society, every social and economic level, every region of our country.

We all know the depths and the complexity of the roots of this issue and the enormous challenges for all our institutions to unravel those causes and the attitudes that they spawn. While longer-term efforts to reach these causes accelerate, attention has focused on strengthening means for protection through more effective management of firearms, and tough penalties for those who use them as tools to carry out their threats and their acts of violence and, indeed, murder.

Gun control is now a centre point of public attention. The purpose of my motion is to allow this chamber to come to a decision in a timely fashion on Bill C-68, legislation which would enact new gun control measures in a manner that is balanced and fair to those who legitimately own and use firearms.

The motion is not intended to prevent our standing committee from carrying out its responsibilities. Rather, its sole purpose is to strike a fair balance between the work of the committee with its 12 members, the work of the Senate with its 104 members, and the opportunity for those with strong views to be heard on this issue.

This legislation now before us was many years in the making. It is actually a piece of unfinished business flowing out of Bill C-17, the most recent gun control legislation which was given Royal Assent in this house in December of 1991. At that time, former Senator Nathan Nurgitz from Manitoba, then chairman of the Standing Senate Committee on Legal and Constitutional Affairs and the sponsor of the bill on behalf of the then government, wrote to the Minister of Justice of the day, the Honourable Kim Campbell, urging her to do even more. In that letter of December 12, 1991, Mr. Nurgitz, speaking for himself and his colleagues on the committee, said:

> We feel that improvements in the three areas mentioned — firearms registration, safe storage and training — would not place an unfair burden on firearms owners or users. In fact, these are areas in which further regulation would only bring gun control into line with how we handle other dangerous implements...

Honourable senators, I was a member of that committee at the time, and was responsible for the bill on behalf of my colleagues when we were in opposition. I can attest to the fact that both sides worked very closely together to pass the legislation and to come up with recommendations for further change, as noted by Mr. Nurgitz, and that letter was our method of compromise to advance passage of the bill without amendment at that time. The committee was giving notice, unanimously, of its expectation for further government action.

Following passage of that bill, there has been a growing interest in the possibility of registering firearms in this country, perhaps because advances in computer technologies have made it a more practicable and feasible objective, and that interest in further measures to control guns found its way into the last election campaign. It was part of the platform of our party, and was further brought forward at our convention in May of 1994, in a resolution which included elements of the current bill, including a national system of registration. The Prime Minister at that time publicly declared this issue to be a high priority of his government's agenda for the public safety of all Canadians, and it remains so today.

I mention these points, honourable senators, simply to review where this legislation began to develop, particularly as it is relevant to the Senate, and how it has progressed in recent years and months. After that convention, the Minister of Justice, having travelled to all provinces and territories and talked with groups of Canadians, tabled the government action plan on firearms control.

Following another round of public discussions and consultation, the Minister of Justice then introduced into the House of Commons, on February 14 of this year, Bill C-68, an act respecting firearms and other weapons. This bill was referred to a legislative committee on April 5 of this year, and over the following two months that committee heard 94 hours of testimony from 62 witnesses. In response to many of the concerns that were raised during those hearings, amendments were brought forward by the government, both in committee and at report stage, and more than 60 amendments were made to the bill. These amendments were substantive, and not just cosmetic changes: changes to do with aboriginal and treaty concerns, constitutional concerns, concerns dealing with museums, expanded grandfathering provisions, restrictions on the powers of inspection, and much more.

The bill was given third and final reading in the House of Commons on June 13, 1995, by a vote of 193 to 62. It then came here to the Senate, and was referred to our Standing Senate Committee on Legal and Constitutional Affairs on June 22. During his speech on second reading, our colleague from Alberta Senator Ron Ghitter said:

> There is much work to be done by the committee. Many individuals, groups and organizations will want to be heard and are entitled to be heard.

We on this side agreed and, indeed, his comments led many of us to anticipate an aggressive and active approach by the committee to this bill.

The committee first met on June 27 to hear from the Minister of Justice, and then the next day from the Canadian Association of Chiefs of Police, the Canadian Police Association, and Department of Justice officials. These witnesses all spoke out very strongly in support of Bill C-68, but clearly there were other voices on the other side of the issue asking to express their views as well. When we adjourned on July 13, the Deputy Leader on this side, Senator Graham, said:

> I would like to express the hope that those committees which have legislation and important issues before them will sit when possible and appropriate during the summer break...

• (1420)

However, after the committee adjourned on June 28, it did not meet again until September 18, almost three months later. During that period of time a great number of witnesses perhaps could have been heard, and certainly senators conducted their own meetings and hearings over those months.

We on this side wanted the hearings to be held. There is nothing whatsoever preventing a Senate committee from carrying out its responsibilities during an adjournment period, as we saw with the special committee inquiring into the Pearson Airport Agreements, chaired by Senator MacDonald. There have been numerous other examples over the last several years which show that it is not unprecedented for our committees to carry out their work while the Senate is in recess.

Honourable colleagues, this Senate is not overworked. Our committees are quite capable of doing their job, even though the house may be adjourned. Indeed, when our Legal and Constitutional Affairs Committee reconvened on September 18, it held nine days of very intensive hearings. It heard from 73 witnesses, which is more than were heard by the House of Commons committee. However, at the end of those nine days, the committee decided that it needed to hear from more witnesses. The next meeting was held on October 5, when it was to hear testimony on the constitutional ramifications of the bill. More meetings have been scheduled for October 19 and 26 to hear further testimony on constitutional issues.

One of the things which concerned us, honourable senators, was that this schedule did not reflect some of the comments made earlier in the summer by our colleague Senator Beaudoin, who was reported in *The Edmonton Journal* as having said that the committee expected to report back to the Senate by mid-October. We are now in the middle of October and to date there has been no sign that the committee has begun to prepare its report. In fact, indications are that the committee might not report to this house until the end of November.

This week, my friend the Leader of the Opposition put out a press release indicating that some senators have decided to meet with Canadians in their regions during the week following Remembrance Day. That release also indicated that the bill should be disposed of by the full Senate no later than the end of November.

Honourable senators, what has concerned those of us on this side is that there is no certainty about conclusions being reached on this bill. Everyone in this house knows that the legislation is based on a startup date of January in order to begin the registration process. There is no certainty that the House of Commons will be given time to consider an amended bill — and all indications are, from those who have served on the committee, that amendments are possible and even probable — and return it to this house for a final vote before Christmas.

Clearly, that schedule could lead to the death of this legislation. I do not believe that that is the fate that most Canadians and perhaps even most senators would wish for this gun control bill.

Honourable senators, our committee system has been described as our strength. It does excellent work in a very serious and conscientious manner. The Senate is also a legislative body. It must be allowed to do its work, namely, to enact laws for the betterment of Canadians.

In adopting Bill C-68, the members of the other place have requested that Parliament pass a law strengthening the gun control system. It is now our turn. Do we agree with the proposal? Do we disagree? Whatever our views, we have an obligation to make them known. This motion would give us the opportunity to fulfil that obligation, while fully respecting the role of the committee, which will still have ample opportunity to complete the work it began on June 22. It will allow the members of the Legal and Constitutional Affairs Committee to complete their work and permit individual senators to hear additional views on gun control within their provinces and their regions. The committee will then report to the house so that the rest of us will have the opportunity to express our views and cast our votes — to pass it, amend it or, indeed, defeat it, if it is the will of this house.

In all, the Senate will have had more than four months to do the job of simply getting the bill through the committee stage. I think that is a generous period of time to carry out our responsibilities.

As I have said, the sole purpose of this motion is to strike a balance between the work of the committee and the responsibilities of the Senate. I am, of course, open to other suggestions from my colleagues about how that balance could reasonably be achieved, either in this manner or in other ways. Conversations have taken place between senators on both sides of the house in an attempt to find a process to enable Parliament

to finish its work on a very important piece of legislation. That is the kind of message Canadians should be able to count on from their representatives in the Senate of Canada. I would welcome hearing the thoughts and suggestions from my colleagues opposite about any alternative ways in which this reassurance could be provided to Canadians.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, it is indeed ironic, to say the least, that this motion should be proposed by a member of the government, who, while a member of the opposition in the majority here, for years participated in the deliberate obstruction and delay of major pieces of legislation of the Conservative government.

Who can fault the strategy of the Liberals when they were numerically superior in opposition? How they revelled in delaying legislation for the sake of delay and obstruction! Compare that with the attitude of the opposition of the last two years, and how constructively and positively it has behaved when faced with some 70 pieces of government legislation which have come to this chamber since the election in October 1993.

Of those 70-plus pieces of legislation which we have had to deal with, only two have been held back deliberately for reasons which were shared by many outside this chamber. I will not go into the arguments behind why we held back Bill C-22 or Bill C-69. They are well known, and at another time we can discuss them in greater detail.

However, I want to take the opportunity of this motion to tell this chamber, as forcefully as I can, that we are not holding back Bill C-68. We are not delaying it unduly. We are coping with it in the same way that we are called upon to cope with every piece of legislation from the government. If it takes longer for one piece than another, then we will take the time needed. I repeat, we are not holding up Bill C-68 for the sake of holding it up, nor do we have any intention of doing so. On the other hand, as I have said, we cannot exempt it from the scrutiny that every bill requires, and from taking the necessary time to do so.

• (1430)

As Senator Fairbairn has pointed out, the bill came to us in June. It went to the committee at the end of June. Senator Fairbairn forgot to mention that the committee also sat in July on the Pearson bill. It also sat on Bill C-68 in September, during a recess. It took August off. I would have urged its members to take off a little longer, for, if any committee of this chamber in the last two years has had to cope with more legislation of significant importance than any other, it is the Legal and Constitutional Affairs Committee. The chairman and its members deserve a lot of credit for what they have done, and for how well they have done it.

Hon. Senators: Hear, hear!

Senator Lynch-Staunton: Therefore, I repeat, I do not consider that any undue delay can be attached to our approach to this bill.

We found that many witnesses who wanted to appear before the Legal and Constitutional Affairs Committee, both for and against, could not come for one reason or another. Many in our caucus had hoped that the committee could travel. For whatever reason, the committee decided not to do so. However, many senators on both sides feel an obligation to go out and meet those concerned citizens to hear their support, their condemnation or their suggestions regarding this bill. Surely, if there is any responsibility of which we in this chamber must be respectful, it is that of representing our regions. If senators are willing to devote some of their time to carrying out their responsibilities in their regions with regard to legislation, then they should be encouraged to do so.

Senators who are keen on consulting in their regions feel that the week of November 13 is the most appropriate because, ordinarily, the Rememberance Day week is a week off for Parliament. As such, senators would not be absent from their duties in the Senate.

We also pledged to the government that no matter the result of the committee's deliberations and the discussions in the regions, the bill would be disposed of and ready to be sent to the House of Commons by the end of November. If someone can claim that this is undue delay, there certainly is undue exaggeration in that claim.

The question has been asked: Is the Tory caucus against gun control? The answer is an emphatic "No." As Senator Fairbairn has pointed out, it was because of a Conservative government's gun control legislation, introduced in the form of Bill C-80 and Bill C-17, its successor, that Bill C-68 is before us today.

We know the emotions surrounding the issue, and we know that, no matter which side we are on, things have to progress slowly on it. It was thanks to the Conservative government at the time that basic, forward-looking, intelligent gun control legislation was introduced and passed.

I should like to quote from two members of the House of Commons who spoke when Bill C-17 was introduced. The Minister of Justice, Ms Campbell, said at the time:

> Madam Speaker, the purpose of Bill C-80 —

— that was the predecessor of Bill C-17 —

> — was to provide better protection for all Canadians against firearms violence, while avoiding undue or unnecessary interference in the activities of Canadians who use guns legally, responsibly and safely.
>
> The legislation now before this House contains a number of modifications to Bill C-80, but the fundamental purpose remains the same.

On behalf of the Liberal opposition, the member for Cape Breton—The Sydneys, Russell MacLellan, said on June 6, 1991:

> The objective of this legislation is to control access to firearms and ammunition in Canada and not to place excessive or undue restrictions on responsible gun owners. I think that has been achieved.

That was the achievement of Bill C-17 at the time. The question before us today is: Has the same basic purpose been achieved: that is, not to place excessive or undue restriction on responsible gun owners? That is the question which is troubling

us. That is the question which is being debated in our caucus and across the country. It is not the question of gun control per se. If there is an argument about the gun control feature, it could well be that it is not strict enough. Some of us in our caucus and elsewhere feel that in accepting certain features of the bill, an undue burden is being placed on innocent citizens. There are many innocent bystanders out there who are challenging this bill. They are museums, collectors, shooting clubs and so many more for whom a gun is everything but a murder weapon. They resent being identified with a criminal class, and they have reason to protest.

There are other reasons for concern in this bill which go beyond gun control and registration. The ministerial discretion being given in this bill is not unlike that seen in any other legislation, but I would say it is extremely excessive. For instance, the minister, by himself, can decide to declare a weapon prohibited without any consultation.

There is also the question of minimum sentencing. According to the bill, if you are found for a second time not to have your weapon registered, the minimum sentence is one year. It is not up to one year; it is a minimum sentence. That alone should be cause for concern.

There are no requirements that any regulations flowing from this bill be reviewed by Parliament. Ordinarily, they are published in the Canada *Gazette*, and Parliament can ask to see them. Parliament has a certain time in which to review them. Whether their review is of any effect is another question, but at least they can be reviewed. In this case, there is no provision for regulations to be reviewed.

There is also the question of the respect for native people's rights under the Constitution.

To repeat, there are some basic concerns in this bill which go beyond the immediate intent of the bill itself.

Honourable senators, let me be clear. Our concern, and the concern of many other Canadians with this bill, is not gun control as such, but the imposition of regulations and restrictions on law-abiding citizens, the concentration of powers in the executive and a further withering away of the power of the legislature.

We suggested that we could have everything wrapped up in this chamber by the end of November. The government suddenly says, "Oh, that is not good enough for us. We want the committee to report by November 7." There is not much difference between reporting the bill to this chamber by November 7 and having it dealt with in the House of Commons by November 30. The time it would take to get from the report stage to the voting stage would bring us pretty close to November 30 anyway, unless the government intends to restrict debate by imposing closure.

Be that as it may, I urge honourable senators to respect the decision of their colleagues on this side, in particular — and I have no doubt colleagues on the other side as well — who want to go to their respective regions to consult with citizens who have a particular interest in this bill. As I said, they decided that the week of November 13 was most practical because, usually, that week is a week when we would not be sitting. I understand that meeting arrangements are being made already for that week. I understand that some of them can be changed. However, I cannot guarantee that.

The point is that many of our colleagues would like those days to hear from concerned citizens and groups who, for whatever reason, did not or could not appear before the House of Commons or the Senate committees. I think we must respect that, and I urge that it be respected because colleagues on both sides feel strongly that they must continue their consultations before coming to a final decision.

• (1440)

In a continuation of the respect that we have for the role that the opposition should play in this chamber — contrary to the sorry example set by our friends opposite when they were in opposition — and in answer to the leader's invitation for suggestions, I should like to make an amendment to her motion. I am convinced that it will respect the timetable of our colleagues and, at the same time, it will respect the government's desire, which I fully understand, to have this bill dealt with by a date which will enable it to be disposed of by the House of Commons before the Christmas recess.

MOTION IN AMENDMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Therefore, I move, seconded by Senator Kinsella:

> That the motion be amended by replacing all the words after "House" with the following:
>
> That Bill C-68, An Act respecting Firearms and other Weapons, referred to the Standing Senate Committee on Legal and Constitutional Affairs on Thursday, June 22, 1995, be reported back to the Senate no later than Monday, November 20, 1995; and
>
> That at 5:30 p.m. on Wednesday, November 22, 1995, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of all remaining stages of the said Bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions not be further deferred.

Simply put, the motion in amendment requires that the committee report no later than November 20, and that the bill itself be voted on at 5:30 p.m. on Wednesday, November 22.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there have been discussions on both sides of the house over a considerable period of time. The points made by Senator Fairbairn in her notice of motion, and in speaking to that notice of motion, are understood on both sides of the house and, indeed, by the Canadian public.

I wish to make reference to several of the matters that have been put forward by the Leader of the Opposition, particularly with respect to the decision of the Standing Senate Committee on Legal and Constitutional Affairs not to travel. I know that

lengthy and detailed consideration was given to that particular proposal, but I would remind all honourable senators that the majority on the committee come from the opposition. Indeed, it was a decision that was concurred with by a majority in the opposition with respect to whether the committee would travel as a whole.

Whether the committee was doing its work in a timely fashion is a matter of conjecture and opinion. I commend the Standing Senate Committee on Legal and Constitutional Affairs Committee, which is the busiest committee in the Senate. Having said that, there are times, and have been times, when we on this side believe that the committee could have been sitting.

It is commendable that senators wish to go into their own areas and have individual meetings with concerned citizens so that concerns can be expressed by Canadians no matter where they live. Having said that, honourable senators, I believe that there is a will on this side to support the amendment as proposed by the Leader of the Opposition.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The amendment is carried.

Is the house ready for the question on the motion as amended? Is it your pleasure, honourable senators, to adopt the motion as amended?

Hon. Senators: Agreed.

Motion agreed to, as amended.

AGRICULTURAL TRADE

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ON FACT-FINDING MISSIONS TO WASHINGTON AND WINNIPEG

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Agriculture and Forestry (special study on agricultural trade), tabled on July 26, 1995.—(*Honourable Senator Hays*).

Hon. Dan Hays: Honourable senators, I should like to speak to this order today. I have a prepared text which, if I am not mistaken, will take me a little beyond the normal time allowed for these interventions. However, Your Honour will, of course, advise me, and we will see whether I will be able to make all of the remarks that I wish to make today.

The Hon. the Speaker *pro tempore*: If the honourable senator wishes, rather than interrupt him later, I could ask now for permission for him to continue somewhat beyond the allotted time.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

Senator Hays: Thank you. If I impose too much, I will expect strong heckling at that point.

At the beginning of this Parliament, the House Standing Committee on Agriculture and Agri-food and the Standing Senate Committee on Agriculture and Forestry undertook a set of hearings together. We had hoped to complete a rather ambitious program of hearings which would have given the two committees together an opportunity to make a fairly comprehensive report on all aspects of Canadian agriculture.

We consulted widely in the course of hearings here in Ottawa. As well, the committee had proposed to travel to almost every province and to try an innovative technique of obtaining opinion called the "kitchen table" approach. Unfortunately, through no fault of anyone on this side of Parliament, we were unable to do that. The committee of the other place was unable to obtain the necessary budget to travel. Accordingly, having heard approximately 100 witnesses, the ambitious work that we had planned was curtailed.

We did, however, table the report in December in anticipation of the budget. The committee's December 1994 report, done in conjunction with the Standing Committee on Agriculture and Agri-food of the other place, and entitled "New Realities and Tough Choices: From Agriculture to Agri-food," acknowledged the challenges posed by the globalization of trade. It was, in part, from this perspective that the committee travelled in March to Washington, D.C., to discuss the new realities and tough choices that will also be faced by the United States, our principal trading partner and, in many instances, our most important competitor.

The committee also visited Winnipeg in May to speak with farm organizations and the Canadian Wheat Board about the new realities and tough choices they are facing. At these latter meetings, much of the discussion focused on the Canadian Wheat Board.

Honourable senators, I will break my comments into two parts, the first dealing with our relations generally with the United States.

• (1450)

Canada-United States trade, in goods of all kinds, represents approximately $1 billion per day. With annual agricultural exports totalling slightly more than $8 billion and imports of roughly $7 billion, Canada enjoys a growing trade surplus with the United States. However, agricultural trade between Canada and the U.S. is often the object of disputes. As pointed out by some witnesses appearing before the committee, trading nations will always have occasional border problems, even under free trade agreements. Where the interests of competing sectors coincide with those of competing countries — the grain sectors in the United States and Canada, for example — the harmful effects can take the form of protectionism, defensive industrial policies or further bilateralism to keep potential competitors out of the market.

Honourable senators, during its study the committee concluded that one of the reasons for the prompt reaction of the U.S. Congress to Canada-U.S. trade disputes is the fact that 32 per cent of U.S. senators and 38 per cent of members of the House of Representatives come from states situated along Canada's border. This political weight results in strong and rapid reactions.

The Congress is currently examining the 1995 U.S. Farm Bill, which is the cornerstone of all U.S. agricultural programs and

policies, including price supports, trade, research, domestic food aid, farm credit, rural development and environmental activities. The Farm Bill is revised and renewed every five years and, thereby, requires U.S. politicians to conduct a careful examination and evaluation of agricultural policies, an exercise that is not parallel to Canada.

Honourable senators, U.S. trading partners must be well aware of the implications of the policies established by the Farm Bill, since U.S. programs and policies, such as the Export Enhancement Program or EEP, often have major and detrimental impacts on domestic markets and policies. While the impact of the Export Enhancement Program on Canada's grain markets is well known, other U.S. programs which are currently under review and which have major repercussions on Canada are less well known.

[*Translation*]

For example, the soils conservation program is one of the American farm policies that could well upset some of Canada's agricultural sectors. Currently, approximately 36 million acres, about 10 per cent of American arable land area, are under protection. This measure has resulted in a 20 per cent reduction in erosion. Although considered a success, this environmental protection measure costs a total of $2 billion annually in public funds.

[*English*]

In the case of the 36 million acres under protection, some analysts predict that additional production totalling 34 million tonnes of wheat could be achieved. By reducing the protected areas to 25 million acres, U.S. exports could increase by 1.3 million tonnes. This is something that is under discussion and may happen. These additional 1.3 million tonnes of grain corresponds to Canada's average annual wheat exports to the United States between 1991 and 1994. In border states such as Montana and North Dakota, it is estimated that some 9 million acres of farm land set aside and traditionally given over to wheat cultivation could be returned to production. If this scenario becomes reality, it will result in tougher U.S. competition in world markets, indeed even in the North American market. For that reason, the committee recommended that Canada react immediately to any substantial decrease in areas under the U.S. Conservation Reserve Program through aggressive grain marketing strategies in order to secure and increase its market share.

[*Translation*]

As a result of agreements reached under the Uruguay Round, the United States will have to change its Export Enhancement Program, but it will not stop promoting its exports. One approach consists in making credit programs available in order to help countries that would otherwise be unable to buy American farm products.

The American administration is currently looking at an innovative approach to making these credit programs more efficient.

[*English*]

The administration would like to see a reduction of the domestic content level necessary to qualify for an export credit program, but, at the same time, it would offer credit guarantees only on the American content portion of a processed agricultural product. The combined effect of these two measures would be to increase the range of agricultural products that could be exported through an export credit program, while promoting exports of higher value-added agricultural products. As the Canadian Exporters' Association informed the committee in Ottawa, "international competition can sometimes boil down to that — who is prepared to extend the most generous credit terms?"

The committee sees an opportunity for Canada to do more with the $1-billion credit program announced as part of the elimination of the WGTA by incorporating into its own export credit program relevant elements of the U.S. export credit program.

[*Translation*]

Even if it keeps within the limits set by the Uruguay Round, the United States certainly has no intention of totally eliminating its farm price and income support programs. The Americans are well aware that these programs are far from being properly decoupled.

[*English*]

In that context, it is worth noting that in its Farm Bill proposal, the U.S. administration even referred to Canada's Net Income Stabilization Account (NISA) and recommended that a pilot stabilization program be tried along those lines. That is the reason why the committee recommended that Canada make it known to a greater degree internationally that its farm income support programs are decoupled and thus trade-neutral.

Honourable senators, I should like now to turn to the second aspect of the study we tabled this summer — the Canadian Wheat Board.

A number of organizations, including the Western Canadian Wheat Growers Association, the United Grain Growers and the Western Barley Growers Association, have advocated changes to the Canadian Wheat Board. It was therefore not surprising that the Wheat Growers Association continued to recommend this course of action when it met with the committee in Winnipeg. The association has a long history of supporting increased flexibility to enable Prairie farmers to market their own wheat and barley. It believes the board must be reformed in order to operate effectively and thereby better serve the needs of Prairie farmers.

Honourable senators, changes in the global marketplace have shown a trend away from state buying and selling agencies and toward liberalization. World trade is becoming increasingly diverse with a multitude of buyers and requirements. These are reasons for the position that the Canadian Wheat Growers Association espouses with great vigour. They question whether our current system of marketing is the best means of meeting the demands of such a diverse, dynamic and highly competitive

marketplace. Furthermore, the association believes that the emergence of identity-preserved production and various contract arrangements require direct contact between the grower and end user, a matter which is quite controversial, particularly in the context of the Wheat Board's principle, which is the pooling of grain accounts. The Wheat Growers Association says that the Wheat Board has been an impediment to value-added processing and is not always the best means of gaining access to a given market. The board's pricing practices are, as we know, a source of trade friction with the United States, and similar problems could arise with other countries. Moreover, with the elimination of the Western Grain Transportation Act, the association believes that Canadian farmers must have greater access to the U.S. market and distribution channels, another controversial matter over which there is much argument. Finally, the association has argued that the current marketing system fails to respect the various points of view held by farmers on the issue of compulsory participation in price pooling.

In hearings in Ottawa in November 1994, the association expressed their preference for a market-oriented marketing system and a reformed Canadian Wheat Board.

• (1500)

Then there are those who support the Canadian Wheat Board, such as Prairie Pools Incorporated and our Senate committee, which has tabled its report. The committee has taken this position because it believes that there are advantages in consolidating returns from board grain sales into one fund and distributing the proceeds equitably among farmers. We believe the system as presently constituted respects the goals of those who pressured the federal government to establish a Canadian Wheat Board in the first instance.

The committee believes that now, as then, the Canadian Wheat Board, by maximizing returns on the pool, is a valuable risk-management tool for producers. The Canadian Wheat Board also provides other benefits. It undertakes long-term marketing research and development activities that benefit the entire industry and provides after-sales service to its customers. It also operates a sophisticated crop and weather surveillance system. These functions may not be easily, efficiently or effectively performed by individual farmers selling their own grain, or by anyone other than the very largest of private grain companies.

In the committee's opinion, there is an important distinction to be made between the selling of grain and the marketing of grain. Many producers tend to confuse the two. The Wheat Board markets grain. Most producers have a choice in selling grain, but marketing by the Wheat Board is unique in Canada with respect to the grains on which they have a monopoly selling privilege. In terms of the United States, many large companies, while they are buyers of grain, do not conduct the marketing of that product.

Certainly, Canada and the Canadian Wheat Board must respond to the challenges and opportunities brought about by specialized markets, changing market locations and changing trading partners, among other things. The committee believes that, with appropriate changes and adaptations, the Canadian Wheat Board can continue to serve Prairie farmers. Renewing this major agricultural institution will not be an easy task. It should be done gradually, with great care and in response to the wishes of western grain farmers, rather than U.S. political pressure.

The committee supports the concept of a renewed Canadian Wheat Board but does not support the concept of simply moving to dual marketing as suggested by the Western Canadian Wheat Growers Association, upon whose position I elaborated earlier. In the committee's opinion, the board must be renewed and revitalized, rather than threatened with elimination. If the Canadian Wheat Board were to cease to exist, it is possible, if not likely, that existing international grain markets would be served by large grain-marketing organizations outside of Canada, beside which the Canadian Wheat Board is a very small entity indeed.

The sales of one of the largest grain companies, Cargill, are about $50 billion. Cargill is a private company and, interestingly, not very transparent. The Canadian Wheat Board's international sales would amount to something like $4 billion. Without the Canadian Wheat Board, Canadian farmers' sales would likely be integrated into such giant companies. Prairie grain producers would lose much sovereign control over their vested interest in maximizing their returns. Ultimately, the result could be lowered market share and market returns for producers as traditional customers are lost. In the committee's view, the board must continue to exist for these and other reasons.

A number of surveys conducted among Prairie producers have indicated widespread and increasing support for the Canadian Wheat Board. Widespread support also exists for a plebiscite among Western Canadian grain farmers before any significant changes are made to the authority or role of the board.

The committee believes that the Canadian Wheat Board offers a valuable service and has greater marketing power than do independent producers. Certainly, there are areas where the board could improve its operations. A recent survey has revealed that a majority of farmers would like more information from the board on markets and on the board's operations. The farmers should play a larger role in directing the board and in setting its goals and strategies. The committee made recommendations in both these areas.

The Canadian Wheat Board told the committee of its recent initiatives to provide better service and to be more responsive, accountable and visible, primarily to farmers but also to the public and to the grain industry. The committee believes that accountability to farmers, the board's stakeholders, must be an ongoing priority for the Canadian Wheat Board. However, much more needs to be done to provide producers, particularly young farmers, with information on the board, its role, its structure and its advantages as a market. For this reason, the committee recommended enhanced efforts by the board to provide comprehensive and complete information to Prairie farmers about markets, the board's performance, and other related matters.

Moreover, the committee believes that the Canadian Wheat Board Advisory Committee, a group which comprises 11 members elected by farmers, should play an enhanced role. The advisory committee currently advises the board on issues and policy matters related to its operations. It also provides communication between the board and western grain farmers.

Our committee feels that the advisory committee should have more input into setting the Canadian Wheat Board's goals and priorities by providing the board with ongoing advice about the types of information needed by farmers. It should play a role in establishing the type of incremental change to the board that will be needed over time to meet producers' needs and to ensure sensitivity to market changes. From this perspective, our committee recommends an amendment to the Canadian Wheat Board Act to strengthen the role of the advisory committee. It also recommends that the federal government establish a means by which the board is accountable to this strengthened advisory committee.

Honourable senators, the Canadian Wheat Board is a fairly rigid structure, a fact that can cause problems when attempts are made to address organizational problems. We recommend that the advisory board, with assistance, with enhancement and with necessary changes, should play the role of an ongoing "panel of experts," now appointed by the Minister of Agriculture, which can be consulted for problem-solving. Rather than operating in an ad hoc manner, changes should be made on an ongoing basis through continuing consultation with the advisory committee.

Finally, the committee believes that the Prairie producers, as shareholders — clients, if you will — of the board, should determine the role and structure of the Canadian Wheat Board through a comprehensive survey of Prairie farmers. The Senate committee recommends that the Canadian Wheat Board Advisory Committee conduct such a survey, with the federal government providing any needed assistance, financial or otherwise. Following an analysis of the survey results, the advisory committee should identify any issues on which plebiscites should be held among Prairie farmers.

Continual adaptation is necessary if the Canadian Wheat Board is to survive and continue to serve Prairie farmers well. The board should constantly explore new ways of operating and new opportunities such as value-added processing. Certainly, to the greatest extent possible, Canadians should add value to our agricultural products for domestic use and export, rather than import, processed goods.

Now is a time of new realities. As grain markets change, customers become more exacting; new trade agreements require tough choices to be made. Together with its shareholders — stakeholders, farmers, clients, Prairie producers — the Canadian Wheat Board must make the tough choices for the future to safeguard Canada's position as a major supplier of consistently high quality grain.

Hon. Leonard J. Gustafson: Honourable senators, I would commend Senator Hays for his very full report of the committee's work. The committee members enjoyed an excellent working relationship under his fine chairmanship.

Over the past year, agriculture has seen the reality of the tough choices, some of them made by the Minister of Transport, that will change agriculture forever in Western Canada. We do not know now the long-term effects of these changes.

• (1510)

I have one regret. The joint committee never travelled. Senator Hays and committee members from the Senate felt it was important to get out into the regions and hear about the problems first hand. For whatever reason, the House of Commons did not support that view. We in the Senate should learn from that mistake. It never hurts to hear the people. That is why we are here.

On the bright side, agriculture today is facing some increased prices. Sir Leonard Tilley once said that if we destroy the farms, grass will grow in every street of every city of the nation. We in North America have always had a strong agricultural background, which has been beneficial for all of Canada. Because I am a fourth generation farmer, you would expect me to say that, but I cannot stress enough the importance to every single Canadian of retaining our strong agricultural base. Farmers now represent only 2.5 per cent of our population. Markets are changing worldwide. We are into a global economy.

North America is becoming a common market. Senator Hays mentioned our meeting in Washington. It was constructive for congressmen and senators to come together and agree that political bickering and undercutting to protect our national biases must stop. We all understand that you cannot have farmers going broke and still maintain our strong agricultural background. It just cannot happen.

We must realize the importance of cooperating in the best interests of agriculture. I am encouraged by what I hear from Washington about our struggles over grain, particularly durum wheat. The Americans are agreeing to deal with the realities and to forget the politicking. They have changed their tune a little since last year because now they need our durum wheat. Sometimes, the weather deals with farmers and politicians.

We held a good round of discussions in Winnipeg regarding the Canadian Wheat Board. Our report leaves no doubt that we stand in support of the Wheat Board. Perhaps I am the odd man out on the committee because I do believe the board needs to take a new look at new opportunities, at the changing world and the changing farm economy. In my opinion, dual marketing would not hurt; it may broaden their vision and their opportunities in such crops as canola, which, in terms of production, is now second to wheat in Western Canada. Canadians should capitalize on this, rather than waiting around while the Americans steal the market from us.

I spoke recently to a seed-grower from Southern Alberta who has planted 15,000 acres of hybrid canola, which can produce up to 60 bushels per acre. This canola is already being planted in Montana. We have had a captive market in Canada, and now we need to be on the cutting edge and take every advantage we can for our Canadian farmers and wheat boards. This may mean a change in our approach to agriculture, but I am confident in our abilities.

Thank you for your cooperation. I am sure you will agree that the Senate, by this committee report, has made a meaningful contribution to the future of agriculture in this country.

The Hon. the Speaker *pro tempore*: Honourable senators, if no other senator wishes to speak on this matter, it is considered debated.

Debate concluded.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, today being Wednesday, our usual committee day, there are committees scheduled to sit this afternoon. Senator Oliver has a motion as Chairman of the Standing Senate Committee on Transport and Communications. If there is agreement, we will stand all other inquiries, motions, and reports to allow Senator Oliver to speak to his motion, after which we will entertain a motion for adjournment.

Hon. Noël A. Kinsella: Honourable senators, we on this side agree with that suggestion.

TRANSPORT AND COMMUNICATIONS

CANADA'S INTERNATIONAL COMPETITIVE POSITION IN TELECOMMUNICATIONS—MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON SPECIAL STUDY ADOPTED

Hon. Donald H. Oliver, pursuant to notice of October 17, 1995, moved:

> That notwithstanding its order of reference of April 5, 1995, the Standing Senate Committee on Transport and Communications be authorized to continue its special study on Canada's international competitive position in telecommunications; and
>
> That the Committee present its report no later than March 29, 1996.

He said: Honourable senators, I promised Senator Graham I would not be more than two minutes, but I do want to put on the record the justification for this requested extension.

The Standing Senate Committee on Transport and Communications is requesting the extension of its report date until March 29, 1996, for two principal reasons. At the end of April, shortly after our committee received the order of reference from the Senate for the special study, the government issued its proposed orders on direct-to-home satellite broadcasting. Pursuant to the Broadcasting Act, the Standing Senate Committee on Transport and Communications had the opportunity to examine the proposed orders but had to do so within 40 sitting days of Parliament, after which time the government could implement the proposed orders as it saw fit. Our committee spent most of May and early June hearing witnesses on the proposed orders, in an effort to present the report before the 40-day deadline. Unfortunately, this prevented the committee from devoting itself to the special study in telecommunications, as originally planned. Most of the hearings planned for the spring will now be taking place this fall.

In addition, we have planned fact-finding missions to Washington, D.C., and London, England. Plans are well under way for travel to Washington in mid-November. However, we have been informed by the British Parliament that, due to the reopening of Parliament in November, their committees are not likely to be reconstituted before the end of January next year.

• (1520)

An important part of our visit to London will consist of meetings with our British counterparts. For example, the British House of Commons Committee on Trade and Commerce has completed a study on optical fibre networks. The House of Lords Committee on Science and Technology is about to begin a study on the information superhighway, and the British Parliament has an office of Science and Technology. Therefore, in order to carry out our hearings in Ottawa and our visit to London with a view to preparing as complete a report as possible, the committee is requesting an extension of the report date to March 29, 1996.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, October 19, 1995

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

HALIFAX MKVII BOMBER

RECOVERY AND RENOVATION OF AIRCRAFT SUNK IN LAKE MJOSA, NORWAY, DURING WORLD WAR II

Hon. John Sylvain: Honourable senators, last May, at the fiftieth anniversary of VE Day, I was able to tell you of a project that I was supporting to raise a Halifax bomber from a Norwegian fiord where it had lain for 50 years after it had been shot down during World War II.

I am delighted to be able to tell you that due to the support and encouragement of the government, of a number of Canadian companies, and of many of you here in the chamber, as well the members of the Halifax Bomber Association, the aircraft has been raised. It was brought up 700 feet from its cold, watery resting place and found to be in remarkably good condition. Through the efforts of the Norwegian government and many support groups in Norway and in Canada, it now rests on a beach to be disassembled, loaded into cargo aircraft, and flown back to Canada.

At the Trenton Aircraft Museum, teams of enthusiastic volunteers will reconstruct the aircraft from spare parts located from around the world. Even with much volunteer work, this will still be a costly process and worthy of your continued financial support.

Honourable senators, at the end of the process, we will have in Canada the only World War II Halifax bomber in the world, as a tribute to our Canadian airmen who flew them with valour and honour.

[*Translation*]

FRANCOPHONES OUTSIDE QUEBEC

INCREASE IN POPULATION—PROMOTION OF FRENCH LANGUAGE IN CONCERT WITH FEDERAL GOVERNMENT

Hon. Jean-Robert Gauthier: Honourable senators, on Tuesday, a Bloc member told the other place that francophones outside Quebec were history. Another Bloc member stated that only a sovereign Quebec will constitute the anchor point for all francophones.

Honourable senators, according to Statistics Canada, in spite of a slight drop in percentage, the number of francophones outside Quebec has increased. In fact, there are about one million Canadians outside Quebec whose mother tongue is French and nearly 2.5 million French-speaking Canadians. More than two million students are currently enrolled in French as second language programs in grade schools and high schools outside Quebec, as compared to a mere 1.4 million in 1977. Last year, enrolment in French immersion courses exceeded 300,000. There are 696 francophone primary and secondary public schools outside Quebec.

French Canada outside Quebec can also pride itself on making significant contributions to French Canadian cultural life. It has produced the likes of Édith Butler, Roch Voisine, Gabrielle Roy, Daniel Lavoie, Hart Rouge and Antonine Maillet.

Admittedly the assimilation rate is on the rise. Mr. Bouchard, the Bloc leader, even offered an explanation. He has his, and I have mine. Instead of separating, we should be joining forces to ensure the survival of the francophone community as a whole in Canada. Promoting the French language across Canada is the best way of ensuring its survival.

Through the federal government, francophones are represented nationally and internationally. They play a role and exert an influence that is the best guarantee that the French language, as well as the Quebec and French Canadian culture, will be preserved.

[*English*]

THE SENATE

CIVIC CONTRIBUTIONS OF MEMBERS PAST AND PRESENT

Hon. Richard J. Doyle: Honourable senators, Richard Stolley was an editor of *People* magazine which, as we all know, is published south of here. Mr. Stolley was known for his candour about the things he did for a living. Here is an example:

> What we think we know is that young sells better than old, pretty sells better than ugly, sports figures don't do very well, TV sells better than music, music does better than movies, and anything does better than politics.

I thought of that quotation last month while I was shaking off the tremors induced by Ottawa's local paper in one of its occasional flirtations with the Senate.

The Senate? I should say, as the paper did, "party hacks and bagmen of the Conservative caucus" who had just "been revealed as a powerful, unelected body of partisan failures, flatterers and pleaders for special interests." And what had the Senate done? "Once again proved itself to be a useless nuisance."

The Leader of the Opposition in the Senate has the gift of seeing the humour in such free-verse pleading. Because of my background, I need more potent antidotes, and I would be happy

to share one of them today for the amelioration of others who may be in need. All I do is summon up pictures of colleagues — or, if you will, other "sensitive nuisances" who have passed or are passing this way without apology for their grand accomplishments on the public's behalf.

Honourable senators, the first name to come to mind was Staff Barootes who, until two years ago, was chairman of the Standing Senate Committee on Agriculture and Forestry. His name rang a bell because several hundred people were gathering in Regina last month to toast his health and wish him well in his next career. They came to talk of his accomplishments as an advocate of veterans' causes. They came from medical associations to cheer him as a specialist and officer of professional organizations. Good grief! Even Liberals came to praise his citizenship.

I had scarcely completed my review of Barootes' triumphs in and out of politics when another senator from the world of medicine appeared on my TV screen.

• (1410)

You, too, may have seen the pictures this week of his participation in the Canadian artificial heart program's latest adventure in developing a high-technology, implantable ventricular assist device.

That is a serious description of a contraption that is held magnetically on a patient's chest while connected to a liquid crystal display box, no bigger than a pacer, which can be hooked through a phone line to a computer. Thus data is sent to a specialist anywhere in the world. Aha! That doctor can then monitor and adjust the heartbeat without seeing the patient.

Doctors in this Ottawa project — such as one key figure, Senator Wilbert Keon — will tell you that a $15 phone call may be used to replace a $2,000 hospital stay, because of the progress being made in perfecting and manufacturing the functionally proven artificial heart prototype into a commercialized unit for human implantation.

This week, Canada's Minister of Industry pledged $5.5 million toward the cost of the project directed by CAE Electronics of St. Laurent and the Heart Institute. Not bad for a project led by a "nuisance."

With antidotes like these...

[*Later*]

JOHNNY MILES

CAPE BRETON MARATHONER— TRIBUTES ON NINETIETH BIRTHDAY

Hon. John Buchanan: Honourable senators, I rise today to pay tribute to a great Cape Bretonner, Nova Scotian and Canadian, Johnny Miles, who will be celebrating his ninetieth birthday on October 30, 1995.

Johnny Miles was born in 1905. At the age of 11 he went to work in a coal mine to help support his family while his father went off to war. At the age of 17, he ran his first road race, a three-mile run through the streets of Sydney. The prize that day was a fishing rod. Johnny Miles did not win the fishing rod, but his prowess as a runner was already evident.

It has been said that people in the small towns of Florence and Sydney Mines would often look out through their windows to see Johnny running through the cold twilight. The son of a coal mine manager, Johnny Miles trained under his father's watchful eye, running behind his father's team of horses as they travelled 10 to 15 miles back from the mine to their home.

Johnny won his first race in 1924, but his first major event was a 10-mile maritime championship race in Halifax on Thanksgiving Day of 1925. With his father's promise that if he won that day he would take Johnny to Boston the next spring to compete in the 26-mile Boston Marathon, there was no question of the outcome — he won.

Johnny Miles entered the Boston Marathon on April 19, 1926 as a virtual unknown from Nova Scotia. All attention was focused on the expected showdown between Finnish marathoner Albin Stenroos and the three-time winner of the Boston Marathon, Clarence DeMar. Johnny Miles did not let the high calibre of his competitors deter him. Donning his white tennis sneakers from the British Canadian Cooperative Store in Sydney Mines, he set off on the 26-mile trek. In a stunning upset, he passed both runners and crossed the finish line, winning the Boston Marathon and breaking the world record.

Johnny Miles ran the Boston Marathon again the next year but had a poor finish. Determined to prove his ability, he returned in 1929 and won the Boston Marathon again, breaking another record with a time of two hours, thirty-three minutes and eight seconds.

Although Johnny Miles then moved to Ontario and later to the United States, his great achievements have never been forgotten, particularly in Nova Scotia. There is in fact a 26-mile marathon run on Mother's Day every year in New Glasgow, Nova Scotia. That race is aptly named the Johnny Miles Marathon. Johnny Miles has returned a number of times to his native Nova Scotia to attend this annual race named in his honour.

The New Glasgow Marathon, or the Johnny Miles Marathon, was commenced by a devoted fan and personal friend who was named after Johnny Miles, Dr. John Miles Williston of New Glasgow, but who was born in Sydney, Cape Breton. Some would run in the Johnny Miles Marathon with records of their own to break, and some would run simply for the joy of competition. I am sure that all of the runners who participate are mindful of the achievements of that great sports legend as they pursue their own quest for excellence.

After a successful career with International Harvester, Johnny Miles retired to Hamilton, Ontario, where he still lives today. Although he never raced competitively after 1935, Johnny Miles is still considered one of our country's greatest sports heroes.

I met Johnny Miles in Sydney many years ago, and in 1981 I was invited by the Mayor of Boston to attend the marathon when Johnny Miles was a special guest of the Marathon Commission.

I ask that all members of the Senate join with me in congratulating Johnny Miles as he celebrates his ninetieth birthday on October 30 — a great sports hero, a great role model, and a great Canadian.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I want first to associate myself with the tribute my friend has just paid to an outstanding Nova Scotian and Canadian. As one of my colleagues just said, "Go, Johnny, go!"

I am not sure how spry the original Johnny Miles is today, but some years ago, in the misty past, I had the great privilege of meeting and having my picture taken with Johnny Miles at the Antigonish Highland Games. At the time, I happened to be secretary-treasurer and manager of the games. The Highland Games at that time was regarded as the pre-eminent track and field meet, as well as "the" Scottish games event perhaps in all of Canada, if you combined the two.

Senator Buchanan mentioned that the marathon was 26 miles. I am not sure, but perhaps it would be more accurate to say 26 miles 369 yards, or, as Senator Robichaud said, to be more precise the total is 45,760 yards.

I am also aware of the marathon that is run annually in New Glasgow, Nova Scotia. It is highly successful due to the devotion of one Dr. John Miles Williston, a highly esteemed physician living in Pictou County. As Senator Buchanan says, John Miles Williston is a native of Sydney, Nova Scotia, where he himself was a great track and field star, as well as one of the great hockey players in the Sydney academy. Perhaps Senator Finlay MacDonald would remember that.

I am sure all senators would want to associate themselves again with the proper tribute that has been paid by Senator Buchanan on the eve of the anniversary of the ninetieth birthday of a great Cape Bretonner, Nova Scotian and Canadian, Johnny Miles.

ROUTINE PROCEEDINGS

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday, October 31, 1995, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I present a petition, signed by 31 residents of Ontario, asking the Senate to withdraw any support for Bill C-68.

KARLA HOMOLKA PLEA BARGAIN AGREEMENT

PRESENTATION OF PETITION

Hon. Anne C. Cools: Honourable senators, I have the honour to present a petition. I should like to read it into the record.

> We, the undersigned residents of Canada, draw the attention of the Senate to the following:
>
> WHEREAS one of the hallmarks of a fair society is an equitable justice system;
>
> WHEREAS the Canadian population has been disturbed and troubled by the gruesome and shocking evidence presented in the Paul Bernardo murder trial;
>
> WHEREAS on October 5, 1995, over 300,000 persons petitioned the Legislative Assembly of Ontario stating that:
>
> > We demand a PUBLIC INQUIRY into the conduct of all Crown and law enforcement officials/employees, at all levels involved in the investigation of Karla Homolka and in particular the circumstances of the negotiation of the plea bargain arrangement. We also demand that all day passes and other privileges be revoked and her FULL 12-YEAR SENTENCE be served in its entirety;
>
> WHEREAS other petitions carrying the same message are being presented daily to the Legislative Assembly of Ontario;
>
> WHEREAS on two separate occasions in the Legislative Assembly of Ontario, Annamarie Castrilli, Member of Provincial Parliament for Downsview and Liberal Associate-Critic for Attorney General, has called upon the Attorney-General of Ontario to make a commitment to review the Karla Homolka plea-bargain agreement in light of the evidence presented at the Paul Bernardo trial;
>
> We, the undersigned, residents of Canada including Annamarie Castrilli...pray that the Senate of Canada be informed that over 300,000 persons have expressed their dissatisfaction with the Homolka plea-bargain agreement and have requested a public inquiry into this agreement, and we the undersigned pray that the Senate of Canada take these concerns into consideration during the Senate's deliberations on Bill S-11.

[*Translation*]

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. Jean-Louis Roux: Honourable senators, I have the honour to present a petition signed by 84 residents of Anjou and Rivière-des-Prairies in Quebec. These people urge the government to ensure that Bill C-68 on gun control takes effect as soon as possible.

On the other hand, I should inform you that I have received over 2,000 letters written by people from every province of Canada to express their support for Bill C-68. For reasons you can appreciate, I did not bring these letters with me.

CANADA-UNITED STATES TAX CONVENTION ACT, 1984

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill S-9, to amend the Canada-United States Tax Convention Act, 1984, and acquainting the Senate that they had passed the bill without amendment.

[*English*]

ORDERS OF THE DAY

EXPLOSIVES ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Colin Kenny moved the second reading of Bill C-71, to amend the Explosives Act.

He said: Honourable senators, I rise today in support of Bill C-71, to amend the Explosives Act.

I regret that Senator Kelly is unavoidably away today because this act is of great interest to him. We all recall the work he did in chairing the special committee of the Senate on terrorism. He chaired that committee twice, and they produced what I thought were extremely useful reports. I wish that he were here now to hear my remarks. I look forward to hearing what he has to say when he returns to the chamber.

• (1420)

Bill C-71 proposes the marking of plastic explosives by adding a chemical which would be detected by equipment at Canada's international airports, and thus ward off the threat of terrorism. This bill will protect the health and safety of passengers aboard aircraft using Canadian air space. In addition, the passage of this act will show that Canada is living up to its commitment as a signatory to the international convention on the marking of plastic explosives for the purpose of detection. In fact, the passage of Bill C-71 will allow Canada to be among the first nations to ratify this convention, which was signed in Montreal by 40 countries in March of 1991.

The 1991 convention represents an international agreement to combine efforts among nations to reduce the risk of aircraft bombings. Canadian participation in this effort is essential to the continuing battle against terrorism.

Plastic explosives have emerged as a weapon of choice for terrorist groups because this type of explosive is powerful, stable, easy to conceal and, most important, it is very difficult to detect. If plastic explosives are marked or tagged with a substance that can be detected by equipment at Canadian airports, terrorists would likely be discouraged from attempting any attacks on Canada using plastic explosives.

At the present time, there is no way to detect plastic explosives in airports, while conventional explosive materials can be detected by the equipment we already have in existence. This act proposes the marking of plastic explosives by adding a chemical which would be detected by equipment or dogs at Canada's international airports, and thus ward off the threat of terrorism.

Honourable senators, the extra costs of producing detectable plastic explosives are expected to be negligible. That is primarily due to the relatively low volume of plastic explosives that are manufactured in Canada, coupled with the insignificant costs of incorporating the marking agent.

In addition, given the low volume of plastic explosives that are used compared to that of conventional industrial explosives, the challenge of enforcing the provisions of the proposed amendment and, by extension, the international convention, will not pose a significant problem or cost on the relevant regulatory bodies.

Given the fact that Canada is a world leader in vapour detection technology, Canadian equipment manufacturers will be able to take advantage of international market opportunities for their vapour detection technology, as other countries ratify the convention.

In conclusion, honourable senators, we are determined to contribute to the health and safety of passengers on aircraft in this country. In addition, we are committed to working with our international partners to stop the threat of terrorism in our skies and around the globe. The passage of Bill C-71 will send a clear signal to terrorists everywhere that Canada will not be an easy target for their deadly campaigns of violence.

I urge all honourable senators to give speedy passage to this amendment to the Explosives Act.

Hon. Noël A. Kinsella: Honourable senators, Bill C-71, which amends the Explosives Act, was introduced in the other place by the Minister of Natural Resources on February 24, 1995. It is an important piece of legislation, and we are pleased to have it before this chamber at this time. We will be giving it serious study and, as Senator Kenny has pointed out, our colleague Senator Kelly will be responding in detail to this bill at the next sitting of the Senate.

On motion of Senator Kinsella, for Senator Kelly, debate adjourned.

[*Translation*]

EMPLOYMENT EQUITY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool moved the second reading of Bill C-64, an act respecting employment equity.

She said: Honourable senators, it is a great privilege for me to speak to Bill C-64, respecting employment equity, because it is a most important piece of legislation. This bill will help the federal government and its partners in the public and private sectors to eliminate, in the workplace, discrimination based on gender, race, colour or disability. Once proclaimed, this bill will replace the current Employment Equity Act. It will require every employer from the public sector, as well as large federally regulated organizations, to correct unfair situations which have existed for decades. To put this legislation in its proper context, it must be realized that Canada, like any other country, has a history of discrimination.

[*English*]

When the new Immigration Act was enacted in 1952, it continued restrictions on immigration based on nationality, citizenship, ethnicity, occupation, class, and place of origin. Legislated discriminatory practices continued until 1960, when we adopted the Canadian Bill of Rights. In fact, these prohibitive clauses were not removed until our present Immigration Act was enacted in 1977.

Honourable senators, although the provinces brought in fair employment legislation beginning in the early 1950s, federal initiatives designed to enhance employment equity did not begin until 1978. That was the year the government launched a voluntary affirmative action program aimed at private industry. Federal contractors and Crown corporations were included under the program the following year.

In 1982, the Canadian Charter of Rights and Freedoms constitutionally affirmed the right to equality in employment. In 1983, the affirmative action program sought to bring about the equitable representation and distribution of women, aboriginal people, and persons with disabilities in the public service. That same year, the Special Measures Program encouraged recruitment from designated groups. Then in 1985, visible minorities were included as part of the designated groups.

[*Translation*]

Honourable senators, some among you will recall that in 1983 the government mandated a royal commission to examine equal access to employment. That commission tabled its report in November 1984 and two years later, in response to its recommendations, the Employment Equity Act was passed. In 1986 the federal contractors program for employment equity was launched and Treasury Board adopted an employment equity program for the public service. The Treasury Board policy on services to the disabled — the most progressive of its kind in Canada — came into effect in 1989. Yet the present employment equity legislation is causing problems. A special parliamentary committee pinpointed two major ones in May 1992, during its in-depth examination of the content and functioning of the act. The first is that it applies only to the private sector. As I have just said, the Public Service is governed by Treasury Board policy. The second is that the act contains no coercive measures.

These problems are solved by Bill C-64, which the Minister of Human Resources Development tabled in the House last December. After first reading, it was referred to the Standing Committee on Human Rights and the Status of Disabled Persons, which examined the present act and Bill C-64 simultaneously. As a result of the hard work and suggestions of the entire membership, the committee was successful in making significant amendments to the bill in the remarkable report it submitted this past June. After lively debate, the amended bill was given third reading in the House of Commons just recently.

[*English*]

Honourable senators, Canadians can be proud of the efforts our government has made to correct injustices. I am pleased to inform you that the current Employment Equity Act has begun to correct the disadvantaged status of persons in the four designated groups. However, we still have some way to go. Under the act, the representation of women in the workplace has increased from 40.94 per cent in 1987 to 45.64 per cent in 1993. Their representation has also increased in some key occupational groups, and women's average earnings have improved relative to the average earnings of men.

Members of visible minorities have made substantial gains with employers covered under the existing act. Their representation has increased from 5 per cent in 1987 to 8.09 per cent in 1992. They have increased their share of all hirings and promotions almost every year.

Although still quite low, the representation of aboriginal people in the workforce governed by the act doubled from 0.66 per cent in 1987 to 1.04 per cent in 1993. Their share of hirings also increased, as did their share of promotions. Over the same seven years, the representation of persons with disabilities in the workforce under the act increased from 1.59 per cent to 2.56 per cent, and their occupational and salary profiles were similar to those of able-bodied workers.

[*Translation*]

Honourable senators, although we should welcome these improvements, the fact remains that members of the four designated groups are still greatly underrepresented in most professions and industries across the country. When we compare the percentages I just mentioned, aboriginal peoples and persons with disabilities are greatly underrepresented. Women and visible minorities tend to be concentrated in low-paying jobs, with two-thirds of women engaged in clerical work. The average salary for women is only 74.53 per cent that of men.

Most aboriginal women do clerical work, and aboriginal men and women earn considerably less than other workers. There are so many lay-offs among aboriginal peoples that employment equity has not given them a chance to make substantial progress. On the whole, employers hire very few persons with disabilities.

Although it is encouraging to see that the present legislation benefits Canadians who for years have been exposed to systemic discrimination, we must not become complacent. It is now up to the government to promote employment equity, which is in fact the purpose of Bill C-64.

Honourable senators, the bill before us today will strengthen employment equity by making employers more aware of their responsibilities under this legislation. It will help the government improve the way it assists members of designated groups who are struggling to find their rightful place within the Canadian labour force. The present legislation applies to approximately 350 employers in the private sector and Crown corporations. As soon as it comes into force, the new legislation will also apply to departments, federal agencies and public sector employers with more than 100 employees. Following consultations and an order in council, the Canadian Forces and the RCMP will also be covered by this legislation.

Honourable senators, Bill C-64 clarifies current requirements and identifies the fundamental obligations of employers. Both public and private sector employers will have to fulfil the same fundamental obligations when they develop and implement their employment equity plans.

Honourable senators will doubtless agree that it is pointless to set requirements if there is no way to ensure that employers do their utmost to meet them. The new legislation enables the Canadian Human Rights Commission to oversee the efforts of employers and to ensure that they all make every reasonable effort to have a representative employee population in accordance with the provisions of law.

On the other hand, certain honourable senators fear, perhaps, that the bill demands too much of employers. They will be happy to learn that the requirement to implement employment equity does not force employers to take measures that might be unjustifiably prejudicial to them, to create new jobs, to hire or promote unqualified individuals or, in the public sector, to contravene the merit principle. To clarify the government's intentions, the bill expressly prohibits the establishment of quotas.

The government believes that the success of the new legislation depends on consultation between employers and employees. To this end, Bill C-64 requires employers to obtain the opinion of employee representatives in the preparation, implementation and revision of their employment equity plan. This consultation and cooperation must not, however, be construed as co-management.

Furthermore, the bill requires employers to consult employees when company seniority rights could threaten employment opportunities for members of the designated groups.

[*English*]

As I mentioned earlier, the intent of the government is to improve employment opportunities for Canadians who have clearly felt the sting of discrimination. I think honourable senators will agree that to do so requires adequate measures to secure compliance with the act's requirements.

The bill creates a new mandate for the Canadian Human Rights Commission to conduct on-site compliance reviews to ensure that employers are making all reasonable efforts to fulfil their obligations under the new act. I want to emphasize, however, that this is not an inquisition. Employers who make all reasonable efforts to implement employment equity will not be penalized because of adverse economics or low response rates to self-identification surveys.

Honourable senators, when it comes to enforcing the act's provisions the commission will have the authority to appoint employment equity review tribunals from the current Human Rights Tribunal panel. An employer may also request the establishment of a tribunal to review a direction from the commission.

I believe honourable senators will agree that it is in the best interests of all concerned that fair and even-handed decisions are made regarding tribunal rulings. For that reason, the president of the Human Rights Tribunal panel will conscientiously give due consideration to an individual's knowledge and experience in employment equity matters when appointing members to an employment equity review tribunal.

As well as the provisions I have outlined, Bill C-64 clarifies the commission's powers of enforcement under both the proposed Employment Equity Act and the Canadian Human Rights Act. It confirms that Human Resources Development Canada is responsible for administering the federal contractors' program for employment equity and it ensures that the employment equity requirements of the federal contractors' program are equivalent to those under the new act.

• (1440)

To further the new act's positive influence in helping Canadians move toward true equality in the workplace, Human Resources Development Canada will conduct research, provide labour market data, and administer programs that recognize outstanding achievements in employment equity.

Mandatory review of the legislation will take place every five years instead of every three as is now required.

[*Translation*]

Honourable senators, I mentioned that, like many other countries, Canada has a history of discrimination. I did not, however, want to suggest that this important bill is aimed at righting yesterday's wrongs. Rather, I feel that the whole bill focuses on the future. It is only through progressive and proactive bills like this one that we will succeed in eliminating inequities.

Judging from the wide support Bill C-64 received from regulated businesses, designated groups and unions, equality in the workplace is an objective shared by many Canadians.

Honourable senators, the adoption of Bill C-64 is another big step toward full equality for all these Canadians. I therefore urge honourable senators to support this outstanding bill.

Hon. Noël A. Kinsella: Honourable senators, I wish to thank our colleague for her presentation and her very clear explanations on this very important issue. Senator Losier-Cool was a leader in New Brunswick in the fight against discrimination against women. This bill is aimed at eliminating institutional discrimination.

[*English*]

Honourable senators, in 1986 the Conservative government introduced the Employment Equity Act, which set the pattern for an attempt to deal with institutional discrimination through the vehicle of employment equity. It is good to see that work continuing because it is an ongoing process.

It is far more appropriate that Parliament, rather than the courts, give instruction to agencies. For example, the Human Rights Commission has a mandate to deal with discrimination committed on the grounds of sexual orientation. Unfortunately, the government has yet to live up to its promise to introduce legislation to add sexual orientation to the list of prescribed grounds of discrimination. It is a pity that the courts had to rule in the *Haig* case and prescribe that ground as a form of discrimination before the Human Rights Commission could act on such cases. It should have been Parliament. We have a commitment from the government that we will see amendments to the federal Human Rights Act in that regard, but we have yet to see them.

Honourable senators, a number of colleagues on this side of the chamber wish to participate in the study of this bill. I am sure they will do so in committee. My colleague Senator Johnson, who could not be here today, wishes to participate in the debate at second reading and will do so at the next sitting of the Senate.

On motion of Senator Kinsella, for Senator Johnson, debate adjourned.

• (1450)

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—SECOND READING

Hon. Peter Bosa moved the second reading of Bill C-90, to amend the Excise Tax Act and the Excise Act.

He said: Honourable senators, Bill C-90 implements changes to the air transportation tax, the excise tax rates on gasoline, the marking requirements for tobacco products for sale in Prince Edward Island, and the seizure and notification provisions in respect of offences under the Excise Act. All of these measures were announced in the budget of February 1995.

Bill C-90 also contains changes to the excise tax rates for tobacco products for sale in Quebec, Ontario, and Prince Edward Island. These changes were announced on February 17, 1995 for Quebec and Ontario, and on March 31, 1995 for Prince Edward Island.

Honourable senators, I will begin by addressing the key budget measures contained in Bill C-90. As part of the government's efforts to meet its deficit reduction targets, the air transportation tax is being amended to recover a greater proportion of the cost of providing air transportation facilities and services. Thus, the maximum tax on domestic and transborder air travel and the tax on international air travel purchased in Canada will increase from $50 to $55, while the maximum tax on international air travel purchased outside Canada, and on transborder air travel subject to the United States' 10 per cent air transportation tax, will increase from $25 to $27.50. These changes to the air transportation tax will generate an additional $27 million in the 1995-96 fiscal year, and $33 million in the 1996-97 fiscal year. The new rates of tax will apply to tickets purchased on or after May 1, 1995.

Also, as a part of the government's efforts to meet its deficit reduction targets, the excise tax rates on leaded and unleaded gasoline are being increased by 1.5 cents per litre. The excise tax on unleaded gasoline and aviation gasoline will increase from 8.5 cents per litre to 10 cents per litre, while the excise tax on leaded gasoline and aviation gasoline will increase from 9.5 cents per litre to 11 cents per litre. The new rates of tax are effective February 28, 1995, and will raise an additional $500 million per fiscal year.

Honourable senators, this bill also proposes a number of legislative amendments to the Excise Tax Act to phase out the sale of black stock tobacco products and authorize the sale of Nova Scotia marked tobacco products in Prince Edward Island. This change is being undertaken at the request of and pursuant to an agreement between the governments of Prince Edward Island and Nova Scotia and will be effective upon Royal Assent to this legislation. This change to the marking requirements for tobacco products will allow for greater efficiency in serving the Prince Edward Island market.

The Excise Act currently mandates enforcement officers to seize any vehicle used in the transportation of contraband alcohol and tobacco products, even where relatively minor amounts of contraband are discovered. To remedy the difficulties sometimes occasioned by this requirement, the Excise Act is being amended to provide enforcement officers with discretion in their use of the power to seize vehicles.

At the same time, the Excise Act is also being amended to require that enforcement officers undertake reasonable efforts to provide notification of seizure to persons with an ownership or other interest in a seized vehicle. Both of these changes will serve to improve the delivery and efficiency of enforcement activities.

Honourable senators, that is the sum of the budget-related measures contained in Bill C-90. I should like now to discuss the tobacco tax increases that were announced outside the budget process but are contained in the legislation.

Following the success of the National Action Plan to Combat Smuggling, excise tax rates are being increased on tobacco products sold in Quebec, Ontario and Prince Edward Island. In Quebec and Ontario, excise taxes are being increased by 60 cents per carton of 200 cigarettes, while in Prince Edward Island excise taxes are being increased by $1 per carton of cigarettes and 32 cents per 200 tobacco sticks.

Federal excise tax increases are being undertaken in conjunction with provincial tobacco tax increases in these three provinces. The joint federal-provincial tax increases follow the scheme of the matching federal-provincial tax reduction undertaken last year as part of the anti-smuggling initiative. These excise tax increases will raise $65 million per year for the federal government. They are effective February 18, 1995, in respect of cigarettes sold in Quebec and Ontario, while the increases in respect of cigarettes and tobacco sticks sold in Prince Edward Island are effective April 1, 1995.

In conclusion, honourable senators, Bill C-90 is an important bill. It enacts a number of provisions that will make a significant contribution to the government's commitment to increased cost recovery and deficit reduction. It is important to remember that the increases in the air transportation tax and the gasoline excise tax were delivered in a budget that emphasized spending reductions over tax increases by a margin of almost seven to one.

The amendments to the tobacco marking scheme will allow for greater efficiency in serving the Prince Edward Island market, while the amendments to the seizure and notification provisions of the Excise Act will improve the delivery of enforcement activities.

Finally, the changes to the excise tax rates for tobacco products for sale in Quebec, Ontario and Prince Edward Island recognize the success to date of the National Action Plan to Combat Smuggling and represent important first steps toward the long-term restoration of uniform federal excise tax rates across Canada.

I would therefore urge my fellow senators to give speedy passage to this bill.

Hon. Noël A. Kinsella: Honourable senators, I would like to make a few comments in some detail on Bill C-90 this afternoon, before it finds its way to the Standing Senate Committee on Banking, Trade and Commerce.

Before dealing with the substance of the bill, I should like to remind government supporters of a promise that the government made prior to the last election. I am sure that honourable colleagues opposite recall the paper entitled "Reviving Parliamentary Democracy—The Liberal Plan for the House of Commons and Electoral Reform." In that document we were told:

> The credibility-stretching tradition of not passing actual tax measures until many months after a budget, often even after the measures have come into effect, must, within the context of a suitable system of consultation, be ended.

This is what the government which honourable senators opposite support put forward as a principle. Nothing has been done to honour that promise. Perhaps the minister or his officials will be able to tell the committee whether anything will ever be done to honour that promise.

Honourable senators, let me cite a few examples of how tax measures — contrary to what was promised — are not being introduced in a timely fashion. First, most of the income tax measures introduced in the February 1994 budget did not become law until March 1995, well after the start of the tax filing season. Some of those measures did not become law until June 1995, two months after the filing deadline. Second, as of earlier this week, the government had not yet tabled legislation to deal with the income tax measures of the February 1995 budget.

Honourable senators, I do not know how they are managing their affairs, either in government or in the House. We certainly know that what has happened so often will happen again. Certain pieces of legislation will arrive here at the eleventh hour. They are all so terribly important, but we will be forced to lay aside our obligation to give them careful scrutiny. Something is radically wrong when the nation's business is managed in such a poor time-line fashion. The bill before us today is a prima facie case of poor time management. We are being asked to pass a bill that will implement measures which have been in place for almost the entire past year.

This bill, which retroactively approves a significant tax hike, had not proceeded beyond first reading in the other place when Parliament rose for the summer. Often, we receive criticism from our colleagues in the other place, and all I can say is that by any analysis, even that of a student of Business Administration 100, this is a poor way of doing business.

Perhaps it is not practical to speed up the introduction of tax bills. If that is the case, then it was stretching credibility to make such a promise in the first place.

Honourable senators, taxes, as we all know and as every Canadian knows, are at the limit. Yet in February of this year, the government increased taxes by more than $1 billion and by more than $1.3 billion for 1996-97. About $600 million of last February's tax hike will be made law through this piece of legislation. It includes $500 million a year from higher fuel taxes; $33 million from higher taxes on air tickets; and $65 million from higher tobacco taxes. Income tax measures from the budget will be the subject of a separate bill.

Perhaps, in committee, the government will give some indication as to when we might see that legislation, and I hope it is such that it may be examined in a timely fashion.

Retroactive to last February, Bill C-90 increases the excise tax on gasoline to 10 cents per litre from 8.5 cents. Remember how the government promised tax fairness? It was very proud of that promise. Clearly, many Canadians believed that that promise would be kept. There is nothing fair about higher fuel taxes if you live in my part of Canada or in most rural parts of Canada. Unlike the GST, there is no rebate on these taxes, which will make Canadian businesses less competitive.

Also, retroactive to last February, this bill raises the excise tax on aviation fuel to 11 cents per litre from 9.5 cents per litre. Bill C-90 increases the maximum air transportation tax retroactive to last May.

Many of us are encouraging efforts to curb tobacco use, but the government focused, as honourable senators will recall, on the problem of tobacco smuggling. Cigarette taxes were reduced in February 1994. What happened a year later in February 1995?

Lo and behold, the government said that the cuts were working and therefore they could be rolled back, which resulted in combined federal-provincial taxes rising by 60 cents a carton. This bill retroactively approves that increase.

The bill also makes some technical changes concerning tobacco markings and makes the rules for vehicle seizures less onerous.

In conclusion, I remind the government, and those who support it, about another major promise that has yet to be honoured. As honourable senators know, the goods and services tax is governed by the Excise Tax Act, which is being amended by Bill C-90.

Remember the Red Book, honourable senators? Let me give you a quote from that piece of "pulp fiction."

Senator Lynch-Staunton: It belongs in the blue box.

Senator Kinsella: I quote:

> A Liberal government will replace the GST with a system that generates equivalent revenues, is fairer to consumers and to small business, and promotes federal-provincial fiscal cooperation and harmonization.

Honourable senators, the Honourable Sheila Copps, who we last saw still holding the position of Deputy Prime Minister, went so far as to tell the CBC on October 18, 1993:

> If the GST is not abolished, I'll resign.

Senator Fairbairn: She will have a long and fruitful career.

Senator Lynch-Staunton: We know what kind of environment she is in.

Senator Kinsella: Honourable senators, the Prime Minister also said that he would honour all his promises within two years. Colleagues, two years have passed but the GST is still here, and it is still applying to books.

There are rumours that the government might propose a single national sales tax in the next budget. However, a lack of interest on the part of the provinces makes the acceptance of such a proposal an uncertain prospect. As such, a new tax may be hidden in the price and will likely tax several items that are not now taxed. It is unclear how this would be any fairer to consumers.

I could say much more about this bill. However, I do not want to shoot off all the ammunition in my rifle as the bill goes off to the Banking Committee for detailed examination.

Hon. H.A. Olson: Honourable senators, I should like to ask Senator Kinsella a question. Obviously, he has studied this bill carefully and compared it to something, although I know not what. Since the honourable senator is so critical of the taxes being applied here, and of the time lapse between this legislation and the date on which they were announced, does he have some better system for bringing in tax changes?

Senator Simard: Let the government decide that.

Senator Olson: A little truth always comes from somewhere. "Let the government decide," says Senator Simard. It is too bad that the honourable senator interrupted, but he is correct: The government must do these things. However, I wondered how they could do that, because we bring a number of bills into both Houses. Some of them languish in the House of Commons for weeks and months; others languish in the Senate. I could name a few that my honourable friend is probably responsible for their having languished here in the Senate, awaiting passage. Does he have a better idea as to how to impose taxes so that there is some notice and some certainty concerning what the tax collectors will do on the dates that were announced in the budget? Or is he now prepared to say — and mean it — that Parliament — and the opposition, in particular — will pass these things in time to meet the dates that were mentioned in the two speeches?

Senator Kinsella: Honourable senators, I thank my honourable friend for his question. It raises a number of important issues.

Senator Olson: You bet it does!

Senator Kinsella: The first issue is the issue of integrity, and integrity in terms of what you offer to the Canadian electorate. You say to them, "We will change the system so that we do not have this." I assumed that those who were the authors of that promise had it all worked out.

I share the suspicion implied in the question asked by the honourable senator, namely: How would you really do this?

Senator Olson: That is the point.

Senator Kinsella: Yes, that is the point.

Senator Doody: You must have known before you wrote the book and made the promise!

Senator Kinsella: My colleague beside me makes that point.

Senator Olson: We get lots of help, obviously. The government proposes and, especially where the opposition has a majority, the opposition disposes. That is an old truth that has been around here for years. It did not happen with this Parliament.

Is the opposition prepared to give an undertaking that, from now on, they will pass these bills in time to meet the dates announced in the budget?

Senator Lynch-Staunton: We must get them first.

Motion agreed to and bill read the second time.

REFERRED TO COMMITTEE

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

On motion of Senator Bosa, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

BILL CONCERNING KARLA HOMOLKA

POINT OF ORDER

On the Order:

> Second reading of Bill S-11, An Act concerning one Karla Homolka.—(*Hon. Senator Cools*)

Hon. Noël A. Kinsella: Honourable senators, I rise on a point of order.

The Hon. the Speaker *pro tempore*: A point of order takes precedence.

Senator Kinsella: Honourable senators, I will explain my point of order as succinctly as I possibly can. However, in no way is this point of order intended to detract from the important point that underlies and is implied very clearly in the Honourable Senator Cools' bill which is before us. My point of order involves an important issue of procedure in Parliament.

First and foremost, as we know, there are two kinds of bills that can be entertained in Parliament — private bills and public bills. This issue emerged in the other place a few years ago in relation to a bill respecting the execution of Clifford Robert Olson. At that time, the Speaker in the other place looked at the same issue, namely: Is this piece of legislation one that can properly be dealt with within the traditions, customs and rules of this chamber?

In the *House of Commons Debates* of May 14, 1984, at page 3683, the Speaker points out that:

> According to our practice, there are only two kinds of Bills. Public and Private.

He then referred to citation 700 of Beauchesne's 5th edition.

In the 6th edition of Beauchesne at page 192, the same point is repeated, namely, that:

> A public bill relates to matters of public policy while a private bill relates to matters of a particular interest or benefit to a person or persons.

As was the case with the Olson bill, that comment applies equally here. The bill does not fall within the definition of a private bill since it cannot be said to promote the particular interest or benefit of the individual named, namely, Karla Homolka. Therefore, it can only be a public bill, although whether the incarceration for life as set out in this bill — as with the execution of the individual in the Olson bill — can be described as a matter of public policy is another question. In the case of the Olson bill, that was doubted by the Speaker in the other place.

The conclusion of the Speaker in the other place was that that kind of bill falls into a special category for which our practices do not provide. Its nature is that of a bill of attainder, a proceeding at one time employed by the British Parliament to convict and condemn an individual of a high crime by way of an act of Parliament.

The bill of attainder is described at page 69 of the 20th edition of Erskine May as "the highest form of parliamentary judicature." In other words, that is obviously suggesting that such a bill would be a public bill. In this instance, that would be a Senate public bill. The procedure is an obsolete one in the United Kingdom, and has not been employed since the eighteenth century.

I submit to Your Honour that this procedure has never existed in Canadian practice. Therefore, the matter contained in this bill is out of order and not properly before this chamber.

Hon. Anne C. Cools: Your Honour, there is nothing before us. I did not move anything.

Senator Kinsella: But it is on the Order Paper.

The Hon. the Speaker *pro tempore*: Do any other honourable senators wish to speak on the point of order?

Senator Cools: Your Honour, can you clarify for me if, in fact, the issue is before us? My understanding is that when the order is called, I would then move the motion for second reading. However, there was nothing before us when Senator Kinsella spoke.

The Hon. the Speaker *pro tempore*: My understanding is that the matter was called, and it is before the Senate. Notice has been given.

Senator Cools: However, the motion for second reading has not yet been moved.

The Hon. the Speaker *pro tempore*: The bill is on the Order Paper and the order was called. Senator Kinsella then rose on a point of order, and I am now asking if any other senator wishes to speak on that point of order.

Hon. Sharon Carstairs: Honourable senators, the only addition to the discussion on this point of order that I would like to make is to point out that we have gone through a similar procedure earlier this session with respect to Bill S-10. Senator Gauthier rose on a point of order. If I am not mistaken, the Speaker ruled that he could not rise on his point of order because the matter was not before the chamber, as it had not been moved by Senator Tkachuk. Before Senator Gauthier could raise his point of order, the subject-matter of the bill, not the bill itself, was referred to the Standing Senate Committee on Aboriginal Peoples.

Therefore, it seems to me that we have dealt with a situation similar to this one earlier this session. Perhaps, for the sake of clarity, we could allow Senator Cools to move second reading of her bill and then have Senator Kinsella raise his point of order, which I think is an extremely legitimate one. Then we could have a ruling from the His Honour.

The Hon. the Speaker *pro tempore*: If no other honourable senator wishes to speak, I will take the submissions under advisement and the Chair will give a ruling at a later date.

Senator Cools: I am prepared to speak, Your Honour, but perhaps I might be told what I am speaking to.

Senator Lynch-Staunton: You cannot speak.

The Hon. the Speaker *pro tempore*: I am afraid that there will have to be a ruling on the point of order before the Chair can recognize the honourable senator.

Senator Cools: Very well, Your Honour. I shall speak to the point of order, but it was my clear understanding that there is nothing before us.

Honourable senators, I have given this matter careful consideration. My actions have been guided by much consideration and study of the public's shocked response to the trial of Paul Bernardo. In Toronto and throughout Canada, the horrible events surrounding the sexual assaults and three brutal killings by Homolka and Bernardo dominated the news daily.

Senator Lynch-Staunton: What does that have to do with the point of order?

The Hon. the Speaker *pro tempore*: There is a certain onus on the Chair in matters of points of orders. Until the point of order with regard to whether it is in order for the honourable senator to speak on this matter is ruled upon, we cannot hear debate on the bill, only on the point of order itself.

Senator Cools: Perhaps Your Honour could tell me exactly what the point of order is that Senator Kinsella has raised.

Senator Lynch-Staunton: How can you discuss it when you do not know what it is?

The Hon. the Speaker *pro tempore*: I assume it is quite clear. The honourable senator raised a point of order and argued that, in his opinion, the bill with respect to which notice was given a couple of days ago was not in order.

I listened to what the honourable senator had to say, and I invited other honourable senators who so wished to make a submission on the point of order. At that time, Senator Cools indicated that she wished to make a submission on the point of order. Her submission must be on the point of order; it cannot be on the substance of the bill with respect to which she gave notice two days ago.

Senator Cools: Is the concern of the Honourable Senator Kinsella that the notice given two days ago is out of order?

The Hon. the Speaker *pro tempore*: The honourable senator cannot enter into dialogue with the Chair.

Senator Cools: I should like to put a few comments on the record, Your Honour.

Senator Kinsella cited an example of a bill of attainder raised by a member on the other side some years ago. I believe he cited as well some remarks from the then Speaker of the House of Commons, who I believe was Lloyd Francis, with regard to a bill of attainder.

In the first instance, honourable senators, I am not proposing a bill of attainder; nor am I proposing that Ms Homolka be executed.

I do not have a copy of Senator Kinsella's statement before me, but I shall quote one of the parliamentary authorities on the question of bills of attainder.

In the 1989 publication of Erskine May, it is clearly stated that the powers of bills of attainder have never been formally abolished. Clearly this house has the power to consider a bill of attainder. However, Bill S-11 is not a bill of attainder.

The initiative which I have asked the Senate to implement is described as "a bill of pains and penalties," which is quite different, though related in origin, from a bill of attainder. I submit that this house, this chamber, this Parliament of Canada, has the power to enact a bill of pains and penalties.

Honourable senators, I shall attempt to describe what a bill of pains and penalties is. Such a bill is an attempt by the Parliament of Canada to redress injustices and to impose penalties suited to — and suitable to — the notoriety of particular crimes. A bill of pains and penalties asks the Senate to engage Parliament's inquisitorial and judicial powers to correct a terrible public mischief which has offended the people of Canada. This ancient and undoubted remedy of Parliament, known as "an act of pains and penalties" is rarely used and is reserved for exceptional and extraordinary circumstances of injustice.

A bill of pains and penalties attempts to ask the high court of Parliament to exercise its full powers as the grand inquest of the nation and to engage its direct and indirect judicial powers. A bill of pains and penalty is intended to remedy the insufficiencies of the Crown in the executive. It is the people's remedy as against the deficiencies and wants in the executive's actions. It is an act to suit the Houses and not the executive. When the Crown in council has failed, the Crown in Parliament must act to remedy.

Honourable senators, for centuries our Constitution has directed that the Senate has the power of judicature; that the Commons has power of judicature; and that both Houses together also have power of judicature.

An act of pains and penalties is an ancient instrument of Parliament. It is a product of Parliament. It is a procedure that is legislative in form and judicial in substance: a legislative instrument with a judicial result. As a bill, it differs in no respect from any other bill. It proceeds through the chamber like any other bill.

• (1530)

An act of pains and penalties is an action by Parliament for the correction of an unjust result, a correction of a miscarriage of justice by legislating the fitting pain and penalty for a heinous offence. It is an assertion of the rights of the citizens as embodied and assembled in the Parliament of Canada, and as against the insufficient actions of the Crown in the executive.

The rights of the people of Canada cannot be denied by one or two senators rising and saying that something is in or out of order. The rights of the people of Canada to such action by its Parliament, as I have proposed, are grounded in the Bill of Rights of 1688 and the British North America Act of 1867, section 18, as amended in 1875.

The Bill of Rights of 1688 settled the powers of Parliament for all time in article vi, stating:

> ... That all and singular the Rights and Liberties asserted and claimed ... are the true, ancient, and indubitable Rights and Liberties of the People of this Kingdom,...

These powers of Parliament are antecedent to our Canadian Confederation and were received into Canada by the British North America Act 1867, as amended in 1875. Section 18 reads:

> The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons ... shall be such as are ... defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada ... shall not confer any privileges, immunities, or powers exceeding those ... held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom ...

Our Constitution, our parliamentary authorities, including Sir Erskine May, John Hatsell, and our own Altheus Todd, instruct us that the paramount authority of Parliament over the courts must never be forgotten.

Senator Lynch-Staunton: Really?

Senator Cools: Yes. Dr. Todd said that the Parliament must ever be observant of the courts of justice and take due care that none of them, from the lowest to the highest, shall pursue new courses unknown to the laws and Constitution.

Honourable senators, I am speaking about the Constitution and the law of Canada. The high court of Parliament is the supreme power of Canada, and the supreme power of Canada is armed with the punitive, inquisitorial and judicial instruments necessary to its function of governance.

Honourable senators, such judicial and legislative proceedings in Parliament as Bill S-11 proposes are regulated by the rules, customs and ancient practices of Parliament; that is the law of Parliament, the *Lex et consuetudo Parliamenti*.

The law and customs of Parliament form part of the common law of the land, but it is peculiar to Parliament and Parliament's governance of itself, and it is sovereign to Parliament.

About these powers, John Hatsell tells us that, as every court of justice has laws and customs for its direction, some by the common law, some by the civil law, so, too, the high court of Parliament has its own laws and customs. John Hatsell, in his famous five-volume work, cites Sir Edward Coke, stating:

> It is by the *Lex et consuetudo Parliamenti*, that all weighty matters concerning the Peers of the Realm, or Commons in Parliament assembled, ought to be discussed, adjudged, and determined.

Honourable senators, Parliament's consideration of this weighty matter, the contents of Bill S-11, including the Homolka agreement and the 12-year sentence received by Ms Homolka, is regulated by the law of Parliament. I believe that the insufficiencies and excesses of the Crown and counsel in the exercise of its powers and discretion in matters relating to the Criminal Code of Canada have resulted in a miscarriage of justice.

The Hon. the Speaker *pro tempore*: Order, please. I must point out again that to speak on the substantive matter of Bill S-11 would be premature until there is a ruling on the point of order.

Senator Cools: Very well. I shall heed Your Honour's statement. In my mind, I am speaking to the concept of a bill on penalty, but I shall heed Your Honour's advice on the more ordinary forms of proceeding.

A bill of pains and penalties compels the Parliament of Canada to take cognizance of the matter and to pass laws redressing the mischief offered to the state, to the people of Canada, to the Crown, and to the Sovereign, thereby to hold up to the country an example which might deter the commission of similar offences and similar actions in the future.

I should like to cite some statements from a book Lord Denning wrote entitled *The Road to Justice*. In these statements, Lord Alfred Denning, one of the most eminent jurists, recollects that when William Temple, the Archbishop of Canterbury, spoke to some lawyers, he said:

> I cannot say that I know much about the law, having been far more interested in justice.

About the Archbishop's message, Lord Denning wrote:

> That was a piece of delicate irony, gently rebuking the lawyers for losing sight of justice. The rebuke was well merited. His hearers were lawyers ... who believe in ... the law as something separate and apart from justice. To them the courts ... are not the ... Courts of Justice but the Law Courts.

Lord Denning hits hard, indicating:

> When they do an injustice —

— meaning the courts or the lawyers and sometimes the justices —

> ... as I fear they occasionally do, they tend to excuse themselves by saying: "It cannot be helped. The law will have it so."

• (1540)

Lord Denning states:

> I have often heard judges say: 'we are only concerned with what the law is, not with what it ought to be': or 'If this leads to an unjust result, it is a matter for Parliament, not for us.' They wash their hands of it, as if it was not their concern.

Honourable senators, an unjust result in the courts of justice is a matter for Parliament's action. To deny that is to deny the ancient and undoubted rights of the people of this country.

I repeat, Bill S-11, a bill of pains and penalties, is an initiative to ask the Senate to ask the Crown in Parliament to redress this injustice and to impose the penalty suitable to the notorious and obvious crimes.

Honourable senators, I would like to put a few more statements on the record, and I hope this one goes directly to what Senator Kinsella was saying.

On the question of the powers of Parliament and on the question as to whether or not this chamber, as part of the Parliament of Canada, has the powers, abilities and jurisdiction to follow through on the initiatives proposed in Bill S-11, and on the question of the undisputed powers and authority of Parliament, I should like to put the former Chief Justice of Canada, the Right Honourable Bora Laskin, on the record on the issue of section 18 of the British North America Act, 1867, as amended in 1875.

Mr. Justice Laskin stated:

> Turning now to the authority or power of the two federal houses....There is no limit anywhere in law, either in Canada or in the United Kingdom,...having regard to section 18 of the British North America Act as enacted by 1875,...which ties the privileges, immunities and powers of the federal houses to those of the British House of Commons.

Honourable senators, I would like to place a few more statements on the record. The next one is by Alpheus Todd who said that by a bill of pains and penalties, anyone may have pains and penalties inflicted beyond or contrary to the existing law. He went on to state:

> A bill of pains and penalties is a very special procedure rarely used because it is reserved for special and especially notorious circumstances.

Parliamentary authority John Hatsell states:

> If the crime is of a nature and magnitude deserving a punishment, in the particular case far beyond what has by the law been deemed sufficient in similar...misdemeanours; or —

— this is my point, honourable senators —

> — if the rules of admitting evidence or other forms to which the judges in a court of law are bound to adhere would preclude the execution of justice upon offenders...it has been held...that such circumstances would...justify...the legislature itself to take cognizance of the case...

Honourable senators, a bill of pains and penalties is a parliamentary device which parliamentarians, as true representatives of the people, should call into motion and call into existence when all of the other common forms have failed. When the Crown in council has failed and when the judiciary has failed, then the Sovereign speaks through Parliament to redress injustice and to correct the malaises created by such a miscarriage of justice.

Honourable senators, the preamble to Bill S-11 reads as follows:

> AND WHEREAS the conviction of the said Karla Homolka was founded on an agreement....

The Hon. the Speaker *pro tempore*: Honourable senators, I must point out again that I would be derelict in my duty if I allowed reference to the substantive matter referred to in Bill S-11.

Senator Cools: Okay, I will drop it.

Honourable senators, this matter appears on the Order Paper. Is it out of order?

The Hon. the Speaker *pro tempore*: I will not engage in any dialogue or debate with the honourable senator, but I will finish what I started to say.

I started to say that I would be derelict in my duty if I were to permit reference to the substantive matter. The Honourable Senator Cools was recognized in order to make a submission to the point of order raised by the Honourable Senator Kinsella. Rather than interrupt the honourable senator again, I point out for her guidance rule 18(3), which states:

> When the Speaker has been asked to decide any question of privilege or point of order he or she shall determine when sufficient argument has been adduced to decide the matter, whereupon the Speaker shall so indicate to the Senate....

I draw that rule to the attention of the honourable senator so that in putting together the various matters she wishes to submit, she will be conscious of it. I am sure she would not wish to breach the spirit or letter of that rule.

Senator Cools: Honourable senators, perhaps I should close there.

Hon. John B. Stewart: Honourable senators, unfortunately, two points of order have been confounded. Senator Carstairs mentioned a point of order and cited the precedent of Bill S-10. That bill was before this house on May 9 of this year.

When second reading of Bill S-10 was called, Senator Gauthier rose and said he had a point of order on the item. The Speaker intervened saying that he would listen to the honourable senator's point of order and that the bill was not before us yet because second reading had not been moved. He agreed, however, to listen to a point of order.

As it later emerged, the point of order was not valid because it was not raised at the correct time. The Speaker will want to take into account that example because we do not want two different rules as to when a point of order may be raised when the order for the second reading of a bill has been read.

The other point of order, raised by the Honourable Senator Kinsella, I believe will be taken under advisement by the Speaker.

We must ask, does this fall into any of the categories of bills with which this house deals? Clearly, this is not a private bill. Karla Homolka is not, through petition followed by bill, seeking some special treatment or remedy to be imposed by Parliament.

Is it then a public bill? That is the question to be answered. I believe it is a sound principle of legislation that, in criminal matters, Parliament should not enact retroactive law. The procedural question, however, is whether there is any bar in our rules to the enactment of retroactive criminal legislation, legislation which, because it is retroactive, will apply only in particular cases, the cases which are then a matter of fact.

This second question is a much more important one for the Speaker. I do not know what the answer is, but the Speaker, as advised, will be able to help us. Is there any prohibition, as a matter of order, against this house dealing with a bill which is, in effect, retroactive in a criminal matter?

PEARSON AIRPORT AGREEMENTS

CONSIDERATION OF SECOND REPORT OF SPECIAL COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Special Committee of the Senate on the Pearson Airport Agreements, (Address to His Excellency the Governor General requesting documents), presented in the Senate on Tuesday, October 17, 1995.

Hon. Finlay MacDonald: Honourable senators, I move the adoption of this report.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator MacDonald, seconded by the Honourable Senator Buchanan, that this report be adopted now.

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

Hon. John B. Stewart: Is it Senator MacDonald's intention to explain the report and what is sought by it?

Senator MacDonald: I would be delighted to do that, honourable senators.

The subject-matter of this report is an address to the Governor General requesting that Treasury Board submissions made in the month of August 1993 regarding the Pearson Airport Agreements be released to the special Senate committee investigating the efficacy of these very contracts.

When I look around this house, I recognize senators who were previously members of the House of Commons, and they know that there is nothing new in the practice that states that addresses can be made requesting the production of papers obtained from the Governor in Council.

This procedure for the production of papers in the House is Standing Order 97(1). This procedure has been used frequently in the past in the House of Commons, but no cases can be found with regard to the Senate.

There are many examples where members of the other place have asked that an address be presented to his Excellency praying that a certain paper be laid before the House. I will mention only three. A distinguished senator, then a distinguished Member of the House of Commons, Jean-Robert Gauthier, on September 27, 1990, presented a humble address to his Excellency praying that he would cause to be laid before the House copies of all correspondence between his Excellency and Her Majesty concerning the operation of section 26 of the Constitution Act. Peter Milliken, on October 1, 1990, presented a humble address to his Excellency praying that he will cause to be laid before the House copies of records detailing the total cost of the deployment of Canadian Forces personnel to Oka, Quebec. Svend Robinson, on May 5, 1992, presented a humble address to His Excellency praying that he will cause to be laid before the House of Commons copies of all documentation, notes, memoranda, legal opinions and other relevant information concerning the decision of the Secretary of State for External Affairs on the matter of a request for expulsion by the Brazilian government of Canadian prisoners Christine Lamont and David Spencer.

All of these humble prayers were certainly not frivolous, but most did not get anywhere. They were simply told that these documents were exempt from production. They were cabinet confidences.

Apparently, they were not using the best prayer mats.

The House of Commons general legal counsel, Diane Davidson, states in her paper that the Commons have never formally acknowledged "Crown privilege." She states at page 7 of her testimony to the Joint Committee on the Scrutiny of Regulations on November 6:

> It should be noted that this immunity has never been formally acknowledged by the House of Commons as inhibiting its investigatory powers. The public interests which need to be considered and weighed in judicial proceedings are not the same as the public interests to be considered and weighed when evidence is sought for parliamentary purposes. In practice, parliamentary committees have more readily given consideration to claims of Crown privilege when invoked by a minister in relation to national security matters and international affairs rather than in commercial affairs. However, in final analysis, the committee remains the final arbiter of such claims.

As Ms Davidson notes, the "impasse" between the executive and the legislative branches has sometimes been resolved by arranging compromises. For example, in 1991, the justice committee in the House agreed to receive information *in camera* when faced with a valid claim of Crown immunity.

When this house of Parliament gives a mandate to a committee to conduct an inquiry or an examination, the committee, referred to as a parliamentary committee, becomes an integral part of the house of Parliament. As such, these committees are given the power by Parliament to examine and inquire into matters referred to them on behalf of the house of Parliament — in this case, the Senate — where it would, for obvious reasons, be impractical for the parent body itself to carry out this mandate.

Provided a committee's inquiry is related to a subject-matter within Parliament's competence, and is also within the committee's own orders of reference, parliamentary committees have virtually unlimited powers to compel the attendance of witnesses and to order the production of documents. I think we can agree that the extensive powers a parliamentary committee enjoys are not commonly understood, are seldom exercised and, therefore, are not properly respected.

I will attempt to describe the document problems that have bedeviled the committee over the last few months on a regular basis. Suffice it to say that all senators on the committee have been frustrated by the late arrival of documents, the fact that parts of documents have been whited-out pursuant to either the Canada Evidence Act or the Access to Information Act, or to solicitor-client privilege.

These "whiteouts" have created an atmosphere wherein sometimes we are being denied things that we consider are pertinent to the committee's mandate. We have been frustrated by the circuitous route which the documents take before they arrive in the hands of the clerk, as well as the fact that a private law firm and forensic accountants have been hired by the government, at public expense, and given access to all documents because they have taken an oath of confidentiality.

However, when the members of the committee suggested a compromise and proposed that counsel for the committee be granted access to confidential information on the same basis — that is, by taking the same oath — our proposal was rejected.

Those, honourable senators, are the day-to-day problems of documentation, the subject-matter of this report. Indeed, its purpose is to address one particular issue that has arisen in the last few weeks.

When this committee was constituted, it was given the power to send for persons, papers and records whenever required. *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, citation 848(1) states:

> Committees may send for any papers that are relevant to their Orders of Reference. Within this restriction, it appears that the power of the committee to send for papers is unlimited.

Citation 848(2) states:

> The procedure for obtaining papers is for the committee to adopt a motion ordering the required person or organization to produce them. If this Order is not complied with, the committee may report the matter to the House, stating their difficulties in obtaining the requested documents. It is then for the House to decide what action is to be taken.

Honourable senators, your committee has already requested these documents. Early in our mandate, we wrote to the Department of Justice requesting all the documents given to Mr. Robert Nixon for his perusal. The reply came back that we could have them all, save and except the Treasury Board documents which were given inadvertently to Mr. Nixon.

Before our committee, Mrs. Margaret Bloodworth of the Privy Council Office said that these documents have the status of confidential cabinet documents and were released to Mr. Robert Nixon in error. When Mr. Nixon and his staff appeared before us for the first time, we learned that not only had they reviewed these documents, they had relied heavily on various parts of them for sections of their report. Here are the words of Mr. Stephen Goudge, Mr. Robert Nixon's legal advisor, in answer to a question put to him by me:

> **Mr. Goudge:** Let me respond this way, senator. Did I derive support for some of the things in the Treasury Board's submissions? Absolutely yes, absolutely yes. I mean I did; there is no question about it. When I put forward my memorandum to Mr. Nixon, parts of it relied heavily on what was in the Treasury Board submission.

Senator Bosa: Was he sworn in?

Senator MacDonald: He was under oath.

It became apparent to us that, in order to complete our work properly, we needed to review all of the documents. What was our work?

Our work was an examination of public policy with regard to the privatization of Canadian airports and, in particular, Pearson International Airport. We did not know where we were going; we did not know what the result would be. We wanted to have access to all of the information that existed, in order that we could base our report on the facts and on the testimony of the 66 witnesses who appeared before us. That leads me to where we are today.

The procedure for an address to the Governor General requesting these documents finds its authority in rule 132 of the *Rules of the Senate* which states:

> When the royal prerogative is concerned in any account or paper, an address shall be presented to the Governor General praying that the same may be laid before the Senate.

We have determined that the release of these documents is within the prerogative of the Governor General. It is stated in Article 9 of the Manual of the Government of Canada under the heading of "Cabinet Records":

> Disclosure of cabinet records is regulated by the Privy Councillor's oath and by the concept that cabinet decisions are advice to the sovereign which may only be revealed with his consent.

I assume the "his" is referring to George VI.

> Permission is sought through the Prime Minister who may recommend to the Governor General that it be granted, limited or refused. Permission is regarded as applying only to the occasion for which it is sought.

In other words, the confidentiality of the advice contained in the cabinet documents belongs to the Governor General. It is for the Governor General to release the documents from that confidence.

I conclude with these comments: Ours has been a very hard-working committee which has taken its task seriously. Our final report will not be unanimous. Committee members will draw different conclusions from the evidence we have heard. To suggest that the report will be free of partisanship would be to indulge in fiction.

However, I am grateful for the courtesy shown to me by all members of the committee, and for the absence of acrimony. I am particularly grateful to Senator Kirby, the Deputy Chairman of the committee, who said that these were not easy matters to sort out or to resolve. However, he suggested that, as senators, we are in a unique position to do so. He went on to say that courts and royal commissions are sometimes ill-suited to deal with matters which evolve in a swirl of political controversy. He pointed out, however, that if we follow the traditions and rules of Senate procedure and our rights, we can all make a useful contribution.

However today, honourable senators, you are not being asked to participate in matters that are before our committee. You are not being asked to take sides. You are not being asked to predict or even to speculate on the advice the Prime Minister may give to the Governor General. You will, I am confident, have many opinions, and in this debate on the adoption of the report you will have an opportunity to express them.

I do not mind you telling me that this report is quixotic, that it may be doomed to failure, that it is not worth doing, and that since we may not get the documents, we should not even ask for them. At the end of the day, all that is being asked of this chamber of parliamentarians, this house of Parliament, is that you adopt our report; a report that employs a traditional and appropriate procedure for asserting the rights and the powers of this house of Parliament, which has given a mandate to a committee which, in turn, automatically becomes an integral part of Parliament.

On motion of Senator Graham, for Senator Kirby, debate adjourned.

The Senate adjourned until Tuesday, October 31, 1995, at 2:00 p.m.

THE SENATE

Tuesday, October 31, 1995

The Senate met at 2 p.m., Senator Maurice Riel, Acting Speaker, in the Chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL UNITY

RESULT OF QUEBEC REFERENDUM

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, yesterday we all witnessed a watershed in the history of our country. The referendum held in the Province of Quebec was about the very existence of Canada. It was truly about choosing to continue or to end the political and economic union which has been built over the generations to create what we believe to be the best country in this world.

As I stand here today, I share in the relief and the gratitude of Canadians in every province and territory that this great country remains whole. I share also in the conviction that the outcome expressed a desire for change. The results compel us to reach out to the people of Quebec, as they must reach out to each other. Those passions and emotions of recent weeks will not subside overnight, or even within a few days. There must be time for healing and time for reconciliation.

Before looking ahead to the future, I should like to thank all of those who have worked so hard and given so much of their time and energies to the pursuit of this common vision of a united Canada. I want to thank senators on both sides of this chamber who set aside their differences and joined together as a team in this common cause, under the guidance of Daniel Johnson, the Leader of the Opposition in Quebec, Prime Minister Jean Chrétien, the minister responsible for the No campaign, the Honourable Lucienne Robillard, and the Leader of the Progressive Conservative Party, Jean Charest. What a team it was! Canadians from every part of this country took enormous pride in not just the eloquence of these voices but the commitment that each of those players had in the pursuit of this particular endeavour.

I also want to recognize the support and the contribution to the cause of unity in this country made by the Cree Nation and by the Inuit in Northern Quebec.

[*Translation*]

The referendum had to do with the future of all Canadians, not just those who live in Quebec. The whole country realized that.

[*English*]

Honourable senators, last Friday, October 27, Canadians demonstrated this when they came to Montreal by the thousands, from every part of the nation, to join with more than 100,000 Quebecers in the largest political rally in our history; a truly amazing and extraordinary event. The new relationships which formed during the short period of time that we stood elbow to elbow in that multitude have almost gone further than words can say to cement a visceral understanding of the meaning of Canada, particularly for people who perhaps had never before been in the Province of Quebec or, as one of my colleagues said today, who live in Montreal and had never met a person from Saskatchewan. It was a truly memorable occasion.

Over the course of the weekend, we witnessed similar public expressions of unity, perhaps spurred by the event in Montreal, in cities and towns in all of the provinces and territories that we represent; people joining together to affirm their belief in a united Canada, a Canada which would be truly unrecognizable without Quebec as an integral part of its heart and soul. Indeed, perhaps the depth of feeling unleashed in these communities across the country was a revelation even to ourselves about the depth of our love and our commitment to Canada.

Last night, Prime Minister Chrétien said:

> There is only one winner: the people.

Mr. Chrétien spoke those words in the context of the democratic process. When we look around the world at the turmoil and hardship that similar differences of vision can evoke, all of us, no matter on which side of this question we stood, can take pride that here in Canada we use peaceful means of debate and decision-making.

The referendum was about democracy; it was about the democratic process where differences are resolved through debate, through argument, through discussion, and finally, through the ballot box.

By no means can last night's result be seen as a strong affirmation of "steady as she goes," the status quo. That much is clear. Undoubtedly, many of those who voted on the Yes side did not do so out of a desire to dismantle the country, but because they wanted change. By the same token, it cannot be said that all of those who voted No did so because they reject change to their way of life or the country in which they live; far from it.

Honourable senators, change is desired, not only in Quebec but also in Alberta and in every other province and territory in this country. It is desired across the land, and it is a commitment of the federal government. However, today we know that we can work for that change within a whole Canada. We can work for change out of a set of common values and deep traditions.

Honourable senators, that gives me great hope for and confidence in the future of our Canada, and in a process that embraces and involves all of its citizens, gives equal value to the rights and worth of all Canadians, and a vote to each citizen. We in this country have a great opportunity to draw lessons from the events of yesterday, in order to build even greater strength, unity and understanding.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I trust that we will have occasion in the coming days and weeks to discuss in detail the implications of the referendum, not only for Quebec but for the entire country.

If the margin of victory in favour of the Nos had been greater, the commitment made by the Prime Minister in the last few days of the campaign — of which Senator Fairbairn has reminded us — would still remain: change, and only with the approval of Quebecers. For change and dissatisfaction are what the referendum was all about. Not all those who voted Yes are separatists, and not all those who voted No are supporters of the status quo. One senses from both sides a massive desire for change in how the Canadian federation is set up, in particular with regard to the distribution of jurisdictions.

[*Translation*]

The word "change" constantly appeared in the comments made this morning and last night, not only by people from the Yes and the No sides, but also by spokespersons representing various provinces. That is already a step forward. However, the basic issue remains the same, namely: what specific changes are we talking about? We can only hope to find out in the near future, otherwise Quebecers will certainly be invited to make another decision, which could be the final one, as was almost the case yesterday.

[*English*]

No constitutional or administrative changes are possible, however, unless the federal government changes the way in which it carries out its relationships with its federation partners. For nearly two years it has been generally dismissive of provincial concerns, and not only those emanating from Quebec. Rigidity and lack of flexibility have no place in a federation if it is to function properly. Openness and understanding are needed. If the government takes only that message from the many messages emanating yesterday from Quebec, the future is already brighter for all of Canada.

UNITED NATIONS

FIFTIETH ANNIVERSARY OF FOUNDING

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, over the last few weeks a chorus of debate has accompanied two monumental events in the history of Canada and of the world: the Quebec Referendum and, of course, the fiftieth anniversary of the founding of the United Nations.

Logical cases have been made, some in favour of burying the "Parliament of Man," as the United Nations has been called, and others in favour of conceiving new visions to sustain the world organization over the next 50 years.

Many have said that the United Nations is in crisis. We have heard that there are two faces to any crisis, as the Chinese so well understood in conceiving the two characters that make up their word for "crisis." One of these characters symbolizes danger; the other symbolizes opportunity.

Over the last few weeks, we Canadians have been undergoing one of the most painful periods in our history. We know all about the two faces of crisis. Both the United Nations, the world federation, and Canada, our own great multicultural federation, have become easy targets to their enemies. This is largely because of the fact that in both cases we have tried to do what many have thought was impossible.

While I am, and always have been, an unabashed supporter of the United Nations, I am well aware of the dramatic overhaul needed to revive what has become, in the opinion of some, a flat broke organization. It is an organization which must take on almost all of the monumental problems of the global community; problems largely assigned to it by countries which cannot and will not themselves resolve their own problems.

Fifty years ago last week, the founders — most of whom were realists who had lived through the horrors of war and depression — set out with a conviction that theirs was the responsibility to build the postwar order in which peace would be secured, in which poverty would be alleviated and in which human rights would be promoted worldwide. In other words, these were realists who were at the same time visionaries. These were pragmatists with a dream.

Lester B. Pearson was one of the pathfinders in this working world community, and our legendary peacekeepers have helped preserve the peace in dozens of hot spots around the world. Agencies of the United Nations helped eradicate small pox. They made dramatic advances in the war against malnutrition and child poverty. They helped regulate aviation and shipping. They did ground-breaking research into environmental and agricultural problems which many believed to be irresolvable. This was indeed a working world community. It oversaw decolonization and established global approaches to poverty, refugees, and sustainable development.

We will all remember, particularly tonight, that UNICEF's literacy programs gave hope to millions of children all over the world. Canadians proved to be energetic and compassionate citizens of this working world community, and this was no coincidence.

Our Canadian federation mirrored that of the international community. It is, in fact, a microcosm of the planet. Our values, the values of a generous, compassionate democracy, are basically the values which inspired the founders of the United Nations. Our dream, the dream of a community based on tolerance and justice, is the dream which has inspired the generations of those who have given their all to the betterment of the human condition.

In some ways, Canada has been built on a vision which many may have considered impossible. Because of this, our federation, as well as that of the United Nations, has become an easy target for its enemies. I believe, and certainly hope, that we have all learned from this experience. We all now understand that the greatest threat to our nation and to the global community is the threat of indifference, intransigence and paralysis.

As I said earlier, we must remember that crisis wears two faces: one of danger and one of opportunity. Today, we must forge opportunity from danger. We must constructively engage in the day-to-day acts of will and commitment which are the lifeblood of national unity. We must remember that we are not alone in our commitment to fair and tolerant federations, both nationally and internationally.

Honourable senators, I believe that history and the future are both on our side.

[*Translation*]

NATIONAL UNITY

RESULT OF QUEBEC REFERENDUM

Hon. Gérald-A. Beaudoin: Honourable senators, these are historic times for Canada. Yesterday, the stakes were very high.

A chapter of our history just concluded. We must reflect on it and let things settle somewhat. I think that the federal government will have to take the initiative.

Yesterday's outcome, which was in favour of the federalists, will trigger some changes. The Prime Minister extended a hand to the premier of Quebec. A conciliatory approach must be used. This is essential and unavoidable. Some creative spirit will also be required. In the end, we will have to find a *modus vivendi*. We will have to think and find new approaches. Such approaches exist. The status quo does not exist. We were able to innovate at every turning point in our history. The time has come to do so once again. Federalism is a flexible formula, and it is up to us to adapt it to current needs.

Administrative arrangements must be concluded in various sectors, including manpower. We must leave the door open to institutional changes, but these changes must be well identified. In our debates, we must avoid falling into old habits. We may have to change our vocabulary somewhat and use a different approach regarding amendments. Above all, let us not miss this opportunity, which may well no longer exist in the future.

In the meantime, we must treat the existing Constitution with great respect. We do not refer to it enough in the current debate. Our social reforms will have to take into account the respective fields of jurisdiction of the two levels of government. We live in a great and beautiful country. Our ancestors had a grand vision. It is now up to us to improve our political system and give it a new impetus and a better balance.

[*English*]

Hon. Gerry St. Germain: Honourable senators, I want to congratulate and thank those who provided the leadership for the No side in the Quebec referendum. Specifically, I thank those on the front line; namely, the Leader of the Opposition in Quebec, Daniel Johnson; the minister in charge of the No campaign, the Honourable Lucienne Robillard; and, of course, the leader of my party, the Honourable Jean Charest, for their tremendous efforts on behalf of Canadian unity.

Honourable senators, never in the history of our great nation, as we slowly, cautiously and quietly back away from the precipice of disaster, have we ever needed greater leadership at the federal level. I mentioned "leadership." I do not want it to be confused with political opportunism because the stakes are much too high. Many of us saw the values in and the need for the Meech Lake Accord, saw it as a partial resolution to the problems that we face today as a nation. It was not perfect, but it addressed many of the problems.

We must never again allow those who would oppose the likes of these positive initiatives to succeed. They and their conspirators very nearly destroyed our nation. We must never let our likes and dislikes when it comes to personalities cloud our vision as we work toward a better and stronger Canada.

It is time to reach out to the regions — and here I speak to the government of the day — Quebec, the Western provinces, the North, our aboriginal peoples, and all of those who feel alienated and disaffected. It is time that Ottawa stopped trying to tell people arbitrarily what is best for them and that only a prime minister or ministers know what kind of country Canadians really want. Most of all, it is time to consider the concerns of the people who voted Yes yesterday in the Province of Quebec and all the people across this great nation who want change.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable Senators, I had no text prepared, but I could not miss such a great opportunity to speak of my active involvement in working for the No coalition, which in the last week we were calling the Canada side.

Canada won, at about 10:30 p.m. yesterday. It was a victory for Canada. I would like you to understand that it may be Canada's last victory.

It is important for us all to understand the message sent by this decision, this outcome. We must understand the depth of the message and we must respond to it. Quebecers on the No side and Quebecers on the Yes side both want change. All of the leaders of the No side came to use the word "change." Last night, the only word on everyone's lips was "change," a change of attitude. That is what is needed first. It is not like a shopping list, a granting of this or that power and the right to use it. It is a change in attitude.

Let us understand what Quebecers want, and not only Quebecers, what a number of Canadians want. We managed to put political partisanship aside within the No coalition. Unfortunately — and I stress how unfortunate it was, weighing my words carefully — that political partisanship came flooding back last night. I trust that we will do everything possible to leave our short-sighted partisan objectives aside and to keep our eyes focused on the objective: the preservation of Canada. Mark my words, we came within a hair's breadth of losing it.

This may be the last victory for Canada. I would like you to think about that. This was a major event, not just turning one of the many pages in Canada's history, but perhaps the most important page in our history. We have tried many ways of solving the problems of Canadian federalism. Now we must act in its final but perhaps most fruitful phase.

Hon. John Sylvain: Honourable senators, the events of recent weeks, culminating in last night's very narrow victory for the No side, will become a most decisive moment for us in Canada.

[*English*]

The referendum campaign galvanized feelings of patriotism across this country. Never before have Canadians sought to reach out to the people of Quebec as they did in the last few days. I believe we can build on these feelings, and move toward redefining our country.

There is much unfinished work to do; work begun by former Prime Minister Mulroney through the Meech Lake and Charlottetown Accords, building toward a new federalism still remaining to be completed.

As the leader of the federal Progressive Conservative Party has said throughout the referendum campaign —

[*Translation*]

> There is a wind of change in Canada in 1995. This was confirmed in four provincial elections. These governments have a clear mandate for change. It is a wind of change we cannot escape.

[*English*]

At this point in our history we should look at the options available to effect change in our federal system. Inasmuch as politicians of every stripe and every country have lost their credibility with the people, the federal government should consider establishing a non-political group charged with redefining the broad parameters of a new national accord. Three neutral persons could be charged with naming those who would serve, but would not themselves serve.

Representatives from universities, the professions, business, unions, et cetera, forming a relatively small group, should report in a reasonable length of time. This report could be distributed across the country for popular discussion and comment. It could thereafter form the basis of political discussions leading to the 1997 review of the Constitution, while constraining the participants to a non-political, non-partisan framework.

I have no way of knowing whether such a plan would work, but I deem it preferable to the Meech Lake or the Charlottetown process, if only because partisanship and political pressures would be a reaction to a proposal instead of having been the author of it.

Hon. Stanley Haidasz: Honourable senators, I wish to add my congratulations to federalist leaders and workers for their successful campaign leading to a No victory, for a definite No to the separation of Quebec, preserving, thereby, the integrity of Canada. In particular, I offer my congratulations to the people of Quebec for observing their democratic duty in a record turnout at the polls.

In particular this afternoon, I offer a hearty endorsement of the negotiations proposed by the Prime Minister of Canada to the people of Quebec and all Canadians, and especially of his call for national reconciliation and true healing.

The need for negotiations to start in earnest is heralded in the narrow success of the campaign for unity. As the Leader of the Opposition in the House of Commons said again this morning in a news conference, this is a time to show good faith in the undertaking made by the federalist spokespersons in recognition of viable aspirations of a distinctive francophone society in Quebec. I believe that this is a legitimate part of the uniquely Canadian heritage contained in section 27 of the Canadian Charter of Rights and Freedoms in the context of multiculturalism. There remains a basis for hope and for amicable negotiation on patrimoine, the historic aspirations of Quebecers.

Many people of Quebec would welcome agreement over separation. Another half of Quebec wants negotiations in a context free of any threat of separation, but the statement by the Premier of Quebec, blaming minority ethnic groups in Quebec for the narrow loss of a separatist initiative, does not truly reflect a solid basis of hope. Instead, it bespeaks the urgency for the Premier of Quebec to make a public apology to all Canadians for the discriminatory and racist tone of his post-referendum speech.

A statesman in his right senses could not wish to undermine important and indispensable trust in his goodwill. The closeness of the result in the referendum of yesterday has demonstrated the political alertness of all of the people of Quebec, and their concern to preserve and to enhance their distinctive culture.

May we, honourable senators, commence today, here in this chamber, in this capital and in our communities, a process of conciliation and reconciliation without delay, but also with peace, justice and tolerance.

NOVA SCOTIA

CONGRATULATIONS TO DR. JOHN HAMM ON ELECTION AS LEADER OF PROVINCIAL PROGRESSIVE CONSERVATIVE PARTY

Hon. Gerald J. Comeau: Honourable senators, much attention has been given over the last number of days to the national unity question, and much will be said in the coming weeks about it. I plan to make some statements on that subject as well.

However, today I should like to call the attention of honourable senators to some other changes that took place over the weekend in Nova Scotia. I wish to extend sincere congratulations to Dr. John Hamm, who was elected the new leader of the Progressive Conservative Party of Nova Scotia.

With a solid first-ballot victory, Dr. Hamm has given the governing Liberals reason for concern. Presenting the 1,000-plus Tories who attended the convention with a solid five-point plan, Dr. Hamm will provide Nova Scotians with a real alternative to the disgraceful record of the Liberal Party under Premier John Savage. The only similarity which could ever be found between the two leaders is that they are both family physicians. However, their prescriptions for healing the economic health of our province are very different.

Nova Scotians have watched John Savage and the Liberal government destroy our health care and educational systems. In Dr. Hamm, we now have a leader who will apply the proper medicine to our ailments. Rather than Bandaid solutions, Nova Scotians have the choice of electing a leader who will listen, recognize the strengths of our province and work to develop those areas into sound economic solutions for Nova Scotians as we head into the twenty-first century.

Rather than dismiss various groups within our province, John Hamm will ensure that everyone's voice is heard. With a commitment to rebuild the party and develop clear policies through province-wide consultations, Nova Scotians will now have the representation they deserve, rather than the autocratic, from-the-top-down style of governing with which they have been "Savaged" within the last two and a half years.

I should like to extend my congratulations to the other two contenders, Jim White and Michael MacDonald, who ran excellent campaigns. They and Dr. Hamm have demonstrated that the call of political office indeed is answered by dedicated individuals who are truly committed to public service.

John Hamm is following in the footsteps of many great Tory leaders who have served Nova Scotia proudly over the years: Bob Stanfield, Don Cameron, Terry Donahoe, who was recently the interim leader, and our colleague here in the Senate, Senator John Buchanan.

I am sure that many of my colleagues will join with me in extending sincere congratulations to the new leader of the PC Party of Nova Scotia and our next premier, Dr. John Hamm.

NATIONAL UNITY

PROPOSED ESTABLISHMENT OF COMMITTEE ON REGIONAL ASPIRATIONS

Hon. Raymond J. Perrault: Honourable senators, Canada has been given a temporary reprieve; rescued at the last minute — almost like a call from the governor to the prison to stay an execution.

May I suggest that, in addition to the commendable sentiments that have been expressed here today, we should do something very practical in the Senate. We should do that for which we were established — that is, to reinforce regional interests in this country and to interpret correctly the regional problems and aspirations of the people of Canada.

When I was the Leader of the Government in the Senate, I proposed that we establish a standing committee on regional aspirations, whose members would spend most of their time out in the field talking to the people of Canada who, at the present time, seem to have a deep mistrust of all politicians, regardless of party. If there is to be an agreement crafted in this land, it may not be by the premiers of the provinces of Canada. For some reason, they are not completely trusted. It has been demonstrated, time and again, that, increasingly, the people want direct input into the process of renewing Confederation and enacting reforms.

Let us create such a committee. Let us go into all the regions of Canada and learn what the people expect from Confederation, and what they are willing to do to support modifications in Confederation to make this a more effective country. That is what we should be doing.

• (1440)

Speeches are fine in this house. However, none of them will ever be reported in the media, the members of which are obsessed with other considerations. We should immediately take up our basic responsibility, go into the regions and report on the problems we find. We do not have to wait for a directive from the government, the House of Commons or anyone else. It is our job to get it done. I am sure that the process can be established on a non-partisan basis. There is not a senator in this chamber who is more concerned about enhancing a narrow political position than our national welfare.

We have seen a number of our senators in operation in these committees in the past, and they can be very effective.

What happened to this idea when it was first broached in this chamber a few years ago? At the time, one or two cabinet ministers said, "We do not want a Senate committee coming into our backyard embarrassing us in front of our people." If that committee had been established back then, we would be in a much better position as a nation right now.

Let us get on with the job of putting the Senate to work. Let us demonstrate our worth to the Canadian people and get moving.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I want to thank everyone who took part in this very important referendum. I agree with Senator Lynch-Staunton when he says that we should have a more detailed discussion on the subject. I also agree with what was said by my friend Senator Perrault, and my neighbour and good friend Senator St. Germain.

Earlier, I heard two senators who really inspired me to rise in my seat. I know this annoys a lot of people because I remember once I was told —

[*English*]

"Oh, not him again,"

[*Translation*]

— when I talked about Canada. I have done so often since I came to the Senate. I did so for 30 years in the House of Commons. I talked about Canada in the Liberal Party of Canada, to which I dedicated my whole life and all my energy, with all the misunderstandings that that involved, unfortunately. I hear speeches about the United Nations. I have always been inspired by the desire to make Canada a real example for the rest of the world, and to be able to say to the whole world: Come and see how we do things in our country. That is why I was afraid of this referendum. What kind of message would it be to a world that has far more problems with division than we do? However, we have to keep working.

People talked about partnership between Quebec and the rest of Canada during this campaign. I say: Let us start — and I see my friends Senators Watt and Adams, but especially Senator Watt — in Quebec by setting up an outstanding and genuine partnership with our aboriginal people.

After that, let us establish a genuine partnership among all Quebecers, irrespective of their ethnic origins, religion or political affiliation, and let them have the freedom to vote as they choose.

I spent my entire political life in a riding with a constituency that was so diverse that I remember senators who, although they hardly talk to me today, always used to come to my meetings because they said my riding was a microcosm of what Montreal would be 25 years hence, meetings where I tried to get together all these groups from all over the world. However, we must not fall into the trap of hypocrisy and misrepresentation. We will make speeches in the United Nations. We have what we need in Canada. Let us find the solutions.

I have a message for you. I am no longer a member of the Liberal caucus. There are people here who are going to make a lot of nice speeches. Tell them to start by practising what they preach. There are still people in the House of Commons who, out of disdain or incomprehension, objected strenuously to the Meech Lake Accord. Three of them are in cabinet. Two are in the House of Commons, and yesterday one of them admitted — he was the one who made things the most difficult for me when I was chairman of the national caucus, but I do not mind that — but he admitted last night:

[*English*]

"After all, I think I made a mistake."

That is fine. It is excellent.

[*Translation*]

We are on the way to finding solutions. However, honourable senators, we must not imagine that people will prostrate themselves. I am not and never have been of that race of people, and I know the word "race" gets people excited. I do not share the sort of mentality of people who prostrate themselves in front of others. This country is mine, just as it is yours. This country will be made with my help as with yours.

[*English*]

This country will be made with my friend Senator Watt in Quebec.

[*Translation*]

He represents the first real inhabitants of Quebec. We have to work toward such reconciliation.

[*English*]

I want to say this in English, although I did not want to speak English today. However, I want to thank very warmly the tens of thousands of people who came to Montreal. They joined with people in Montreal.

I ask you, honourable senators, what would have happened if someone had stomped on a Quebec flag in the middle of the referendum campaign anywhere in Canada? It would have been the subject of the entire debate in Quebec. They would have said, "Canada is rejecting us. We in Quebec have to make up our own minds."

It was a great day, and it showed us that people care. At times I feel they care more than their politicians. That is a message for Mr. Clyde Wells. We will wait for him. He believes that rights are rights. I am anxious to see the debate we will have when he comes with his referendum results. I spent a week in Newfoundland during the referendum campaign. If rights are rights are rights, then those rights will be respected in due time.

Should we return to the spirit of Meech Lake? No. Shall we return to the spirit of Charlottetown? No. Let us return to the spirit of the Victoria Charter. It was a mistake that it was not accepted. I am not here today to say that it was done under such and such prime minister. If was a great event. I am sorry to say —

[*Translation*]

— but I know there are senators who regret our not coming forward. Let us make use of what was done then, let us make use of all the goodwill we saw at the time of the Meech Lake Accord. I am not particularly fond of the Meech Lake Accord, as everyone knows.

[*English*]

I have always said that I do not need a crutch to show that I am a proud Canadian. I am different, not superior.

[*Translation*]

I am your equal. My people are your equal.

[*English*]

Do you understand what it means, or do we need another referendum to repeat what it means? It is that kind of country the world is watching, a country where people who are different can succeed under the same flag, under the distinguished chairmanship today of —

[*Translation*]

— my good friend, Senator Riel. I say we have a lot to offer, those of us in the Senate, in the job of rebuilding Canada, however, we have to want to do the job.

We come from all over Canada. We have all sorts of experience. Some people have money; others know people with money; others know multicultural groups; others know the organization and others are brilliant intellectuals or teachers. No one can tell me the Senate does not have a role to play.

The Hon. the Acting Speaker: I am sorry to have to interrupt the honourable senator, but I am told that his time is up. We could, perhaps, allow him to conclude.

Senator Prud'homme: I was not told that time was limited. However, I do not think I have tried my colleagues' patience excessively. Since my time is up, I will stop talking. I will, however, come back to this subject and talk to you about the province I have so often visited, the province of Saskatchewan.

• (1450)

[*English*]

PRIVILEGE

NOTICE OF MOTION PURSUANT TO RULE 44

Hon. Anne C. Cools: Honourable senators, I rise to give oral notice, pursuant to rule 43(7) of the *Rules of the Senate of Canada*, that I shall raise a question of privilege later this afternoon. Earlier today, I gave written notice to the Clerk of the Senate as required by rule 43(3).

Honourable senators, I shall ask His Honour the Speaker of the Senate to rule on the facts as I shall briefly outline them, and to rule as to whether a prima facie case of breach of privilege exists. If so found, I am prepared to move the necessary motion.

ROUTINE PROCEEDINGS

CLERK'S ACCOUNTS

DOCUMENTS TABLED

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that, pursuant to rule 28(1), the Clerk of the Senate has laid on the Table a detailed statement of Clerk's receipts and disbursements for the fiscal year 1994-95.

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, November 1, 1995, at one-thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

CLERK'S ACCOUNTS

REFERRED TO COMMITTEE

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved:

> That, notwithstanding rule 58(1)(*f*), the Clerk's Accounts be referred to the Standing Committee on Internal Economy, Budgets and Administration.

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

Hon. Senators: Agreed

Motion agreed to.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1995

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-105, to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of Trinidad and Tobago, and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday, November 2, 1995.

CULTURAL PROPERTY EXPORT AND IMPORT ACT INCOME TAX ACT TAX COURT OF CANADA ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-93, to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday, November 2, 1995.

CONTROLLED DRUGS AND SUBSTANCES BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-7, respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday, November 2, 1995.

CUSTOMS ACT
CUSTOMS TARIFF

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-102, to amend the Customs Act and the Customs Tariff and to make related and consequential amendments to other Acts.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday, November 2, 1995.

MINISTERIAL RESPONSE TO SENATE COMMITTEE REPORTS

NOTICE OF INQUIRY

Hon. Pat Carney: Honourable senators, I give notice that on Thursday next, November 2, 1995, I will call the attention of the Senate to the issue of ministerial response to Senate committee reports. In particular, I note that on July 5, 1995, as Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, I submitted a copy of the committee's report entitled "Pull up! Pull up!: An interim Report on the Safety Implications of Automated Weather Observation Systems (A.W.O.S.)" to the Ministers of Fisheries and Oceans, of Environment and of Transport, and asked for a response to our recommendations. To date — four months later — none of these ministers have issued a response.

• (1500)

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. Gerry St. Germain: Honourable senators, I have a petition to present to the Senate. The first paragraph reads:

> The petition of the undersigned citizens of Canada humbly showeth that Bill C-68, a bill concerning firearms and other weapons, is unwarranted and intrusive legislation which needlessly targets law abiding firearms owners and which attacks the very foundation of the democratic principles of this country.

The signatories are from the areas of Surrey, Langley, White Rock, Aldergrove and other towns throughout British Columbia.

Honourable senators, this is the voice of the regions speaking to you.

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have responses to questions raised in the Senate on June 5, 1995, by the Honourable Senator Di Nino, regarding the validity of a statement on freedom of religion in Tibet; on June 5, 1995, by the Honourable Senator Doyle, regarding human rights and commercial relations; on June 13, 1995, by the Honourable Senator Nolin, regarding the possibility of increasing the size of the peacekeeping force in Bosnia; on July 11, 1995, by the Honourable Senator Kinsella, regarding the arrest of activists in China; and on October 4, 1995, by the Honourable Senator Kinsella, regarding the ratification of the Human Rights Convention of the Organization of American States.

CANADA-CHINA RELATIONS

VALIDITY OF STATEMENT ON FREEDOM OF RELIGION IN TIBET—GOVERNMENT POSITION

(*Response to question raised by Hon. Consiglio Di Nino on June 5, 1995*)

> The statement that Tibetans are free to practise their religion referred to the majority of Tibetans. Those Tibetans who express nationalist views or are known as sympathetic to those views, are those who often suffer human rights violations. It is the combination of nationalism with the practice of religion which features in the majority of cases of human rights abuse.
>
> The Canadian Government has expressed its deep concern about the human rights situation in China, including Tibet, and has asked China to conform to its own regulations and to international human rights standards.

At the Commission on Human Rights in Geneva (January-March 1995), Canada co-sponsored a draft resolution on human rights in China which made specific reference to Tibet. The resolution expressed concern over continuing reports of violations of human rights and fundamental freedoms by local, provincial and national authorities, and severe restrictions on the rights of citizens to freedom of assembly, association, expression and religion, as well as to due legal process and a fair trial. The resolution also called upon China to take further measures to ensure the observance of all human rights, including the rights of women, and to improve the impartial administration of justice. The resolution also referred to "inadequate protection of the distinct cultural, ethnic, linguistic and religious identity of Tibetans and others."

Canada believes that the human rights situation in Tibet will not improve until the general human rights situation in the People's Republic of China does so. Canada's policy regarding Tibet is a two-tiered policy pressing both for greater respect of human rights in China, in general, and in Tibet, in particular.

HUMAN RIGHTS AND COMMERCIAL RELATIONS—GOVERNMENT POLICY

(Response to question raised by Hon. Richard J. Doyle on June 5, 1995)

Human rights, good governance and the rule of law constitute one of four pillars upon which Canada-China relations are built. Respect for human rights and the rule of law globally and in China remains an essential Canadian objective. Our China human rights policy has two objectives:

1. The defense of fundamental human rights as defined by the United Nations Universal Declaration on Human Rights and;

2. The reform of legal structures, democratic development and the promotion of the rule of law.

Canada has developed a pragmatic human rights strategy to raise and discuss human rights concerns with the Chinese authorities both bilaterally and multilaterally.

Multilateral

Multilateral fora such as the United Nations (UN) represent appropriate channels to pursue specific concerns. The United Nations Commission for Human Rights (UNCHR) is the forum of the international community where we believe all countries are on an equal footing and subject to an objective assessment by each other. Canada itself has been singled out for mention in the Commission on occasion and we accept this as the right of the international community. We have made it clear to our Chinese interlocutors that Canada does not approach multilateral discussions in the spirit of confrontation. Quite the opposite. We seek respect for accepted standards rather than attempting to impose standards.

At the latest session of the UNCHR (January - March 1995), Canada co-sponsored a draft resolution on human rights in China. The resolution expressed concern over continuing reports by local, provincial and national authorities of violations of human rights and fundamental freedoms, and severe restrictions on the rights of citizens to freedom of assembly, association, expression and religion, as well as to due legal process and a fair trial. It called upon China to take further measures to ensure the observance of all human rights, including the rights of women, and to improve the impartial administration of justice. The resolution also invited China to continue to cooperate with all special rapporteurs and working groups.

Canada also declared that China falls short of international standards in the incarceration of political detainees, and with respect to equity and transparency in the judicial system, freedom of expression, and freedom of religion. Canada called on the Chinese government to permit access to prisons by international organizations. These are important steps toward the establishment of the rule of law and respect for China's human rights obligations.

This year China failed in its attempts to have a no-action vote being taken on the draft resolution. For the first time, the resolution was put to a vote but was narrowly defeated (20 for, 21 against, 12 abstentions).

Bilateral

The Canadian government has gone to considerable lengths to develop a constructive dialogue on human rights. Prime Minister Chrétien has emphasized that Canada should have a constructive, frank and forward-looking dialogue with China on human rights, and raised our human rights concerns with senior Chinese leaders during his visit to China in November 1994.

The Government of Canada believes that the establishment of the rule of law, based on international principles of human rights, is the best means to accomplish this goal. To this end, Canada, in cooperation with Chinese authorities, has developed and implemented several projects intended to strengthen China's judicial structure. The Prime Minister signed several agreements on these projects during his visit to China. We believe this approach will contribute to the development of democracy and the rule of law in China.

The Canadian Government will continue to make its views on human rights known to the Chinese leadership. At the same time, we will undertake specific and progressive initiatives to engage Chinese decision makers at all levels. These programs will facilitate positive changes in China in terms of human rights, good governance and the rule of law.

We believe that trade and human rights are not mutually exclusive choices. Trade benefits Canada through job creation — a government priority — but it also supports economic, social and, inevitably, political reform in the PRC. We believe a China open to the world can only be good for its people, both economically and politically, and will further the cause of respect for human rights.

NATIONAL DEFENCE

PEACEKEEPING IN BOSNIA—POSSIBILITY OF INCREASING SIZE OF FORCE—GOVERNMENT POSITION

(*Response to question raised by Hon. Pierre Claude Nolin on June 13, 1995*)

Upon reviewing the information which was provided to Mr. Charest during the June 9th briefing session, neither the official from the Department of National Defence nor the minister's legislative assistant recalls having made such a statement. Therefore, it would appear that Mr. Charest or his staff may have inadvertently misinterpreted the information which was provided to them.

HUMAN RIGHTS

ARREST OF ACTIVIST IN CHINA—GOVERNMENT POSITION

(*Response to question raised by Hon. Noël Kinsella on July 11, 1995*)

The Chinese courts announced on August 24th that Mr. Wu had been sentenced to 15 years imprisonment and expulsion from China. The Chinese authorities' decision to expel Mr. Wu immediately rather than have him serve his sentence has effectively resolved the situation. Canada did not make specific representations on behalf of Mr. Wu.

RATIFICATION OF HUMAN RIGHTS CONVENTION OF ORGANIZATION OF AMERICAN STATES—GOVERNMENT POSITION—DELAYED ANSWER

(*Response to question raised by Hon. Noël A. Kinsella on October 4, 1995*)

Federal, provincial and territorial consultations continue to take place on a regular basis with a view to adhering to the American Convention on Human Rights.

Officials are working hard to develop a consensus on this issue.

At this stage, however, since negotiations are still under way, any positions taken are preliminary in nature and do not represent the official provincial/territorial position. As such, they must be kept confidential.

ORDERS OF THE DAY

EXPLOSIVES ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Perrault, for the second reading of Bill C-71, to amend the Explosives Act.

Hon. William M. Kelly: Honourable senators, I should like to thank and congratulate Senator Kenny for his remarks on Bill C-71 and for his support of the bill. Senator Kenny referred to the two special committees of the Senate on terrorism but, in his usual modest way, he neglected to mention the very important role he played on both committees.

Honourable senators, I am sure all of us can recall particularly poignant moments in our careers as senators. For me, one such moment was meeting with the alliance of victims' families of Air India Flight 182. Senators will recall that in the early hours of June 22, 1985, that particular Air India flight out of Toronto went down off the coast of Ireland, taking with it 329 passengers, 80 per cent of whom were Canadians. Based on the best evidence available, it appears that a bomb went off in the baggage hold blowing off a wing and crippling the aircraft. The aircraft fell into the sea. The passengers and crew had no chance whatsoever.

As part of the same plot, two baggage handlers were killed at Narita Airport in Japan while transferring baggage from a Canadian Pacific flight out of Vancouver to an Air India flight. Both bombs were plastic explosives moulded into electronic equipment with timers.

I met the head of the association of victims' families, Dr. Yogesh Paliwal, and several of his colleagues in my capacity as chairman of the Special Senate Committee on Terrorism and Public Safety. The people with whom I met had lost family members in that tragedy. They lost wives, sons, daughters and parents.

I remember in coming from the meeting the sense of sorrow I had for these people who, through no fault of their own, had lost loved ones. I also felt a deep sense of outrage at the cruel and cowardly people who would do such a despicable thing as bombing a defenceless civilian aircraft.

The people I met also sought some meaning in an act that appears, even today, to defy rational, logical meaning. Honourable senators, today, in a small but important way, we give some meaning to the Air India disaster and others like it. The bill before us implements the International Convention on the Marking of Plastic Explosives for the Purpose of Detection.

As Senator Kenny pointed out, it was signed in Montreal in March 1991. The convention was prepared under the auspices of ICAO and signed by 40 nations. It now awaits ratification and implementation.

The current Canadian Explosives Act governs the composition, quality, character and sale of conventional explosives, as well as their import, export, possession and storage. The bill before us today would extend that coverage to plastic explosives. In particular, it will require the marking of plastic explosives. Once a marking agent is inserted, the explosives can be detected by existing vapour detection technology at airports and international crossings. Unmarked explosives and inventory must be destroyed within three years.

There are certain necessary but minor exemptions for military applications.

In addition, the bill imposes controls over the import, export, possession and transfer of plastic explosives in order to reduce the likelihood of their falling into the wrong hands.

As we saw with Air India, plastic explosives of various types have become the weapons of choice for terrorist groups around the world. These explosives are easy to hide. They are malleable; they can be sculpted to take virtually any form and fit into any space. They are not volatile. They are extremely powerful in terms of their ratio of weight to explosive impact. They are becoming more and more readily available. They can be detonated by timing or remote devices that allow the terrorist to be far away from the scene at the time of the explosion. Their impact is such as to guarantee media coverage, "the oxygen of terrorism" in Margaret Thatcher's memorable phrase, and to excite public attention and apprehension.

More important, their presence is virtually undetectable. A thin line of "Semtex," hardly visible to the naked eye but strategically hidden in luggage or electronic equipment, can have a devastating impact.

In addition to Air India 182, plastic explosives have been used in the Pan-Am Flight 103 that crashed at Lockerbee, Scotland and in UTA Flight 722 that crashed in Niger, Africa. Both crashes killed a total of 442 people.

Plastic explosives have also been used extensively on both sides in the Northern Ireland conflict.

Although plastic explosives were not used in the World Trade Center bombing, the Oklahoma City bombing or the string of biker bombings that recently occurred in Quebec and Ontario, there is no reason to think that these groups will not gravitate to plastic explosives as they become more sophisticated and as their targets harden.

The convention — and, in Canada, this bill — seek to remove this option. These amendments to the Explosives Act will allow police, airport security, customs officials and other authorities to detect the presence of plastic explosives. I am told these amendments can be implemented at virtually no incremental cost. The additive required to mark plastic explosives can be added inexpensively. Current detection equipment at Canadian airports can already identify the marking. No new equipment nor the retrofit of existing equipment is required.

Unfortunately, however, this act is just a step toward the resolution of the problem. Only six countries that produce plastic explosives, including Canada, with the proclamation of this bill, have ratified the convention. Several major producing countries, including the United States, have yet to do so. Even the most naive amongst us cannot expect the outlaw-producing states, those who actively support terrorism, to ratify or respect the convention.

The convention will not come into force until 40 states, including at least five producing states, ratify it. Some people despair that this will ever happen. There are those who would say then that there is no point, that Bill C-71 is just window-dressing, that unmarked plastic explosives will still be available to those terrorists and criminals who want them. However, we must start somewhere. Bill C-71, like other initiatives that have come before us, is simply another building block in the wall that Canada and the international community are building to control terrorism. There are holes in that wall, several huge, gaping holes, but they are progressively being closed by individual initiatives, such as the convention and Bill C-71.

We can be proud of the leadership Canada is showing. Again, Canada is among the first group of countries to put mechanisms in place to enforce the convention within our own borders and to try to reduce the threat of terrorism domestically and internationally.

For that reason, I urge the government to proclaim this bill as soon as possible after Royal Assent. As with most legislation, Bill C-71, through clause 4 to be exact, gives the Governor in Council the power to proclaim the bill and thus bring it into legal force and effect.

• (1510)

It is my understanding that the government of the moment does not intend to proclaim Bill C-71 until there are a sufficient number of states ready to ratify the convention and bring it into effect. Honourable senators, I believe that would be a mistake. This is good legislation, an important initiative. It makes sense on its own, separate and apart from the convention. We are a country which produces plastic explosives, although the amount is small in the international scheme of things.

This bill, when proclaimed, will put our own house in order. At least in this country, we will not be able to continue manufacturing plastic explosives which are undetectable. It seems reasonable that Canada should do what it can.

Why should we wait? Why not do it now?

Honourable senators, Bill C-71 is straightforward, non-contentious legislation. It is needed to implement an important international convention that has been designed explicitly to frustrate terrorists.

I urge this chamber to pass this legislation quickly. We owe the victims of Air India Flight 182 no less.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kenny, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

EMPLOYMENT EQUITY BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Losier-Cool, seconded by the Honourable Senator Marchand, for the second reading of Bill C-64, respecting employment equity.

Hon. Janis Johnson: Honourable senators, I rise today to speak at second reading debate on Bill C-64, respecting employment equity.

This bill was first tabled in the House last December, almost a year ago. Now after many months of committee hearings followed by debate, this legislation is before this chamber for our consideration.

I fully agree with the general purpose of Bill C-64, which is to achieve equality in the workplace and to correct conditions of disadvantage experienced by certain groups. However, I do have a few concerns with this legislation, which I will bring to the attention of senators after commenting on employment equity and the substance of the bill.

Once again, I want to state that I endorse the general principle behind this bill, the principle of employment equity. I believe it is essential to ensure equitable job access to the designated groups affected by the legislation. I feel strongly that we need to make sure that everyone who works in this country is treated fairly and paid fairly. All Canadians deserve a level playing field and one where there is full equality of opportunity for employment and promotion in the workplace.

Under the previous government, the Progressive Conservative administration worked hard in support of employment equity for all Canadians. I remind honourable senators that it was the PC government which introduced the Employment Equity Act in 1986. On October 3, 1985, the then minister of Employment and Immigration, the Honourable Flora MacDonald, said in the House of Commons with regard to the Employment Equity Act:

> This Bill is about opportunity, because employment equity is about opportunity, opportunity for Canadians everywhere to earn a decent living and participate fully in our society, opportunity for people to be judged by what they can do. It is a crucial step forward, the first major step in ensuring equal access to new opportunities for all Canadians.

The Employment Equity Act passed in 1986 was truly a positive first step forward. The former minister also stated in her speech on the Employment Equity Act:

> We —
>
> — referring to the Progressive Conservative government —
>
> — want to show all Canadian employers who are not federally regulated that the underlying principle of employment equity is a concept for the future.

She also made another key statement in her speech:

> We —
>
> — referring to the federal government —
>
> — intend to prove to employers and to all Canadians that employment equity is worthwhile.

Honourable senators, the Employment Equity Act passed in 1986, the act which exists in Canada today, has indeed brought to the attention of employers in our country that employment equity is worthwhile and that it is clearly a concept for today and the future. In fact, there is now a greater realization on the part of public and private sector employers that employment equity makes good sense. More and more businesses are adopting employment equity plans and practices.

The former Progressive Conservative government also made employment equity a part of human resources planning. All of these initiatives were important steps forward, but they were by no means the final steps to be taken.

The bill before us today, Bill C-64, aims to strengthen the existing employment equity law. The legislation is a further step toward ensuring equitable employment opportunities for four designated groups: women, aboriginal people, persons with disabilities, and members of visible minorities. The bill will continue to ensure that these groups have a fair chance in the work force, and that we have a work force in Canada which better represents our diverse society.

Honourable senators, I have raised statistics which strongly support the fact that the four designated groups are sadly underrepresented in most occupational categories and industrial sectors across Canada, even though there have been some gains with the passage of the PC government Employment Equity Act in the 1980s. You only have to read the latest Annual Report on the Employment Equity Act to understand where the designated groups fall.

Today, aboriginal people make up 3 per cent of the labour force in Canada, but only 1 per cent of the work force covered under this act. Persons with disabilities represent 6.5 per cent of the labour force, but only 2.5 per cent of the work force covered under this act. Women and members of visible minorities are underrepresented in all sectors covered under the act, except in banking, where there has been improvement over the years. These are only a few examples which show the significant underrepresentation of the designated groups in the workforce. In addition, members of designated groups tend to be concentrated in lower paying jobs, and the full-time average salary of women is only 74 per cent that of men. There still remains a great deal of work to achieve employment equity, but we are, however, on the right track.

I want to mention briefly some statistics which clearly show that we are on the right track in advancing the goal of employment equity. These are statistics which show progress has been made since the passage of the Employment Equity Act in 1986. The representation of women in the workforce covered under the act increased from 40 per cent in 1987 to 45 per cent in

1993. This increase over the seven-year period reflects the significant growth of this group's participation in the Canadian labour force. However, women continue to be overrepresented in clerical, sales and service jobs, and underrepresented in upper level management, blue collar and technical jobs — not to mention the boardrooms of the nation where women comprise a mere 9 per cent of the directors appointed to company boards in our country.

Progress for aboriginal people was substantially slower during the same seven-year period, 1987 to 1993. Their representation in the work force covered under the act increased by less than half a percentage point from .6 per cent in 1987 to 1.04 per cent in 1993.

The representation of persons with disabilities increased one percentage point between 1987 and 1993, and for visible minorities the increase was over 3 per cent. There have been some gains in the past as a result of our present Employment Equity Act. However, speaking as one who has been involved in disabled persons organizations, I know the special challenge that this area presents all concerned, and there is room for improvement, that is for certain.

The new employment equity legislation, Bill C-64, will cover all employers already under the present act. This category includes approximately 350 private sector employers and Crown corporations with 100 or more employees representing around 600,000 employees. They operate in federally regulated industries such as banking, transportation and communications. For the first time, Bill C-64 will place federal public service workers under the act. All separate employers in the public sector with 100 or more employees will fall under the act. This includes all federal departments and agencies. Subject to order of the Governor in Council, the legislation will also cover the Canadian Armed Forces and members of the former Royal Canadian Armed Forces.

• (1510)

In the past, public servants were not previously subject to the Employment Equity Act. They have, however, been subject to their own employment equity policies since 1986, and to the 1992 Public Service Reform Act. These initiatives have led to some achievements in the public sector.

Bill C-64 does not, however, cover Parliament as an employer. The House of Commons, the Senate and the Library of Parliament are not covered under the bill.

Honourable senators, in May of 1992, a special committee reviewing the Employment Equity Act, chaired by the Honourable Alan Redway, recommended the following in their final report:

> The scope of the application of the Employment Equity Act be broadened to include the federal public service; the RCMP; the Canadian Armed Forces; all federal agencies, boards and commissions; and Parliament, specifically the House of Commons, the Senate, and the Library of Parliament.

I should like clarification from the government as to why it is that Parliament is not covered under this bill. It is my feeling that Parliament, as an employer, should lead by example. Therefore, consideration should be given to finding a way to include Parliament as an employer under the bill, perhaps by order of the Governor in Council, as was suggested by the President of the Treasury Board.

Honourable senators, Bill C-64 clarifies employer obligations to implement employment equity. The legislation sets out core employment equity obligations, and it establishes the same core obligations on public and private employers for developing and implementing employment equity plans and programs. The legislation provides for monitoring and ensuring compliance of these provisions and verification for reasonable progress in achieving a representative workforce.

Another element of this legislation is that it gives the Canadian Human Rights Commission enforcement powers. This includes things such as audits, seizure of files, checking of records and setting up offices on a firm's premises. In addition, the Canadian Human Rights Commission will be allowed to issue compliance orders. If a compliance order is ignored, the Canadian Human Rights Tribunal, sitting as the Employment Equity Review Tribunal, could then issue a court order to an employer. Not responding to that order could result in a contempt of court prosecution. Bill C-64 imposes a fee, instead of the current criminal proceeding, for non-reporting.

Finally, the legislation will require employers to set "numerical" goals for the designated groups. It is this provision in the bill that has sparked some concerns.

These are some of the general elements that make up Bill C-64, some of which my colleague Senator Losier-Cool mentioned in her speech on the bill.

Honourable senators, I am concerned about the implication that this legislation will have on the private sector covered under this legislation. Will this bill create an administrative burden for businesses? Some people think so. Some say that the legislation will add further complications and costs to the conduct of business in Canada, money which could be better spent to achieve employment equity through other means such as education and training programs.

Under the new legislation, businesses will have to spend money to develop employment equity strategies, and federal government departments will have to do the same. What will all this cost, and is this the best use of business and government resources to achieve employment equity? It would be wise for us to examine the numbers in order to clarify just what effect this bill will have on the private sector.

Finally, should the authority for monitoring and enforcement of the Employment Equity Act lie with the Human Rights Commission? Some people say that it should not, stating that this authority should rest with officials in the Department of Human Resources Development, and that they will be better able to handle this responsibility. They are not bogged down with a heavy case-load already, as the Human Rights Commission often is, or so I have been told.

Another concern of mine is how this legislation will affect the "merit system," especially in the public sector. As we are all aware, the government is going through a period of significant downsizing. The fear is that downsizing in the federal government, coupled with new employment equity legislation, will lead to managers bypassing the merit system when making decisions to lay off employees. There is a real need to ensure that this does not happen.

Honourable senators, these are some of the concerns which have been brought to my attention regarding Bill C-64. Having mentioned them, let me be clear: There is no doubt in my mind that employment equity is necessary, and that I support the general purpose of this bill. I am certain that all senators share in the goal of employment equity for all Canadians, and I look forward to a closer examination of this legislation at committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Losier-Cool, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

PEARSON AIRPORT AGREEMENTS

SECOND REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the consideration of the Second Report of the Special Committee of the Senate on the Pearson Airport Agreements, (Address to His Excellency the Governor General requesting documents), presented in the Senate on Tuesday, October 17, 1995.—(*Honourable Senator Kirby*).

Hon. Michael Kirby: Honourable senators, I rise today to continue the debate started in this chamber two weeks ago by my colleague Senator MacDonald. At that time, Senator MacDonald moved the adoption of a report by the Special Committee of the Senate on the Pearson Airport Agreements.

That report asked His Excellency the Governor General to release to the committee the Treasury Board submissions made in August of 1993 by the then Minister of Transport, the Honourable Jean Corbeil. The requested Treasury Board submissions relate directly to the committee's mandate.

Simply put, the committee needs these documents. This committee was struck specifically to look into circumstances surrounding the cancellation of the Pearson airport deal. In fulfilling that purpose, early in its mandate the committee undertook to ask for all documents that were given to Robert Nixon for use in his preparation of what is known as the Nixon report. The committee felt, justifiably, that it should have access to the same information as Mr. Nixon had when he wrote his report.

That was the simple request made by the committee, and one which, seemingly, should have been easy to comply with. "Easy," however, has not become a word that one would associate with this committee. The reply came back from the Department of Justice that the committee could have all the documents given to Mr. Nixon except the Treasury Board documents. We could not have them because they had the status of confidential cabinet documents.

Ms Margaret Bloodworth of the Privy Council Office confirmed this view before the committee when she testified before the committee. Further, Ms Bloodworth stressed that the documents had been given to Mr. Nixon inadvertently. In other words, he got them by mistake. He was not supposed to have been given any documents that were cabinet documents of the previous government. Therefore, in essence, the committee was told that because Mr. Nixon should not have seen the documents, we could not see them either.

Yet a key focus of the committee's work and its term of reference is to look at the reasons why Mr. Nixon came to the conclusions he did. How can we possibly do this if we do not have access to the same information that Mr. Nixon examined? Moreover, the importance of these documents is highlighted by the fact that we know from the sworn testimony of Mr. Stephen Goudge, Mr. Nixon's legal counsel, that Mr. Nixon relied on the contents of these Treasury Board documents for some of his conclusions.

• (1530)

Mr. Goudge, in his appearance before our committee on September 28, said:

> Let me respond this way, senator....Did I derive support for some of the things in the...Treasury Board submission? Absolutely "Yes"; absolutely "Yes." I mean I did; there's just no question about it. When I put forward my memoranda to Mr. Nixon, parts of it relied heavily on what was in the Treasury Board submission.

Therefore, it seems to me, honourable senators, that the issue should be very simple. The committee's mandate is to look into circumstances surrounding the cancellation of the Pearson Airport Agreements. The Nixon report was a factor in the government's decision to cancel the contracts. The documents were a factor in Mr. Nixon's recommendations to the government and, therefore, the committee should be able to look at the documents. Yet the committee continues to be denied access to these documents on the grounds that we should not be given documents that are cabinet confidences. More important, the argument is made that giving us access to these cabinet confidences would set a bad precedent.

I reject this "setting a bad precedent" argument for the following reasons: First, the committee has not asked to look at any other cabinet confidences. Indeed, we have unanimously and in a completely non-partisan fashion supported the principle of the confidentiality of cabinet confidences. The committee only wants those documents because Mr. Nixon saw them, and because they influenced his decision. Had Mr. Nixon never seen the documents in question, the committee would not now be

asking for them. In fact, had Mr. Nixon testified that even after seeing the documents, he was not influenced by them, I doubt that the committee would be asking for them today. However, Mr. Nixon did see them and he was influenced by them, and that means that to fulfil its mandate, the committee needs them. Therefore, I continue to support the right of the committee to have these documents.

I also reject the argument that giving these documents to the committee is setting a dangerous or harmful precedent precisely because setting a precedent means that, if the same situation arises again, cabinet documents would have to again be provided to a parliamentary committee. Let us examine what would have to happen for an identical situation to arise again. First, documents containing cabinet confidences would have to be given inadvertently to someone who was not supposed to have them. Second, that person would have to say that he was significantly influenced by the documents. Third, a parliamentary committee would have to be put in place to conduct an inquiry into the subject-matter of the documents.

I submit, honourable senators, that the probability of those three things ever happening again simultaneously, of these precise circumstances being repeated in the future, is extremely low. Indeed, I submit the probability is virtually zero.

Therefore, I reject the argument that giving the committee these documents creates a harmful precedent, and, I say again, I support the motion that the committee should get these documents.

On the question of how to get these documents to the committee, however, I find myself in disagreement with Senator MacDonald and the majority on the committee. The process which the committee is employing to get the documents is wrong, in my view and that of my colleagues on the committee from this side of the chamber. These documents do not belong to the current government. These documents are Treasury Board documents, cabinet confidences of the administration of the Right Honourable Kim Campbell. Therefore, in my view, and the view of my colleagues on the committee, the committee should be asking Ms Campbell whether she is prepared to release them to the committee.

If Ms Campbell agrees — and I say parenthetically that I would expect her to because I have been told repeatedly and firmly by my colleagues on the other side of this chamber who serve on the committee with me that Ms Campbell has nothing to hide in this issue — I would strongly hope that the Governor General would be advised by his counsellors that there is no problem with releasing the documents to the committee.

Surely, honourable senators, the first step in the process is to ask Ms Campbell for the documents, not the current government through the Governor in Council. After all, these documents are papers pertaining to her government, not the current government.

Therefore, honourable senators, the only objection which Liberal members of the committee have on this issue is the process for obtaining these documents, not obtaining the documents themselves. For that reason when the issue was put to the committee, Liberal members of the committee abstained. In our view, if this report is adopted by this chamber, the only way in which this issue can be resolved at this time is for the Governor General to respond to the committee's request along the following lines: The documents sought are of a kind that are by practice not produced unless the previous Prime Minister has given consent. That is inevitably the kind of reply we can expect from the Governor General because that is the kind of reply Governors General have historically given when similar requests have been made by house committees in the past.

Of course, such an answer leaves the committee in the position where its next step must be to ask Ms Campbell whether she is willing to authorize the release of the documents. The members of the committee from our side of the chamber would like to deal with this problem appropriately by following the logical process. We believe that the committee should begin by asking Ms Campbell whether she is prepared to release the documents.

Accordingly, I shall move an amendment to the committee report that seeks to have the committee adopt the process of first approaching Ms Campbell.

In closing, honourable senators, I reiterate my belief that the committee has the right, and indeed the need, to see these documents. If Ms Campbell is agreeable to this request, and the government subsequently says that it is not agreeable to releasing the documents in question to the committee, I would then be more than happy to support Senator MacDonald in returning to this chamber with a report recommending that the request be put directly to the Governor General.

MOTION IN AMENDMENT

Hon. Michael Kirby: Honourable senators, I move:

> That the Report be not now adopted, but that it be amended by deleting the last paragraph thereof and replacing it with the following:
>
> > Therefore your Committee recommends that an inquiry be made of the Right Honourable Kim Campbell as to whether she is prepared to authorize the release of Submissions to the Treasury Board, dated August 1993, that relate to the redevelopment of Pearson Airport.

Hon. Finlay MacDonald: Honourable senators, may I ask Senator Kirby for some clarification?

Senator Kirby: Absolutely.

Senator MacDonald: I do not understand. Since when has a select committee the power to send for papers when the royal prerogative is involved?

Rule 133 of the Senate reads:

> When the royal prerogative is concerned in any account or paper, an address shall be presented to the Governor General praying that the same may be laid before the Senate.

That is the appropriate action which the committee recommends in its report. A select committee — our committee — has no power of enforcement unless such power is given to it by this house of Parliament. We cannot do this. We are in

violation of rule 133 of the *Rules of the Senate of Canada*. Does the honourable senator have any comments to make on that?

• (1540)

Senator Kirby: As honourable senators know, I am by no means an expert on the rules which govern this place. I do know that I cleared my amendment with the Table Officer. Thus, I understand that the amendment is in order.

However, my basic response to the honourable senator's question is the one that I made in committee. The reality is that the release of a document belonging to a previous government has to be approved by the Prime Minister of that previous government prior to it being released to the committee. All the members on our side have ever said is, "Let us ask Miss Campbell if she is prepared to release the document."

What I have said before in this regard is that if Miss Campbell agrees that the document should be released, I would very strongly support the honourable senator in his formal request to the Governor General for the release of the document. The reality is that the Governor General will not make a decision on this issue until Miss Campbell has pronounced her views on it. I feel quite strongly that what we ought to do is ask Miss Campbell for her opinion. The documents are her documents. That is the position we took in committee.

As I explained in my speech and in committee, the only reason the Liberal members abstained on the motion of the honourable senator was that we were afraid that, if we voted against it, we would be accused of trying to hide the documents. I think I made it abundantly clear today that I am totally on side with Senator MacDonald and the Conservative members on the committee in wanting these documents. I think that the process we are going through is the wrong process.

Senator MacDonald: Senator Kirby, your suggestion has the value of simplicity.

Senator Kirby: I realize that simplicity is a novel approach. However, we might try it for a change, just because it is a novel approach.

Senator MacDonald: We are working under the assumption that the Governor in Council, the Governor General, the Prime Minister and members of the Privy Council Office are all over 21 and that, presumably, they all have a high school education.

Senator Kirby: Are you suggesting that Miss Campbell does not?

Senator MacDonald: They now have the power to respond to our address. If that address suggests that they are willing to allow the documents to be disclosed on the advice of the previous administration, then we will take it from there. However, we will then have another situation on our hands: that will be whether or not the previous Prime Minister will invoke the tradition of not disclosing documents of a previous administration.

Senator Kirby: Senator MacDonald, I understand your point of view. For the benefit of other senators, I should like to be crystal clear as to what the issue is: The issue is that there are two clearances required in order to have the documents released. One is needed from the Prime Minister of the government whose documents they are, namely, Miss Campbell. As Senator MacDonald pointed out, the second is needed from the current cabinet through the Governor General, because an Order in Council would be required to release the documents.

Boiled down, our difference of opinion is purely: What is the logical sequence in which to approach this problem? We see no sense in asking the Governor General to release documents when he does not even know if the person who is responsible for those documents is prepared to release them.

Our view is that the logical and sensible way to approach the problem is, first, to ask Miss Campbell whether or not she is prepared to release them. If she says that she is, then we should proceed to ask the Governor General.

There is no disagreement between us about the need for the two steps. Our disagreement is with the fact that we seem to be going at the steps in the reverse order. The only conceivable reply that could come from the Governor General at the present moment is the one which I paraphrased in my notes. It is one which effectively says that the normal procedure is to first ask Miss Campbell. I think that is what we ought to do first.

We do not disagree on the need for the two steps. We simply categorically disagree on approaching the matter in what seems to be an extremely backward fashion.

Senator MacDonald: Senator Kirby, I know other senators will want to speak to this item. I want to thank you for the support you have given to the general principle that we are trying to establish; one with which we have had some difficulty. I enjoyed your remarks up to the point of the amendment.

On motion of Senator Kinsella, for Senator Murray, debate adjourned.

JOINT PARLIAMENTARY DELEGATION

OFFICIAL VISIT TO BRAZIL—INQUIRY—DEBATE CONCLUDED

On the Order:

> Resuming the debate on the inquiry of Hon. H. A. Olson calling the attention of the Senate to the official visit to Brazil of the Joint Parliamentary Delegation of the Senate and the House of Commons from April 15 to 21, 1995.

Hon. Finlay MacDonald: Honourable senators, if no other senator wishes to speak on this item, I would ask that the order be discharged.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Debate concluded.

INTER-PARLIAMENTARY UNION

SPECIAL SESSION OF INTER-PARLIAMENTARY COUNCIL ON FIFTIETH ANNIVERSARY OF CREATION OF UNITED NATIONS—INQUIRY

Hon. Peter Bosa rose pursuant to notice of Tuesday, October 3, 1995:

> That he will call the attention of the Senate to the Special Session of the Inter-Parliamentary Council, on the occasion of the 50th anniversary of the creation of the United Nations, held in New York City from August 30th to September 1st, 1995.

He said: Honourable senators, it is my privilege to speak to a report of the Special Session of the Inter-Parliamentary Council held in New York from August 30 to September 1.

Some 253 parliamentarians from 74 countries participated in this special event, which was held to mark the occasion of the fiftieth anniversary of the creation of the United Nations. My distinguished colleague Senator Andreychuk and I attended this conference, together with two members of the House of Commons, Mrs. Colleen Baumier and Mr. Maurice Dumas.

At the outset, I would like to express our thanks and appreciation to the officials from the Department of Foreign Affairs and from International Trade Canada, the Canadian International Development Agency and the Department of National Defence, who briefed our delegation prior to our departure. I would also pay tribute to the permanent head of the Canadian mission to the United Nations, Mr. Robert Fowler, and his colleagues for their briefing and assistance during the conference.

"The parliamentary vision for international cooperation into the 21st century" was the general theme for our meeting, which was held in the impressive General Assembly Hall. Our deliberations were divided into two subthemes: First, there was an agenda for democracy, peace and sustainable development; second, there was reinforcing and democratizing the structures for international cooperation.

Much of the work of the Canadian IPU Group focused on the second topic and, in particular, on the form of the Security Council. Our group was one of 22 which had submitted a memorandum entitled, "Reviewing and Strengthening the United Nations Security Council."

• (1550)

As you are aware, honourable senators, the Security Council has five permanent members, each with a veto, and 10 non-permanent members, five of whom are elected each year for a two-year term.

In our document, we pointed out that reform was pressing for two reasons: First, the permanent membership of the Security Council is less reflective of the reality of global power; and, second, many question its credibility as an impartial intervenor in situations that threaten common security because of the disproportionate influence within it of northern and especially North Atlantic states.

Honourable senators, our memorandum also referred to the work of our joint parliamentary committee on the foreign policy review, especially its comments on supporting an increase in the number of members of the council and greater transparency in its deliberations.

As the first speaker of the Canadian delegation, I made a strong plea for reform of the Security Council. I should like to mention some of the salient points in my remarks. Our first priority must be to improve the effectiveness and credibility of the council. Enhancing the council's transparency and procedures for consulting with troop-contributing nations would help achieve this goal. Recent UN efforts to change the process of consultation within non-council members and troop-contributing nations should be formalized and institutionalized.

In looking at increasing the size of the council, I mentioned two main requirements for membership: one, level of commitment and support of UN activities; and, two, geographic balance.

I believe that the council should include those countries prepared and able to contribute to emergency situations. It seems only fair and reasonable that countries who support and participate in peacekeeping operations ought to be involved in the decisions affecting their troops. Contributions to international security and other charter ideals should be a crucial factor in membership.

Honourable senators, numerous proposals have been put forward during the past year about how the membership of the council might be increased. I believe that the combination of elements from different proposals may offer the best solution. One interesting approach — and here I spoke in my personal capacity — is the idea of adding up to 10 rotating, non-permanent seats to be shared for two-year periods. Permit me to explain this proposal. We could achieve better geographic balance by allocating one seat to Africa, one to Latin America and one to Asia with the membership rotating among the countries within these regions. The remaining seven seats will be shared by countries which would best qualify under Article 23. The criteria for demonstrated commitment to the goals of the United Nations might include: contributions to peacekeeping operations; participation in voluntary funds for humanitarian activities; economic development and protection of human rights; and timely and full payments of UN assessments. I believe that this approach should help the council by harnessing the energies and capacities of a wider group of states, by allowing a broader range of representation, and by including those countries most supportive of its activities.

Although the response to our intervention was reasonably positive, the Final Declaration, which must be adopted by consensus, took a cautious approach to the issue of reform of the Security Council. It acknowledged that "the Security Council needs reform to make it more representative and democratic while at the same time sustaining its authority and effectiveness." It also stated that "its membership should be increased."

However, the drafting committee could not agree on a formula for how such reform might be achieved, a division which I believe reflects the continuing differences of opinion among many members of the United Nations. The concluding document also mentioned the need for greater transparency, noting that "Mechanisms should be found to render the work of the Council more transparent."

Honourable senators, the Inter-Parliamentary Union is the international organization which brings together the representatives of the parliaments of sovereign states. I think it is particularly fitting that this organization, which has been described as "the parliamentarians' UN," should celebrate this fiftieth anniversary by examining how to reinvigorate the United Nations system as well as ways to increase parliamentary involvement at both the national and international level. Let us pledge our support for strengthening links between the United Nations and the Inter-Parliamentary Union.

The Hon. the Acting Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

PRIVILEGE

Hon. Anne C. Cools: Honourable senators, it had been my intention to raise a question of privilege. It had been my expectation that the Speaker, Senator Molgat, would be in the Chair. If senators are in agreement, I shall wait until Senator Molgat is back in the Chair to raise my question of privilege.

The Senate adjourned until Wednesday, November 1, 1995, at 1:30 p.m.

THE SENATE

Wednesday, November 1, 1995

The Senate met at 1:30 p.m., Senator Eymard G. Corbin, Acting Speaker, in the Chair.

Prayers.

SENATORS' STATEMENTS

NOVA SCOTIA

CONGRATULATIONS TO DR. JOHN HAMM ON ELECTION AS LEADER OF PROVINCIAL PROGRESSIVE CONSERVATIVE PARTY

Hon. J. Michael Forrestall: Honourable senators, I did not rise yesterday because the momentum and the rejoicing of the day belonged to those who had worked so very hard on the campaign in Quebec. They deserved their day in the sun. They deserve our thanks and appreciation. I, too, would join with the remarks made yesterday in praise of those who worked so hard, and I say that without demeaning in any way the legitimate aspirations of the Quebec people.

Had I risen yesterday, it would have been to extend congratulations to the new leader of the Progressive Conservative Party in Nova Scotia, Dr. John Hamm. We have had a number of good party leaders over the years. Names such as Stanfield, Buchanan, Cameron, Donahoe, and Angus L. Macdonald come to mind. I am presently reading *The Man from Halifax: Sir John Thompson* and enjoying it immensely. Nova Scotia does indeed produce great leaders.

Our party is the only political party in Nova Scotia that was successful, on the very first try, in opening up the phone lines to ensure that all members had their say on who should lead our party. This vote does not have to be rescheduled. In contrast to recent performances by the present Premier of Nova Scotia, John Savage, we released and announced proudly the results of the vote.

No comparisons need be made, honourable senators, between Dr. Hamm and Dr. Savage. Indeed, none could be made. Dr. Hamm's outstanding capacity to understand and to deal with people needs no elaboration. Dr. Hamm believes in consulting with the people and then — and only then — prescribing the cure. With Dr. Savage, it happens the other way around.

As Dr. Hamm presented a five-point plan to the thousands of Tories who gathered in Halifax and at other gathering points throughout the province, he very aptly demonstrated his preparedness and his eagerness to get down to work alongside Nova Scotians to the betterment of our somewhat beleaguered part of Canada by the sea. I know that Dr. Hamm will do well.

• (1340)

I extend as well my congratulations to Mr. Jim White and Mr. Michael MacDonald, who ran very able campaigns. It was from Michael MacDonald that I learned that kilts, in some form, have been around forever. However, they did not come into fashion until many centuries after the Irish had been proudly wearing them.

My colleague Senator Comeau has stated that those willing to answer the call of public duty are to be congratulated, revered and honoured. It is a difficult task. I invite my colleagues to join me in expressing to this new leader in our political structure in Canada our best wishes and good health in the years that lie ahead.

NATIONAL UNITY

RESULT OF QUEBEC REFERENDUM

Hon. L. Norbert Thériault: Honourable senators, I should have made this statement yesterday. I should probably speak in French, but I want all of my colleagues to understand.

For the past 10 days, I have lived through a new experience. I was in Quebec for a few of those days, and on Monday night I watched the results of the referendum in Montreal. For the first hour and a half of the broadcast on the results, I had to either sit down or have someone help me stand up.

Honourable senators, I wish to join with those who have commented on the Quebec referendum. I especially want to join in congratulating Jean Charest for his tremendous passion and his demonstration of love for Canada and Quebec. His contribution will never be forgotten.

Hon. Senators: Hear, hear!

Senator Thériault: Specifically, to my English-speaking colleagues, Canadians in every province and every corner of the country have shown their affection, tolerance and generosity in the last week of the campaign, especially last Friday in Montreal. As Senator Perrault stated yesterday, we were saved from an execution, merely saved.

Today, I appeal to all honourable senators and to the people of Canada to react in the next few weeks as they would have reacted had the results been minus one vote for Canada. It is that close. I do not know what the Prime Minister will say or do. I hope that whatever it is, it will have the cooperation of all political parties — this goes beyond political partisanship — and be sufficient to show Quebecers that we really want them to be part of Canada. I speak as a francophone. I want to be part of Quebec, not physically, perhaps, but in my heart, and I am sure French-speaking Canadians living outside of Quebec feel the same.

Quebec is important. Canada without Quebec is not my Canada. The Atlantic provinces without Quebec — I hate to think about that prospect. Therefore, in the next few days and weeks, please show your generosity. Support the political leaders. If something is to happen, it must be done collectively by the political leaders of this country, wherever they may be.

There are people in Canada, as there are people in Quebec, who are prepared to say "let them go." Please resist that temptation. Be generous in your hearts, souls and minds. Let all of us hope together that we, as Canadians, can prove and show to Quebec that Canada depends on them to a large degree, and that they are part of us and we are part of them.

Hon. Senators: Hear, hear!

CITY OF WINNIPEG

TRIBUTE TO SUSAN THOMPSON ON RE-ELECTION AS MAYOR

Hon. Terry Stratton: Honourable senators, I wish to change the topic slightly.

I rise today to pay tribute to Susan Thompson on her election to a second term as Mayor of the City of Winnipeg. Ms Thompson was first elected in 1992 on a mandate for change and a freeze on taxes. The status quo fought tooth and nail against change — any change. They had had their way for a long time. However, slowly, this neophyte mayor, without any prior political experience, has effected change.

On October 25, 1995, Ms Thompson was elected again on a mandate of change and again on a mandate to hold tax increases to an absolute minimum if a freeze was not acceptable. The citizens of Winnipeg realized that change was required if the city was to move forward into the next century in a cost competitive position. However, more importantly, she imparted a positive vision of the future. Winnipeg will host the Winter Cities Conference in 1996. Winnipeg will host the Pan-American Games in 1999. Winnipeg strives for the type of economic growth that brings jobs. In other words, she imparted a positive, upbeat vision of the future.

For this, I thank her. I can only hope that the leaders of this country can impart a similar vision for Canadians, who have just stated, quite clearly, that this is their vision; positive, upbeat, loving and caring for their country, their Canada.

HARBOURFRONT LITERARY FESTIVAL OF AUTHORS

Hon. Janis Johnson: Honourable senators, I wish to draw your attention to the annual Harbourfront Literary Festival of Authors. It was held this year from October 11 to 21. I rise today to comment on this festival due to my deep interest in Canada's cultural affairs and as a member of the Senate Transport and Communications Committee. In its sixteenth year, the festival enjoys an elevated status in the literary world. Authors and their agents and editors are honoured to attend.

As a non-literary guest of this year's festival, I want to commend the festival committee, staff and the volunteers for bringing 65 of the world's finest poets, novelists, biographers, playwrights and children's authors to Toronto for meetings and interviews. The roster was impressive; from our own Mordechai Richler, Pierre Burton and Margaret Atwood, to Australia's Thomas Keneally, America's Richard Ford, Chile's Ariel Dorfman, England's Margaret Drabble, James MacKay; Dennis Brutus from South Africa, Orhan Pamuk from Turkey, Joanna Trollope, and Yevgeny Yevtushenko from Russia, to name but a few.

The attendance was excellent, the writers accessible. I personally witnessed my friend, Thomas Keneally, accept the memoirs of an elderly Jewish man who wanted his story told by talk books.

People attended in large numbers, bought books and renewed their excitement about literature and the written word, whether it was Canadian literature or literature from other parts of the world.

• (1350)

Mr. Greg Gatenby, the artistic director and powerhouse behind the festival, should be commended for his tremendous vision, his tireless efforts and his commitment to making the Harbourfront Literary Festival a world-class affair. I should add here that the Harbourfront continues to sponsor weekly readings throughout the year that are open to the general public. I urge honourable senators to attend this event next year or during the year and see why Canada is becoming world renowned in the arts and, in this case, in the world of words, of books which tell the stories that give nations their written heritage, history and soul. We certainly need more of this at this time in our country's history.

FIREARMS BILL

Hon. Ron Ghitter: Honourable senators, it is with pleasure that I extend an invitation to all of you to join the senators who will be travelling to the west and the Yukon in order to receive input relative to Bill C-68.

We have received numerous requests from Western Canada, the Yukon and the territories from people who have not been able to come before either the House committee or our committee to express their views. Groups of senators have decided that we will be travelling to several areas, and I wish to extend an invitation to all honourable senators to join us. A group of us will be in the Province of Saskatchewan on Monday, November 6 and 7, in Regina and Saskatoon; in different locations in the Province of Manitoba on November 6, 7, 8 and 9; in Vancouver, British Columbia on November 9 as well, and in Kamloops on November 10; in Whitehorse, Yukon, on November 12; in Edmonton on November 14; and on Wednesday, November 15, we will be in Calgary.

I might add that the witness lists are full and overflowing with various groups and individuals who wish to come and express their points of view. You are also most welcome to come and join us and take the opportunity to hear Canadians who have not had the opportunity to come to Ottawa to express their points of view.

NATIONAL UNITY

REFLECTIONS ON REFERENDUMS AND PROMISES

Hon. Richard J. Doyle: Honourable senators, Murray McLaughlin is the ranking troubadour of the far west — the far west of the province of Ontario, that is. In *The Farmer's Song*, Murray McLaughlin comes right out and says: "Things just ain't what they used to be." It should not take a carload of pundits from the CBC, the *Citizen*, *The Globe and Mail* and *La Presse* to define and refine the line of such a superbly lyrical aphorism. Only two days after the referendum, which denied the Parti Québécois' bid for sovereignty, things, surely, just ain't what they used to be.

Before we move on, however, it might be wise to make a little list of the way things used to be, before we forget some of the mistakes and stupidities that got us where we are 15 years after the historic first vote on a process of separation. We might come up with rules like these for future campaigns. First, don't fill the air with promises you have no intention of keeping. Mr. Trudeau did that in his impassioned fight with René Lévesque, and followed it by slamming the door on every formula for his home province beyond those of his own invention.

Rule two: Don't court defeat of sensible and well-intentioned attempts to bridge deep divisions with reasonable accords by inviting dedicated critics to launch their destructive campaigns in these very chambers. The former prime minister came here "to speak for the record" as he described it. The record shows this:

> I am terrified of Meech Lake. I think it is a Rubicon. Once you have crossed it, you cannot go back. You march on to Rome.

Rule three: Make careful notes of the differences in what people say from time to time, from issue to issue, and from opportunity to opportunity. Note how sovereigntists, for instance, right up to last Monday, cited the defeat of the Meech Lake Accord as a tragic put-down and denial of their province. Then recall how sovereigntists — they were called separatists 15 years ago — opposed the Meech Lake accord when the House of Commons, the Senate and all but two of Canada's legislatures advocated affirmation of its careful purpose.

Rule four: Beware of those who would thwart the nation's best intentions just to serve their own ambitions. Not all of these self-servers have been members of governments, although it is fashionable to blame them. Consider the posturing in the media, in academe and in the union hall. Be careful lest we are left in our legislatures with pollsters, expediters and smug mandarins in place of those who should govern.

Rule five: Those of us who believe that true federalism, sensibly balanced by progressive regionalists, will best serve Canada must not permit the doomsayers to discourage us. There is a busy market for colourful pessimism today. We should remember that, early on in this campaign, Mr. Parizeau spoke of 50 plus one as all the backing his followers needed to take over. Our jar is more than half full. Jean Charest spoke Tuesday of a partnership of optimism that could serve us tomorrow — and that could be served itself by the willingness of the people of Canada to become involved when they see that they are wanted — yea, needed — to hold the country together.

Armed with rules based on recollection, and filled with hope also based on recollection, we are in good shape to start the journey.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT COMMITTEE TO TABLE FINAL REPORT

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, pursuant to rule 58(1)(*f*), I give notice that on Thursday, November 2, 1995, I will move:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

• (1400)

CANADIAN NATO PARLIAMENTARY ASSOCIATION

NORTH ATLANTIC ASSEMBLY—REPORT OF CANADIAN DELEGATION TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the ninth report of the Canadian Delegation of the Canadian NATO Parliamentary Association on the North Atlantic Assembly Seminar of the Working Group on Northern Security Issues, which was held in Copenhagen, on September 25-26, 1995.

NATIONAL UNITY

RESULT OF QUEBEC REFERENDUM—NOTICE OF INQUIRY

Hon. Donald H. Oliver: Honourable senators, I give notice that on Tuesday, November 7, 1995, I will call the attention of the Senate to the results of the referendum of October 30, 1995, in Quebec.

[*Translation*]

QUESTION PERIOD

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

INCREASE IN LOCAL TELEPHONE RATES—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, yesterday the CRTC announced — and I already see some signs of relief that my question does not concern the referendum, for the time being — that there would be an increase in monthly rates for local calls. As you know, the decision had been made.

Cabinet had decided to ask the CRTC, as it is entitled to do by law, that the decision be reconsidered. We know who is going to pay for this decision: the little guy, the less well-off, people for whom the telephone is often their only means of entertainment. These are the arguments I used when I was sitting in the other place. The CRTC's decision is contrary to what the government really wants to do.

Does the minister intend to ask the government to reject this latest decision by the CRTC?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the question will undoubtedly be discussed by the government. The results of that discussion will be known when a decision is made.

[*Translation*]

NATIONAL UNITY

QUEBEC SITUATION FOLLOWING REFERENDUM—GOVERNMENT POLICY

Hon. Jean-Claude Rivest: Honourable senators, my question concerns the post-referendum period. Yesterday, the Prime Minister of Canada called a cabinet meeting to discuss the consequences of or the Canadian government's reaction to the referendum in Quebec. I imagine we can expect another referendum to be held in Quebec, almost certainly as soon as next year.

Is the minister in a position to inform the Senate of certain elements of the policy that the Canadian government is about to adopt, or has already adopted, to deal with Quebec and the other regions in Canada, and the fact that the referendum vote was extremely close and has brought the country to the brink?

Does the Canadian government finally intend to adopt a policy on the Quebec situation — a policy along the same lines or not, but in any case a policy — as the Prime Minister at the time, Mr. Brian Mulroney, did, and who acted very responsibly in this respect?

Since the present government was elected, we have not heard a thing. The country has been brought to the brink. Could the minister inform the Senate that the government has finally realized there is a problem?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, a number of questions were contained in my honourable friend's comments.

Clearly, the Government of Canada — and Canadians generally — have been galvanized in recent weeks by the situation in Quebec. Indeed, they have responded with their hearts, their minds and their passions in conveying messages to Quebec which would indicate the depth of our feeling that our Canada is incomplete, is unrecognizable, without the Province of Quebec. That is fundamental.

My friend raises the question of another referendum. That is, of course, a judgment which will be made in another place; not on Parliament Hill, and certainly not by the Canadian government. I believe it would be the hope of us all that such a situation would not occur, but that is not for our judgment; that is not our decision to make.

The Prime Minister and those who spoke so eloquently during the referendum — Mr. Charest, Mr. Johnson, Madam Robillard and others — made it clear that tomorrow's agenda for Canada will be one of change; change that will respond to concerns in Quebec and change that will respond to concerns across Canada, because many of the concerns are shared.

The Prime Minister spoke on three occasions of special commitments to the Province of Quebec. He did so most recently on the night of the referendum. He will find a way to fulfil those commitments in the period immediately ahead.

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—ALLEGATIONS OF MISMANAGEMENT—STOPPAGE OF FUNDS—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is for the Leader of the Government in the Senate and concerns allegations of financial and administrative mismanagement at the Cornwallis Park Development Agency in Nova Scotia. Senator Forrestall and I will be pursuing this matter over the coming sessions. Senator Forrestall has had to leave the chamber for another engagement, but I have a couple of questions I should like to ask.

Can the minister confirm that there will be no further disbursement of funds from ACOA to that agency until the allegations and the issues have been resolved?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it is my understanding, from questions I have asked of the ministry, that the concerns are being looked into and the funding has been halted or is in abeyance until those issues are resolved. When they are resolved, funding will be restored.

CORNWALLIS PARK DEVELOPMENT AGENCY—CIRCUMSTANCES SURROUNDING APPOINTMENT OF BOARD OF DIRECTORS—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, perhaps the minister is aware that the all-party Cornwallis Committee, voluntary and unpaid, which was in place for a number of years prior to the change of government, was disbanded by her colleague David Dingwall and replaced by a board of directors. Can the Leader of the Government tell us who appointed the members of this newly created board? Perhaps she could also tell us whether there is any truth to the allegation that the local member of Parliament, Harry Verran, chose those people himself.

• (1410)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am aware that the Cornwallis Park Development Agency is a not-for-profit organization which is guided by a board of directors. However, I am not aware of the process for the appointment of members to that board, either at present or in the past.

CANADA POST CORPORATION

DELAY IN DELIVERY OF MAIL—GOVERNMENT POSITION

Hon. Edward M. Lawson: Honourable senators, my question is directed to the Leader of the Government in the Senate.

On approximately October 25, 1995, I received six or eight pieces of mail dated April 16, 18 and 19, 1993, from British Columbia, other places in Canada and the United States. They were sent on the dates mentioned, yet surfaced in my mailbox only last week.

Would the Leader of the Government determine from the minister responsible for Canada Post the reason that such an event could take place? Am I likely to be charged storage for the two and a half years that these letters languished in the Canada Post system?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it must have been a very slow horse. Obviously, I have no personal or direct knowledge of this matter.

ORDERS OF THE DAY

PEARSON AIRPORT AGREEMENTS

SECOND REPORT OF SPECIAL COMMITTEE—ORDER STANDS

On the Order:

> Resuming the debate on the consideration of the Second Report of the Special Committee of the Senate on the Pearson Airport Agreements, (Address to His Excellency the Governor General requesting documents), presented in the Senate on Tuesday, October 17, 1995.

And on the motion in amendment of the Honourable Senator Kirby, seconded by the Honourable Senator Corbin,

> That the Report be not now adopted but that it be amended by deleting the last paragraph thereof and replacing it with the following:
>
> > Therefore your Committee recommends that an inquiry be made of the Right Honourable Kim Campbell as to whether she is prepared to authorize the release of Submissions to the Treasury Board, dated August 1993, that relate to the redevelopment of Pearson Airport.—(*Honourable Senator Murray, P.C.*)

Hon. Lowell Murray: Honourable senators, I ask that this order stand, with the added comment that if any other honourable senator wishes to intervene, they should feel free to do so today or on any other day during which this order stands in my name. I will be ready to speak to the matter in due course.

ONTARIO COURT GENERAL DIVISION

MOTION TO STRIKE SPECIAL COMMITTEE TO EXAMINE AND REPORT UPON THE CONDUCT AND BEHAVIOUR OF CERTAIN OFFICERS AND JUSTICES—DEBATE ADJOURNED

The Senate proceeded to consideration of the motion of the Honourable Senator Cools, seconded by the Honourable Senator Carstairs:

> That a Special Committee of the Senate be constituted to examine and report upon the conduct and behaviour of certain justices and barristers of the Ontario Court of Justice (General Division), raised by the Honourable Senator Cools in her speeches on Parliamentary Privilege in the Senate in terms of:
>
> (i) failing to take judicial notice of the Law of Parliamentary Privilege, the Constitution of Canada, and the laws of Canada pertaining to the Senate;
>
> (ii) failing to uphold and enforce the said laws, and the immunities and privileges of the Senate;
>
> (iii) interfering with and frustrating the enjoyment and exercise of the said laws, immunities, and privileges;
>
> (iv) inducing failure to observe and comply with the said laws, immunities, and privileges;
>
> (v) impeaching proceedings in Parliament;
>
> (vi) threatening sanctions on the vindication of the said laws, immunities, and privileges;
>
> (vii) their conduct and behaviour generally relating to the Law of Parliamentary Privilege, the Constitution of Canada, the independence of the judiciary, constitutional comity, the dignity of the Senate, and the due administration of justice;

That the Committee be further empowered to consider and report upon related matters which may concern the privileges of the Senate;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee be composed of seven members, four of whom shall constitute a quorum; and

That the Committee of Selection be instructed to decide and report upon the membership of the Special Committee.—(*Honourable Senator Cools*)

Hon. Anne C. Cools: Honourable senators, I rise to speak to this motion, which has been on the Order Paper now for more than a year.

Honourable senators, parliamentary privilege is a matter of high constitutional importance, and one that rests at the heart of our system of government. The moral and political responsibility to uphold and defend parliamentary privilege is a moral imperative which is recited in the *Rules of the Senate*.

Honourable senators, my purpose today is to raise matters of high constitutional principle which I believe are cause for action by the Senate. At stake are the fundamental principles of a parliamentarian's ability to attend to the business of a free Parliament without let, hindrance, interference or threat, as is guaranteed by the *Lex et consuetudo Parliamenti*. At stake also is the twin fundamental principle that the courts of justice have a duty to enforce the law of privilege, and a duty to obey the laws of Canada and to proceed as the law and Constitution direct.

The practice of lawlessness by judges, barristers or courts of justice is a matter for parliamentary intervention, particularly when such individuals express by their behaviour, actions and words, profound and utter contempt for Parliament.

I propose that a special senate committee be constituted to afford the persons involved full and sufficient opportunity to meet my accusations in a full and fair inquiry of the Senate; to satisfy the notions of natural justice and judicial independence; and to examine the evidence supporting my accusations and assertions of contempt of Parliament, breach of parliamentary privilege and conduct prejudicial to the constitutional order.

My accusations are directed against Mr. Justice Theodore Matlow of the Ontario Court, General Division, and barristers Anne Molloy, Bruce Drake, Eva Frank and Robin Basu. The complaints against Anne Molloy touch two other judges, Judge Lee Ferrier and Justice Douglas Lissaman.

Honourable senators, the constitutional struggles of the seventeenth century culminated in the statutory recognition of Parliament's privileges, rights and immunities in the Bill of Rights, 1688. That great statute settled the existence and status of parliamentary privilege for all time, stating:

> ...Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament.

and:

> ...all and singular the Rights and Liberties asserted and claimed...are the true, ancient, and indubitable Rights and Liberties of the People...and so shall be esteemed, allowed, adjudged, deemed, and taken to be...and...shall...remain, and be the Law...for ever;

The Bill of Rights, 1688, is the law of Canada by reception through the BNA Act, 1867, section 18. The courts are bound, at their own initiative and unprompted by Parliament, to protect, uphold and enforce the law of privilege in all judicial proceedings, independent of any parliamentary action to exercise its own inquisitorial, punitive or judicial powers.

The most eminent modern jurist, Lord Alfred Denning, in 1958, asserted this view that the Bill of Rights, 1688, is an instruction to the courts, saying:

> I regard those words as a clear direction to the courts of law.

and:

> ...the Bill of Rights is directed to the courts of law. It directs them not to question proceedings in Parliament.

In other words, the courts of law must proceed in accordance with the direction of the law.

The British North America Act, section 18, and the Parliament of Canada Act, sections 4 and 5, direct the courts to take judicial notice of Parliament's privileges as part of the general and public law of Canada, and to esteem and adjudge accordingly. Section 5 of the Parliament of Canada Act states:

> The privileges, immunities and powers held, enjoyed and exercised in accordance with section 4 are part of the general and public law of Canada and it is not necessary to plead them but they shall, in all courts in Canada, and by and before all judges, be taken notice of judicially.

Honourable senators, some judges and lawyers persist in provoking and testing the powers and the strength of nerves of Parliament. I should like to cite two recent precedents of Parliament's assertion of its own privileges. The first is from our own House of Commons and the then Speaker, the Honourable John Fraser, and concerns the use of judicial and legal pressure against members of Parliament in the exercise of their parliamentary privileges. On May 19, 1989, the Honourable John Fraser urged that Parliament not tolerate such activity. Concerning what he described as:

> ...undue pressure...brought to bear upon the Member for the purpose of questioning his right to claim parliamentary immunity...

he said that such actions are:

> ...in total disregard of...established and...verifiable parliamentary law...

The Speaker of the House of Commons, Mr. Fraser, was clear and unequivocal. From the Chair, he said:

> Let me state for the record that the right of a Member of Parliament to refuse to attend court as a witness during a parliamentary session...is an undoubted and inalienable right...

and:

> ...I take a serious view of the action of a member of the legal profession in questioning the right of a Member of Parliament to claim immunity from appearing as a witness and alleging that a court, and not Parliament, had the power to make a determination in such a case.

Honourable senators, the second precedent is Australian, and relates to events surrounding two 1984 Senate committee inquiries into the activities of a justice of the High Court of Australia. During judicial proceedings relating to these inquiries and cognate matters, two other justices, Justice Cantor and Justice Hunt, repudiated and denied the Bill of Rights, 1688, and denied the Senate's privileges. The Australian Senate, led by the Senate President Senator Douglas McClelland, took conclusive action and introduced a bill entitled the Parliamentary Privileges Bill to defeat the judgments, rulings, reasoning, and actions of those judges. On tabling the legislation on October 7, 1986, the president said:

> It is an unprecedented step for a Presiding Officer of a House of the Parliament to introduce a Bill...

He said, however, that his Parliamentary Privileges Bill declaring the powers and privileges of Parliament was necessary "to avoid the consequences" of the court judgments.

• (1420)

The Australian Senate was unequivocal in its statutory initiative. The bill and its accompanying resolutions addressed some of the very issues of breach of parliamentary privilege that I have raised. This bill upheld the privilege of a member's right not to attend any court or tribunal on any day that the member's house or committee is sitting. It declared the matters to be treated as contempts of Parliament, including the service of legal process in the precincts of Parliament, disobedience of orders of the Senate, obstruction of orders of the Senate, molestation of senators, improper influence of senators, and interference with the Senate, stating:

> A person shall not ... interfere with the free exercise ... or ... the free performance by a Senator of the Senator's duties as a Senator.

and:

> A person shall not, by ... intimidation, force or threat of any kind ... induce a Senator to be absent from the Senate...

Honourable senators, I believe the law of parliamentary privilege has been breached recently in Canada. The breaches have manifested themselves by, first, the instituting of court proceedings for the purpose of adjudication on parliamentary privilege and the actual adjudication of same; second, the threat of an exercise of judicial sanction and censure in the exercise of a senator's privilege; third, the compulsion by the Ontario Court (General Division), by court orders, of a senator's attendance in court on Senate sitting days, including during actual Senate sittings; and fourth, the compulsion by the Ontario Court (General Division), by court orders, of service of court documents and legal processes requiring personal service in the precincts of Parliament without leave of the Speaker of the Senate of Canada.

Honourable senators, I assert that a justice of the Ontario Court (General Division), Mr. Justice Matlow, employed his judicial office and powers to offend Parliament. He used his judicial station, judicial office, and judicial authority to commit acts which are in contempt of Parliament. He ruled to proceed on a Senate sitting day, Tuesday, June 14, 1994, with a court hearing requiring this senator's attendance and requiring an adjudication on parliamentary privilege. In proceeding, I assert that Mr. Justice Matlow conducted improper, vitiated and unconstitutional proceedings. He conducted corrupt proceedings. He committed a legal and constitutional breach of his office and a breach of his judicial oath.

POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order. If I heard correctly, Senator Cools has made some very serious allegations regarding members of the judiciary. I should think that this language is unparliamentary. I have heard the word "corruption" and other words attributed to a judge in a particular case in which she has an interest.

Senator Murray: Where is the government? They should be defending the judiciary.

Senator Lynch-Staunton: We ask respect for ourselves as parliamentarians, and we should show respect for another essential branch of government, the judiciary.

Your Honour, I would ask you to ask Senator Cools to retract those comments.

The Hon. the Acting Speaker: I must confess that I was not listening as attentively as I ought to have been, as I was checking some documents. I do apologize. However, I was under the impression earlier that Senator Cools was quoting from precedents.

Senator Lynch-Staunton: Senator Cools was quoting Lord Denning and others, but she has gone through that. Now she is speaking for herself.

The Hon. the Acting Speaker: Perhaps we ought to let the debate proceed, and I will pay close attention to the honourable senator's comments.

Senator Lynch-Staunton: Thank you, sir.

Hon. Anne C. Cools: Honourable senators, that is what I said. In proceeding, I assert that Mr. Justice Matlow conducted improper, vitiated and unconstitutional proceedings. He conducted a corrupt proceeding. He committed a legal and constitutional breach of his office and a breach of his judicial oath.

Senator Lynch-Staunton: Your Honour, I hope you heard this time. A judge is alleged to have conducted an improper and corrupt proceeding.

Senator Cools: Yes.

Senator Lynch-Staunton: Surely there is a limit to the freedom of speech in any assembly, including this one, when the judiciary is being so seriously attacked, with such malice and without any support or proof whatsoever. If there is a problem with judges, there are other avenues for correction, and this is the last one that should be used.

Senator Kinsella: The Minister of Justice.

The Hon. the Acting Speaker: Order, please. May I bring to honourable senators' attention — Senator Cools, would you resume your seat, please.

I should like to draw honourable senators' attention to Beauchesne's Sixth Edition, page 150, quotation 493, dealing with protected persons:

> All references to judges and courts of justice of the nature of personal attack and censure have always been considered unparliamentary, and the Speaker has always treated them as breaches of order. Members have been interrupted in Committee of the Whole by the Chairman when they have cast an imputation upon a judicial proceeding.

Honourable senators, I am informed by the Table Officers that His Honour, the Speaker of the Senate, has already cautioned honourable members in their references to judges and courts of justice in those terms. I do not know if we have located that caution voiced by His Honour, but I take it for a fact that he has cautioned honourable senators.

Therefore, I would invite Honourable Senator Cools to be very careful in her choice of words in describing judiciary proceedings. If Parliament has rights and privileges, so do the courts. I believe that both Houses of Parliament have always been extremely careful in their pronouncements on persons or proceedings of the courts. I think it would be wise to be guided by that long-standing practice.

Senator Kinsella: Good decision!

Senator Cools: Honourable senators, His Honour, the Speaker of the Senate, in a rather extensive ruling last July, settled the questions to which you are referring and settled the very question that Senator Lynch-Staunton has raised. Perhaps the Chair could give us some direction and refer directly back to His Honour's statements at the time. It is my clear understanding that, at that time, His Honour reviewed the very document that you have just raised and the very issues that Senator Lynch-Staunton raised, and made clear to the entire chamber that one must speak about a judge within a particular context of a particular kind and quality of motion. It is my understanding that I have fulfilled all the legal and constitutional requirements, but perhaps His Honour the Acting Speaker could share with us the ruling made at that time.

• (1430)

The Hon. the Acting Speaker: We do have the citation from the Speaker's ruling of July 11, 1995. I am quoting from *Minutes of the Proceedings of the Senate* at page 1163.

I am at a disadvantage here, not having dealt with this issue myself, but I will quote to you the Speaker's words:

> For my part, it would seem that while reflections on a judge's character are not permitted as a general rule of debate since the people occupying these positions are described, according to Beauchesne in citation 493, —

— which is the citation I just quoted —

> — as "protected persons" and to do so is unparliamentary, precedent shows that it is permissible to make such reflections if it is done by way of a substantive motion.

Senator Cools: Precisely.

The Hon. the Acting Speaker:

> Senator Cools has given appropriate notice and made such a motion. Although the motion does not specifically call for the removal of a judge of a superior court, the rules do not indicate this is necessary at this point. Parliament has the constitutional right to request the dismissal of a judge, and I would hesitate to interfere with this right in any way.

In any case, I believe that all honourable senators should conduct themselves in a way that is beyond reproach, considering that the people who are being accused or — I do not want to use the phrase "put on trial" — attacked, or placed under suspicion, are not here to defend themselves. It seems to me that it is a sound parliamentary rule to be extremely cautious in our choice of terms.

Things can be said differently, but surely people have a right to their own defence. That is impossible to do when one is not present to hear what is being said about oneself, which is a basic parliamentary courtesy. I would invite Senator Cools, who is an experienced parliamentarian, to be, in case of doubt, extremely careful in her choice of words.

Senator Cools: I thank the Acting Speaker very sincerely. Since we are speaking about the exercise of care and caution by parliamentarians not to cast reflections upon one other, perhaps I could ask Senator Lynch-Staunton to explain to this chamber what he meant by my speaking about a case in which I have an interest? This has been raised before.

The Hon. the Acting Speaker: The debate upon this point of order cannot go on forever. I would invite Senator Cools to use up the rest of her time on her motion.

Senator Cools: I have no idea how much time I have had. I would like to make a statement, to wit: It is tiresome and hurtful for certain senators to keep referring to cases in which I have a personal interest, when there are no cases before the courts, and have not been for a substantial amount of time.

Senator Lynch-Staunton: Your Honour, my understanding is that Senator Cools has asked me a question.

Senator Cools: You did not respond, and he said it was not necessary. He said that I should continue.

The Hon. the Acting Speaker: Order, please!

Senator Lynch-Staunton, are you rising on a further point of order?

Senator Lynch-Staunton: I am willing to answer Senator Cools' question about the case to which I was referring. I want to reassure her that my understanding of her complaint is based on the case in which she was recently involved in Toronto. As I recall from what she told us, she had a problem in that she was summoned to appear before the court at the same time that she had duties before the Senate. That is the case to which I was referring. If I am wrong, I take it back.

Senator Cools: Please do.

Senator Lynch-Staunton: I have to admit that I have much difficulty following Senator Cools' argumentation on her problems with the judiciary.

Senator Cools: I am pleased and happy that you are taking back your comment, senator.

The Hon. the Acting Speaker: Senator Cools, I will allow you to respond to the point of clarification. Earlier you inquired of the Chair as to how much time you have left. You have spoken for 10 minutes. Discounting the time for points of order, there are five minutes remaining in your time.

Senator Cools: Very well. I would ask leave of honourable senators to adjourn this matter.

It is very disturbing when people constantly impugn one's integrity. The only issues that I have ever raised in this chamber regarding this matter are the issues that concern this Senate and this chamber. I have never raised any other issue other than the issues of breach of privilege and contempt of Parliament. I am obviously a little agitated, so I would request leave to adjourn the debate and continue it tomorrow.

On motion of Senator Cools, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, November 2, 1995

The Senate met at 2:00 p.m., Senator Eymard G. Corbin, Acting Speaker, in the Chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

NATIONAL UNITY

AFTERMATH OF QUEBEC REFERENDUM—
EXPLANATION OF COMMENTS IN PRESS

Hon. Lise Bacon: Honourable senators, I have always lived by the same rule in my political life and since my arrival in Ottawa: Speak to journalists as little as possible.

Yesterday, when leaving the Liberal Party caucus — through the main door where danger always lurks — I met a journalist.

I do not wish to insult the reporter, Huguette Young of The Canadian Press, but I should like, nevertheless, to explain to honourable senators the questions that were asked of me and the responses that were given because, of course, in a short article there are only a few of the answers and none of the questions.

To Ms Young's question, "Do you think it will be symbolic?" — here she was speaking of the actions to be taken on Quebec and the distinct society — I told her we had not yet reached that stage, that there would be important decisions to be made shortly, and that discussions were under way with a view to meeting Quebecers' expectations.

To another question, "Will the decision be less than Meech?", I responded that I did not think it would be less, because at Meech Quebecers were listened to.

I added, however, that at Charlottetown, people were at least on the same wavelength, and that the Prime Minister of Canada will make the decision that meets Quebecers' expectations. It seems to me that I repeated that answer three times.

I just wanted to give honourable senators a little more information than what was reported in the newspaper, and I will continue to follow the golden rule of talking to reporters as little as possible.

[*English*]

TRANSPORT

CANCELLATION OF WINTER FERRY SERVICE BETWEEN
YARMOUTH, NOVA SCOTIA AND BAR HARBOUR, MAINE

Hon. Gerald J. Comeau: Honourable senators, I rise today to express my concern regarding the questionable future of Marine Atlantic's winter service between Yarmouth, Nova Scotia, and Bar Harbour, Maine.

Marine Atlantic announced on September 7 that it was cancelling winter sailings of this vital transportation link between southwestern Nova Scotia and New England. The decision was made without the benefit of any impact studies or analysis as to the effect cancelling the service would have on the economy of western Nova Scotia.

Apparently recognizing the consequences of making such a hasty announcement, the date of cancellation was extended from October 10 to December 31 to provide time for the provincial government to do an impact study, which I understand has been done. Although I applaud the decision of the Province of Nova Scotia to undertake such a study, which I had asked for last June, I am equally appalled by the statements of the Premier of Nova Scotia, John Savage, who commented that, "It's now up to the community to demonstrate...the case for retaining the ferry during the winter months." What kind of leadership is this? Why is the premier not out there supporting the people of southwestern Nova Scotia?

I remember when the federal government first floated this idea of providing six-month service between Yarmouth and Bar Harbour. I was the member of Parliament for that region at that time. I also remember the response of the then Premier of Nova Scotia, who is now one of our colleagues in this chamber, Senator Buchanan. He stood up to the Prime Minister at that time and stated that the reduction of service was wrong.

Now we have a premier who refuses to stand up for Nova Scotians. He simply says "use it or lose it." Perhaps he is taking this approach to keep his federal leader happy. Perhaps this is the new national policy, similar to the introduction of tolls on our national highway system, a policy which has been implemented without the benefit of debate in Parliament. Who knows? Perhaps Premier John Savage has gone so far as to tell the Prime Minister not to stick his neck out for this one, because in his mind the service is gone, come hell or high water.

I can tell the premier that this is low water, because the people of southwestern Nova Scotia deserve better representation than that. There are people who will stand up and fight for this ferry service, which is essential to the economic stability of all Nova Scotians. Nova Scotians need a leader who will stand up and fight for their province, whether it is for gun control, ferry service or helicopters, not one who is concerned about keeping his political friends in Ottawa happy.

Fortunately, Nova Scotia will have such a leader after the next election, when the PC party under its new leader, John Hamm, will provide true representation on behalf of the people.

[*Translation*]

NATIONAL UNITY

AFTERMATH OF QUEBEC REFERENDUM—
COMMENTS OF JOHN NUNZIATA, M.P.

Hon. Marcel Prud'homme: Honourable senators, my remarks are for the entire Liberal caucus. I hope Senator Fairbairn listens to my words carefully.

I knew John Nunziata well when I was a member of the caucus of Liberal MPs and senators. I even chaired the caucus and had some difficult moments under the leadership of John Turner, a very respectable man. I repeat, John Turner is a highly respectable man.

I think that today, John Nunziata overdid it a bit, but then, we know John Nunziata. I sincerely hope I am heard by the government leader in the Senate, who sits in cabinet and in the caucus, and by all Liberals. I would hope, as well, that at least one or two of them would rise to dissociate themselves totally from these remarks, which are absolutely unacceptable as we go through a major crisis in Canada, where every word counts.

I am not, I repeat, particularly sensitive to insult. I am not nervous, but I do know the effect of each word and of the comments made by Mr. Nunziata yesterday. Regardless of whether we agree or disagree with the former premier of Quebec, Mr. Parizeau, or with Mr. Bouchard, Mr. Nunziata's comments are completely unacceptable.

If ordinary citizen John Nunziata makes such remarks, I have to say that I and all French Canadians in Quebec could not care less. However, when eminent Liberal and former Liberal leadership candidate John Nunziata makes such remarks, I consider that they reflect on the entire caucus of Liberal senators and MPs. I would like someone to call him to order.

In Mr. Pearson's time, such remarks would have been deemed unacceptable. When a member such as Mr. Cohen made somewhat similar remarks, he was not only called to order, he was shown the caucus door. I do not think I am exaggerating here.

I am not asking as much. I do sincerely hope that, as we go through a major identity crisis, people will at least have the necessary understanding. These remarks certainly do nothing to improve harmonious relations among the various people making up Canada. I still believe that Canada is the best country in the world.

[*English*]

ROUTINE PROCEEDINGS

EXPLOSIVES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Colin Kenny, Deputy Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, November 2, 1995

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred the Bill C-71, An Act to amend the Explosives Act, has, in obedience to the Order of Reference of Tuesday, October 31, 1995, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

COLIN KENNY
Deputy Chairman

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

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

[*Translation*]

BUSINESS OF THE SENATE

ADJOURNMENT—MOTION STANDS

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

That when the Senate adjourns today, it do stand adjourned until Monday, November 6, 1995, at eight o'clock in the evening.

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

Hon. Senators: Agreed.

[*English*]

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, perhaps the Deputy Leader of the Government would provide an explanation of the pressing business before the chamber that requires the attendance of senators next Monday evening.

Senator Prud'homme: Senator Carney will be upset!

Senator Graham: Honourable senators, that is a legitimate question, because normally we sit Tuesday, Wednesday and Thursday, although it is provided that our normal sitting days are Monday to Friday. Of course, when we sit Tuesday to Thursday, we must seek leave.

However, there are several outstanding matters which will be taken under consideration, presumably next week and the rest of this week. There is the further consideration of Bill C-69 and of the motion of the Honourable Senator MacDonald with respect to certain papers relating to the Pearson airport inquiry. As the honourable senator knows, there is the possibility of pursuing the establishment of a joint committee with respect to matters relating to the Department of National Defence and the reserves, and a report that was to be submitted to Parliament on October 31.

We also have some bills for second reading, and they will either be dealt with today or will carry over to next Tuesday. Certainly, Bill C-7 falls into that category and possibly one of the other bills, if other senators want to speak to them. Two bills will be receiving first reading today and, perhaps, second reading next week; namely, Bill C-61 and Bill C-103.

As well, honourable senators, we will be heading into the long holiday weekend. Barring unforeseen circumstances, we will take the normal parliamentary break the following week. We would like to ensure that all honourable senators, if we dispatch our legislation, our duties and responsibilities expeditiously, will be able to depart Ottawa in time to avoid the heavy weekend traffic.

Senator Kinsella: Honourable senators, in order to prepare for next week, can the Deputy Leader of the Government provide a little bit more specificity? Is it the deputy leader's understanding that honourable senators will be able to make their travel plans for the Remembrance Day ceremonies in their various regions on the basis that they will be able to leave Ottawa on Thursday? In other words, we will sit Monday, Tuesday and Wednesday and, if all goes well, can we expect to leave this place on Thursday?

• (1420)

Senator Graham: Honourable senators, as you know, the Deputy Leader of the Government is always anxious to accommodate all honourable senators, particularly those who reside in the remote areas of the country. I would be most anxious to see that they are so accommodated. Without making any definitive promises, I would hope that we would be able to deal with all pressing matters now before the Senate in due course and with dispatch.

Senator Kinsella: Can I take it, then, that at least a self-fulfilling prophecy dynamic is operating — in other words, by coming in on Monday, the expectation is that we will be able to leave on Wednesday?

Senator Graham: Honourable senators, as the Acting Deputy Leader of the Opposition knows, there have been discussions on both sides. I have already explained what the proposals may be. If we do complete our business on Wednesday, we would be able to make plans to depart on Thursday. If not, we will complete our business on Thursday and will be able to depart on Friday. If that does not happen, then we will complete our business on Friday and, hopefully, get home for Remembrance Day ceremonies, wherever they may be in the country, on Saturday.

Senator Doody: What about Christmas?

Senator Graham: I am not making any promises this far in advance about Christmas.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I was in Senator Graham's position long enough to know that it is very difficult, if not impossible, to give firm, long-term schedules. On the other hand, it is only fair to the members of this chamber that they know what can be expected for the next seven days. There is nothing on the agenda that is so pressing that the deputy leader could not at least say that we can plan to travel to our ridings on Wednesday night, in order to be there to meet responsibilities on the Remembrance Day weekend.

However, to leave us hanging like this, saying that if we do not do something on Wednesday we will be here on Thursday or Friday, is very unfair to members on both sides. We are only talking about next week. There is nothing on the agenda so pressing that we cannot commit ourselves to coming here on Monday night, in order to allow ourselves to be in our ridings on Friday and Saturday for Remembrance Day ceremonies.

Senator Graham: It was conveyed unofficially, prior to the sitting, to the Acting Deputy Leader of the Opposition that it would be my hope —

Senator Lynch-Staunton: We do not want hope; we want a commitment.

Senator Graham: — that if we conduct the business of the Senate as we should, then all honourable senators can make plans to be home for Remembrance Day.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, it does not matter to me whether we sit on a Monday night, Sunday morning, a Sunday night, Saturday, at Easter, on Christmas day or whenever. I will be here. It seems to me that as sensible adults we should be able to reach an understanding. I do not necessarily agree with Senator Lynch-Staunton, but I fail to understand why we have these incredible last-minute changes regarding when we are supposed to sit or not supposed to sit.

I have made all kinds of commitments. I mention this because of the referendum we just had. I have started a series of meetings in Montreal. I think that in the future we may need a more reliable schedule.

Some of us take it for granted that we sit from Tuesday to Thursday. I think we should try not to make commitments on those days. By the way, next Wednesday marks the 30th anniversary of Warren Allemand's election. I hope the Liberals will attend the celebration. I am announcing that on Wednesday, November 8, he will celebrate 30 years in politics. I will be there for the celebration. I intend to make a speech. This is not an invitation to come and listen to me speak. I can get to the Senate and then go back to Montreal.

I am thinking of other senators. I really fail to understand why we are being asked to sit Monday night. I understand that the bill on electoral boundaries readjustment is being held up in the House of Commons. When I talked to Senator Nolin and the people who are working on this, I realized that the bill was being held up in the House of Commons. I no longer understand our agenda. I wish there were some consensus on the agenda. Why do we sit and why do we not sit?

The Hon. the Acting Speaker: Honourable senators, there is a problem with the audio system. It is suggested that we adjourn for five or ten minutes until the problem is cleared up.

[*English*]

Apparently there is no interpretation. Perhaps we should put the sitting on hold until the problem is corrected —

Honourable senators, I have a new announcement to make. It seems that the system is now functioning. Therefore the sitting continues.

Honourable senators, we are now dealing with the motion of Senator Graham. If there are no further interventions, I will put the motion to the house.

Hon. Herbert O. Sparrow: Honourable senators, perhaps I missed something in the interpretation on the question that was asked by the previous speaker. Is the Deputy Leader of the Government in the Senate prepared to state that unless there are unforeseen circumstances, the Senate will adjourn next Wednesday for the weekend?

Senator Graham: Honourable senators, I was about to respond to all honourable senators that it is possible we could adjourn by Wednesday. I am sure that all honourable senators would appreciate that if those of us who have the responsibility of making decisions for the Senate or recommendations to the Senate are to err, we would err on the side of Monday, rather than Thursday or Friday. It is hoped that we will be able to complete our work on Wednesday. In fact, it is conceivable that we may do so.

Senator Kinsella: Honourable senators, for the greatest clarity for everyone, perhaps the Deputy Leader of the Government could review the work that must be done next week.

Senator Graham: Honourable senators, perhaps I should delay the adjournment motion and we will see how the debate unfolds. If honourable senators are agreed, I will move the adjournment later today.

Motion stands.

• (1430)

AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-61, to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Tuesday, November 7, 1995.

EXCISE TAX ACT INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-103, to amend the Excise Tax Act and the Income Tax Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Tuesday, November 7, 1995.

SUPREME COURT OF CANADA

DECISION ON PRIVILEGES OF THE COURT—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1) and (2) and 57(2), I give notice that I will call the attention of the Senate to a decision of the Supreme Court of Canada, privileges of the court, and the learned judgment rendered by the distinguished Justice, the Honourable Mr. Justice Peter deC. Cory.

[*Translation*]

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. Jean-Louis Roux: Honourable senators, I draw your attention to the fact that, on October 19, Montreal's city council

unanimously approved a resolution asking the Senate to quickly pass Bill C-68, the gun control legislation.

[*English*]

PRESENTATION OF PETITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to present a petition on behalf of 49 citizens of Perth, Ontario, who ask that the Senate withdraw all support for Bill C-68.

QUESTION PERIOD

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—ALLEGATIONS OF MISMANAGEMENT—RESPONSE OF MINISTER

Hon. Gerald J. Comeau: Honourable senators, yesterday, I asked a question to the Leader of the Government in the Senate regarding the Cornwallis Park Development Agency, the mandate of which is to attract businesses to the area in the wake of the closing of the base at Cornwallis. Given the fact that we are talking about very large sums of taxpayers' dollars — somewhere in the vicinity of $20 million — could the Leader of the Government tell us what steps her colleague Minister David Dingwall has taken to address the serious allegations regarding the operations of the agency, including reports that assets have been leaving the base, such as church pews which have ended up in the church attended by the local member of Parliament.

I do not take exception to churches obtaining church pews. However, having them wind up in the church attended by a member of Parliament raises some questions. This has taken place in spite of the fact that all assets were to have been frozen until the deed was transferred from the Department of National Defence to the Cornwallis agency.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot respond to the specifics of my honourable friend's questions concerning the pews. I should be more than happy to receive from my honourable friend any of the news reports to which he has referred.

As I said yesterday, this is a locally established not-for-profit agency. Concerns have been raised similar to those my honourable friend is raising today, with respect to internal administration matters within that agency. I am advised that ACOA has subsequently undertaken an audit of the operations of the agency. When the problems are resolved, the funding will be restored. At the moment, the funding stands in abeyance, as my honourable friend knows.

Senator Comeau: Honourable senators, I would be happy to send to the Leader of the Government the information and the sources of the information which I have obtained.

CORNWALLIS PARK DEVELOPMENT AGENCY—REQUEST FOR INVESTIGATION BY AUDITOR GENERAL—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, given that $20 million is a rather large sum of money, could the leader advise us as to whether the Auditor General has been asked to investigate the questions and the allegations pertaining to the internal administration of the agency and the board of directors?

Hon. Joyce Fairbairn (Leader of the Government): I cannot answer that question today, honourable senators. I will attempt to do so later.

I have just conveyed the information that ACOA itself is undertaking an audit, and I imagine it will be allowed to continue and come to its own conclusions.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

USE OF GOVERNMENT AIRCRAFT

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 97 on the Order Paper — by Senator LeBreton.

CANADA POST CORPORATION

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 101 on the Order Paper — by Senator Comeau.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed to Orders of the Day, with respect to government business and the bills before us, as a courtesy to all honourable senators and at the request of the opposition, there will be a slight variation with respect to the order in which government business will be called today. I emphasize that this is at the request of the opposition.

• (1440)

Therefore, honourable senators, we will proceed with Item No. 1, Bill C-105, then Item No. 4, Bill C-102, and then revert to the normal order as on the Order Paper. Therefore item No. 2 becomes No. 3, and No. 3 becomes No. 4, and then the Order Paper will follow as it is printed.

ORDERS OF THE DAY

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1995

SECOND READING

Hon. Peter Bosa moved the second reading of Bill C-105, to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of

Trinidad and Tobago, and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

He said: Honourable senators, I appreciate the opportunity to speak today to Bill C-105, the Income Tax Conventions Implementation Bill, 1995. This is a piece of work-a-day legislation that I hope will receive speedy passage by this chamber. It is not a contentious bill.

Bill C-105 implements reciprocal income tax conventions between Canada and Latvia, and Canada and Estonia, and amends the 1966 convention between Canada and Trinidad and Tobago. It also contains a protocol amending the current income tax treaty between Canada and Hungary. At present, Canada has 55 double taxation treaties with other countries. Passage of Bill C-105 will increase that number to 57.

Tax conventions are designed with two main objectives: to avoid double taxation on income tax and to prevent income tax evasion. Not all tax treaties, however, require parliamentary approval. If the end result of a tax matter is already provided for under the Income Tax Act, then no legislative authority is required. An example would be an agreement confirming the tax-exempt status of airline and shipping profits under the Income Tax Act. Since double taxation treaties do, in fact, change the effect of domestic legislation, particularly the Income Tax Act, they always require parliamentary approval, as do amending protocols.

Canada began negotiating tax treaties when the 1971 income tax reform legislation required Canada to expand its network of double taxation conventions with other countries. While there is a lengthy process involved in negotiating a tax treaty, no legislative authority is needed to negotiate and sign a tax treaty relationship with a particular country. However, three primary factors are taken into consideration when Canada decides to negotiate a tax treaty with another country: First, how much Canadian investment is planned for a country is considered; second, Canada's interest in wanting to encourage economic reforms in that country is weighed; and third, the interest in that country in expanding its trade and economic relations with Canada is also looked at.

The decision to pursue a tax treaty can also result from an announcement in a budget. The 1992 and 1993 budgets, for example, each contained relevant measures. The 1992 budget contained an announcement that Canada was willing to reduce its withholding tax on direct dividends to meet international norms. Then it was announced in the 1993 budget that Canada was willing to eliminate its withholding tax on specific royalties to ensure the competitiveness of our technological industry.

Bill C-105 addresses the dual issue of fair taxation and good international relations. These tax treaties and the protocol are similar to conventions already concluded by Canada and approved previously here in this chamber. Each treaty has been negotiated individually, and has taken into account each country's relevant policies. In addition, the treaties in Bill C-105 are all patterned after the Model Double Taxation Convention prepared by the Organization for Economic Cooperation and Development.

Bill C-105 also provides an equitable solution to the double taxation problems that exist between Canada and these countries. Double taxation occurs where international transactions result in the same income being taxable in the hands of the same person by more than one country.

Further, the protocol with Hungary brings that treaty in line with current Canadian tax policy regarding withholding task rates, a matter I will discuss in a moment.

For the treaties with Estonia, Latvia, and Trinidad and Tobago, here is a brief summary of what Bill C-105 provides: There will be a 5 per cent withholding tax rate on dividends paid to a parent company and on branch profits, and a 10 per cent withholding tax rate on interest and royalties. For Trinidad and Tobago, management fees are also included. A withholding tax rate of 15 per cent will apply on other dividends.

There are also a number of exemptions in regard to interest. For Estonia and Latvia, interest to the governments, the central banks, the Export Development Corporation and from sales made on credit will be zero-rated. For Trinidad and Tobago, interest paid for government indebtedness, on loans or credit from the Export Development Corporation, and to pension funds will also be zero-rated.

Any future changes that Estonia and Latvia may extend to other OECD countries concerning the withholding tax on copyright and patent royalties will also be extended to Canadians. Trinidad and Tobago will maintain the exemption on copyright royalties.

Pension payments will be taxed at a maximum rate of 15 per cent in the source country, as will annuity payments in Trinidad and Tobago. War pensions in Trinidad and Tobago will be exempt.

In addition, social security pensions will be taxed in the originating country, and the withholding tax rate on annuity payments will drop to 10 per cent.

Two matters apply specifically to Trinidad and Tobago: There will no longer be a two-year exemption for visiting teachers, and seasonal workers earning under $8,500 will not have to pay Canadian tax.

The protocol negotiated with Hungary is somewhat different in that it amends an existing tax treaty between Canada and Hungary. This treaty reduced the withholding tax rate to 10 per cent on dividends paid to a parent company, and 15 per cent in all other cases. Canada's willingness, as announced in the 1992 budget, to reduce its withholding tax on direct dividends to 5 per cent led to the protocol included in this bill. Bill C-105 subsequently reduces that rate, and the rate of branch tax to 5 per cent by 1997. There are no changes in the rate of withholding tax on other dividends.

In an increasingly interdependent, open, global economy, reciprocal tax treaties make sense. They are important tools for countries. The benefits tax treaties provide in helping to stabilize tax systems foster international trade and investment, which are very important in today's environment.

There will be no revenue loss to Canada from the concessions contained in these conventions. Along with gaining from increased trade and investment, we will also gain from the reduced withholding tax rates and other concessions granted by the treaty partners.

• (1450)

As I said earlier, there is nothing contentious in this bill, and I urge honourable senators to give it speedy passage.

Hon. John Sylvain: Honourable senators, I do not see a need to speak in great detail on the bill at this point. I believe my colleague opposite has given an extensive description of its main provision. It would be my suggestion that the appropriate place to examine this legislation in detail is in committee.

I do, however, have one question regarding this bill. It has to do with the legislative process it followed in arriving in the Senate. Canada has negotiated about 60 tax treaties with various countries in the past. Many, if not all of these, have been given effect by bills such as the one before us today. As senators will recall, the most recent one in this chamber was Bill S-9, the Canada-United States Tax Convention bill. This bill was introduced first in this chamber and then passed on to the other place — somewhat the reverse of what usually occurs.

Honourable senators, when I learned that Bill C-105 had been introduced first in the House of Commons, I was curious as to why this change of process from Bill S-9, and I had some research done into the question of the traditional route for bills of this nature. The question was: Is it the House of Commons first or the Senate first? I was surprised to learn that one must go back a great many years to find a bill of this nature being initiated in the House of Commons.

Honourable senators, my question is directed to the Leader of the Government in the Senate, or to the Deputy Leader. Why the change in procedure with respect to Bill C-105? Why did the government decide not to initiate this legislation in this chamber, as has been done with many previous bills of this kind?

Honourable senators, please understand that this is not just idle curiosity on my part. It has been a long-standing complaint of senators on both sides of this house that the manner in which legislation flows is at times less than optimal. It has been stated often that this house could be better utilized, and the legislative calendar better managed, if more bills were initiated in this place. It would balance the flow. The decision to break with past practices in relation to this taxation convention bill causes me to think that the government of the day thinks otherwise.

Apart from this question, honourable senators, I repeat that I believe this legislation can best be examined before committee where departmental officials can be called upon to speak to the details of the bill.

The Hon. the Acting Speaker: Honourable senators, I am not sure if Senator Bosa is responding to a direct question or if he is rising to close debate on second reading. If he is indeed rising to close debate, I should advise honourable senators that that would have the effect of closing the debate on second reading of this bill.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I should like to address the questions raised by my honourable colleague Senator Sylvain. If Senator Bosa, the sponsor of the bill, has that information, perhaps he could relay it to the Deputy Leader of the Government. However, if Senator Bosa speaks again, as the Acting Speaker has told us correctly, the debate will be over.

There is an issue of principle here, although I suppose it does not relate to the principle of the bill. However, the principle is that, in the past, these kinds of bills have always been initiated in the Senate. This bill today represents a change in that practice, and when there is a change, we would like to know the policy behind that change. Perhaps those who are supporting this bill would share with us why there has been a change of policy.

Senator Bosa: Honourable senators, I agree with Senator Sylvain that this is a different practice. In all my years in the Senate, we have always dealt first in this chamber with such legislation. Why this practice has now changed and why the bill was initiated in the House of Commons is a mystery to me at this moment. This legislation was given to me recently, and I am as anxious as Senator Sylvain to learn in committee why this change in practice has occurred.

With that in mind, honourable senators, I move that Bill C-105 be referred to the Standing Senate Committee on Banking, Trade and Commerce.

The Hon. the Acting Speaker: Senator Bosa, the Chair recognized you to respond to a question, but now you are making a motion to refer the bill to committee.

Senator Sylvain: Honourable senators, before we close the debate on this matter, Senator Bosa has said that he could not respond right now. Perhaps he would be good enough to respond as soon as possible, and give us the reasons why this change has been made.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Bosa, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[*Translation*]

CUSTOMS ACT
CUSTOMS TARIFF

BILL TO AMEND—SECOND READING

Hon. Céline Hervieux-Payette moved second reading of Bill C-102, to amend the Customs Act and the Customs Tariff and to make related and consequential amendments to other acts.

She said: Honourable senators, I welcome this opportunity to open the debate on second reading of Bill C-102, to amend the Customs Act and the Customs Tariff.

Honourable senators will recall that this bill proposes major tariff changes that will greatly benefit Canadian businesses and consumers in the long run. These changes include the enhancement to Canada's duty deferral programs and tariff reductions on a wide range of manufacturing inputs, which will improve the competitive position of Canadian industry by lowering input costs.

Bill C-102 provides for the updating of travellers' exemptions. This measure, combined with other measures contained in the bill, will facilitate the processing of travellers and help our customs officers to focus on real priorities like cracking down on smugglers and processing our growing commercial imports.

The legislation also contains several technical changes that will help improve the customs tariff's application. One of the most significant changes in this regard deals with the value for duty of imported goods.

Honourable senators, at second reading, my honourable colleague described in some detail the main tariff changes contained in this bill. I will therefore simply restate the provisions in question.

• (1500)

[*English*]

I will commence with the reduction of tariffs on a wide range of manufacturing inputs.

This amendment will enhance the competitiveness of Canadian producers, both internationally and within Canada, by removing a competitive disadvantage that currently burdens Canadian manufacturers vis-à-vis their U.S. competitors. It will do this by reducing to U.S. levels tariffs on some 1,500 imported manufacturing inputs.

Right now, the discrepancy between Canadian and U.S. tariff rates negatively affects Canadian manufacturers, mainly in export markets. Exporters are reimbursed for their input duty through what is known as "duty drawback". However, existing duty drawback entitlements will end in January 1996 under a NAFTA commitment. Because we want Canadian exporters to enjoy the full benefit of our free trade agreements, we are bringing our tariffs on inputs into line with those of the United States.

Another key provision of this bill is the enhancement of Canada's duty deferral programs which defer duties on import goods pending their formal entry into Canada, in situations where those inputs are ultimately destined for export from Canada. Canada currently has three duty deferral programs: duty drawback, inward processing, and bonded warehousing. For some time, Canadian business has been urging the government to make these programs more competitive and comparable to those of our major trading partners. The bill before us responds to that need. By enhancing, streamlining and consolidating our duty deferral programs, it will lower costs for Canada's exporters, and make our programs more easily accessible by small and medium-sized business.

I want to emphasize that these changes enjoy broad industry and regional support.

Related to the duty deferral amendments is a change to the Access to Information Act. This change protects the confidentiality of taxpayer information provided by the importing community under the Custom Act, Customs Tariff, and the Special Import Measures Act.

A further amendment set out in this legislation is essentially an updating measure. I am referring to the increase of duty exemptions for Canadians travelling abroad. Travellers' exemptions are adjusted periodically. However, our exemptions have not been increased since 1983. As a result, they are currently out of line with exemptions provided by our major trading partners. This bill will raise the levels of exemptions as follows: to $50 from $20, after a 24-hour absence; to $200 from $100 after 48 hours; and, to $500 from $300 after seven days, with the once-a-year limit being dropped.

These changes will benefit travellers and streamline customs operations. They are also consistent with the Canada-U.S. Accord on Our Shared Border, to permit travellers and goods to move easily across the Canada-U.S. border. The new travellers' exemptions are already operating without disruption or revenue loss.

The bill also contains measures to streamline Canada Customs' clearance procedures under what are known as "basket tariff items." This system replaces thousands of existing categories of goods with as few as 12 categories. As a result, collection of duties from travellers at the boarder could be speeded up by more than 50 per cent.

In addition to the amendments I have discussed, this bill contains a number of other changes of a largely technical or housekeeping nature. Most will serve to clarify the intent of existing customs and tariff provisions. Perhaps the most

important of these deals with the value for duty of imported goods. It is essential that Canada's valuation rules not be vulnerable to manipulation or abuse. The valuation amendment will clarify our existing policy, that goods must be valued on the basis of the price actually paid by the Canadian importer. Without such clarification, there is a risk that goods could be valued according to the price between two foreign parties. This could mean lower customs' values, and with it, lower duties and taxes. This was clearly never intended under the GATT Valuation Code.

The amendment is consistent with, and will serve to clarify, Canada's longstanding policy on valuation, a policy which is in complete conformity with our international commitments. Our major trading partners, who have long been aware of Canada's approach to valuation, are aware of our proposed amendment, and have not raised any concerns about our policy or the amendment.

I would now like to point out to my honourable colleagues that the legislation does contain one tariff increase. The British preferential tariff is being withdrawn from certain rubber footwear, thereby restoring the 20 per cent most favoured nation tariff rate. Former British preferential tariff imports will now compete on the same basis as other foreign suppliers.

At the same time, I would note that the bill allows for future improvements to preferential tariff treatment for the world's poorest developing countries.

To sum up, this legislation is about promoting competitiveness, increasing exports, and enhancing employment prospects for Canadians. Not surprisingly then, the great majority of Canadians affected by these changes will welcome them.

I therefore strongly urge all my colleagues in this chamber to support this bill.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, as you know, trade is the motor of the Canadian economy.

Last year, our exports of merchandise and goods totalled $220 billion, more or less the equivalent of one-third of every dollar we earn in this country. This year, our exports are again expected to reach record levels.

[*English*]

Indeed, exports have doubled since the former Progressive Conservative government signed the Free Trade Agreement in 1988. Since then, exports to the United States have climbed in each of the 21 commodity sectors measured by Statistics Canada.

Honourable senators may recall how those who now sit on the government benches fought against free trade, saying it would destroy our economy and turn us into the fifty-first state. Honourable senators opposite may also recall the following from the Red Book:

> A Liberal Government will renegotiate both the FTA and NAFTA to obtain: a subsidies code; an anti-dumping code; a more effective dispute resolution mechanism, and the same energy protection as Mexico.

No substantive changes were made to NAFTA prior to its implementation, and for good reason. Freer trade means jobs and opportunities. The FTA and NAFTA are working. However, as a trading nation, we also import goods and services. While free trade means that it is easier to bring goods into the country, we still have rules. Even though they may be diminishing in importance, we still have tariffs. Tariffs on imports can make goods produced in Canadian factories less competitive both at home and abroad by driving up the cost of the final product. About one-third of the inputs used by our factories are imported.

In 1992, the Prosperity Steering Group said Canada's most-favoured-nation, or MFN, rates on manufacturing inputs should be reduced to the levels faced by our competitors in the United States. MFN tariff rates in the U.S. on average are 3.2 percentage points below Canadian levels.

In the 1994 budget, the Liberal government said it would continue the previous government's review of the tariff system, including the effect of tariffs on input costs. Consultation with the private sector found broad support for lower MFN tariffs. Bill C-102 reduces most-favoured-nation tariffs on a wide range of inputs classified under some 1,500 tariff lines, retroactive to June 13, 1995. The cuts bring those rates in line with those in the United States. We are told that future cuts will be made as the United States lowers its rates to comply with the World Trade Organization Agreement.

• (1510)

The government has various programs to help relieve the effects of duty on business. For example, Ottawa will refund duties on inputs used to make goods that are then exported.

The government says that the changes in this bill will enhance export-based duty deferral programs, first, by streamlining such programs; second, by making the programs easier for businesses of all sizes to use by removing some administrative rules; third, by providing more up-front relief of duties; and, fourth, by allowing local government and business to market the programs more effectively abroad. Such measures are most welcome.

At the same time, we are told that the changes to the Access to Information Act will help keep confidential the information importers give to Canada Customs.

Bill C-102 raises the current duty-free limits for travellers retroactive to last June 13, bringing them in line with those of other countries.

Goods from most Commonwealth members also qualify for the British Preferential Tariff or BPT. These rates are usually higher than the general provincial tariff or GPF rates, but lower than most-favoured-nation tariffs.

In 1994, rubber footwear ceased to qualify for the lower general tariff, a response to concerns from Canadian manufacturers. However, several producers of footwear also qualify for the British preferential tariff. As a result, low-cost rubber footwear can still enter the country at reduced tariff rates. Bill C-102 ends the British preferential tariff for rubber footwear.

Bill C-102 will also give the government more flexibility when it extends preferential tariffs to the world's poorest developing countries. Ottawa could expand the list of goods from such countries as qualify for lower rates, or it could vary the tariff on certain goods, for example, by establishing a set of rates that is lower than the most favoured nation rate but higher than the general preferential tariff rate.

Finally, this bill contains a number of what we are told are mainly technical changes to various tariff-related laws. The government says that these tariffs are to clarify, streamline or make more transparent, various rules.

Honourable senators, let us move this bill into committee for further study.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hervieux-Payette, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

CULTURAL PROPERTY EXPORT AND IMPORT ACT INCOME TAX ACT TAX COURT OF CANADA ACT

BILL TO AMEND—SECOND READING

Hon. Michael Kirby moved the second reading of Bill C-93, to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act.

He said: Honourable senators, I rise today to move second reading of Bill C-93, to amend the Cultural Properties Export Act and Import Act, the Income Tax Act and the Tax Court of Canada Act. The simple purpose of this bill is to amend these acts in order to establish an appeal mechanism to the Tax Court of Canada for a determination from the Canadian Cultural Property Export Review Board of the fair market value of certified cultural property, most commonly a work of art. Having given you that long, wonderful, technical phrase, let me tell you what the bill essentially does.

In the budget of February 1990, the responsibility for determining the fair market value of cultural property donated to Canadian museums, libraries and art galleries was moved from the Department of Revenue Canada to the Cultural Property Export Review Board. The amendments putting this transfer into effect became law at the end of 1991, and the review board assumed its new responsibility in January 1992.

At the time this transfer was done, no provision was put in place for any appeal mechanism to the review board decision. Therefore if someone who wished to donate a certified cultural property to a Canadian cultural institution did not like the valuation put on the value of that donation by the review board, there was no way to appeal that valuation.

Prior to the creation of the review board, there had been an appeal mechanism in place. When this responsibility rested with Revenue Canada, an appeal mechanism existed. When the change was made, that was clearly neglected, and no appeal mechanism was put in place.

Consequently, people who want to donate cultural artifacts to various institutions — and indeed the institutions themselves are also affected by this — are left in a position where, if either side of a transaction does not like the value, there is no appeal process and they must simply take the value as given to them by the review board.

The purpose of this bill is to make one very simple change in the process, namely to put in place an appeal mechanism, that appeal mechanism being the Tax Court of Canada. Therefore, if you wish to make a donation to someone or some institution of a work of art, you go to the review board and have it valued. If you do not agree with that value, or if the institution to which you are making the donation does not agree with that value, either of the two sides can then go to a neutral third party called the Tax Court of Canada in order to appeal the valuation.

Honourable senators, all this bill does is puts in place a review mechanism within the purview of the Tax Court of Canada; a review mechanism that previously existed when the predecessor of the current review board, Revenue Canada, was in charge. When the change was made in 1990, the elimination of this review mechanism was merely an oversight. The purpose of this change to the Cultural Properties Export and Import Act is to put that review mechanism in place in order to ensure that there is a greater degree of fairness to the procedures involved in evaluating a donation that an individual wishes to make to a museum, an art gallery, archives, libraries, and so on.

Honourable senators, this is a very simple bill. I have explained briefly what it does. Therefore, I hope that we can support quick passage of this bill at second reading.

Hon. Mira Spivak: Honourable senators, this legislation deserves support since it returns to donors, museums, archives and libraries, as Senator Kirby has said, a right they lost five years ago. The right to appeal to the Tax Court of Canada when the value of their gift is in dispute will not directly affect the vast majority of Canadians, but it will help preserve for them, and for future generations, millions of dollars' worth of culturally significant works of art, artifacts and papers. That is the intent of the Cultural Property Export and Import Act. This amendment before us, although largely a technical one, will help further that intent.

To give just one example of what could happen if we did not have this legislation in place, I recall the interest that was shown in Louis Riel's diary when it was discovered in Manitoba just 25 years ago. The 1885 record turned up in a box of papers held by a former Winnipeg newspaper man, an historian. At the time, archivists on the Prairies showed little interest in buying it. With no law to prevent it leaving the country and no tax incentive to encourage donation, the diary was sold at auction in Montreal for $26,500. A great deal of interest was shown by collectors from Texas. Fortunately, the successful bidder was former Conservative member of Parliament Gene Rheaume and his partners, Bill Neville and Bill Lee. The Winnipeg woman who took it to auction recalls that the American collectors were somehow persuaded to allow it to remain in this country. The diary was sold again, and, in the mid-eighties, purchased from its Edmonton owner by the Saskatchewan government for $75,000. It now has a permanent place in the Saskatchewan Archives.

• (1520)

Six years after that Montreal auction, the Cultural Property Export and Import Act came into force. Since then, Canadians have donated objects valued at some $700 million based on fair market assessment. Not all have the immense historical value of a Riel diary, but, without question, they are worth far more today than the day they were donated and will only continue to increase in value.

Almost 300 museums, archives and libraries across Canada are eligible to receive these donations under the act and to encourage those gifts through reduced taxes. Our national institutions depend increasingly on these donations to build their collections. For example, in 1974, three years before the act was in place, the National Archives received papers valued at a very modest $102,000. Ten years later, the value had increased to $1.5 million, and by last year it had doubled to more than $3.8 million. The National Gallery has received gifts of art valued at almost $5 million in the last five years alone. That is almost one-third the amount the gallery spent to acquire new works during that period. Now many institutions are seeing their budgets to purchase new works reduced or frozen.

Critics of the act have called it a tax loophole for the wealthy. Certainly owners of cultural objects receive more generous tax concessions than our tax law gives others who donate money to charity. The amendments before us do not alter that situation, and perhaps that is something the government should review. It is worth noting that in practice, unless an object is valued at more than $1,000, the review process does not happen. The incentive aims to keep significant works of art, artifacts and papers in this country, not to create a widely used tax scam.

Critics suggest that some $60 million in tax credits yearly places too great a burden on taxpayers. I suggest it is false economy to eliminate something that almost immediately gives the public double its investment. In effect, taxpayers acquire objects at almost half price. Soon their value increases and their cultural worth is invaluable.

There has also been considerable criticism of the review board in recent years, particularly since 1991 when it began to determine the value of objects. Disputes have arisen in 10 per cent of the cases. The financial press has claimed that some donations have been greatly overvalued. Tax lawyers and collectors have complained of consistent under-evaluations. The slow pace of the process has been blamed for the loss of one painting in 1993 which sold at auction in New York for almost $2 million. That same year an independent consultant spoke with art dealers, collectors and the review board and found unanimous consent that a method of appealing the board's decision was needed.

That is all this legislation will do, restore to donors a right they had when Revenue Canada conducted assessments. First they must ask the review board for a reassessment, or the institution that receives the donation can ask the board for one. I have some concern about increasing the board's workload. It has a very small staff and is already so taxed that it has not delivered an annual report since the 1991-92 fiscal year.

Honourable senators, few of us are art experts, historians or tax experts. As parliamentarians, we can claim expertise in seeing the value of laws that preserve our country's history and identity. Our institutions do not have the resources to buy up everything of value. Experts who work in them, as some did 25 years ago after seeing the Riel diary, may occasionally fail to recognize a treasure and part with their limited money to acquire it. We need a strong system to encourage donations. The amendment before us modestly strengthens it and for that reason, on balance, I support it.

Hon. John B. Stewart: Honourable senators, I assume that the bill will be sent to a committee for consideration. There are two or three questions I should like to have answered. I will mention them now so that when the bill is in committee the answers can be brought forth readily.

First, I should like to know what the average annual dollar value of the gifts has been over the last few years. Senator Spivak just now mentioned to some extent what the experience was with appeals when Revenue Canada was in charge of this program. I think we should be told in committee what percentage of the cases in which an evaluation was made went to appeal, when there was an appeal, and in terms of value what percentage went to appeal. The third question is how the criteria for evaluation are set. I am especially interested in the criteria used in evaluating papers which are donated to public institutions.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Michael Kirby: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce. I thank Senator Stewart for his questions. I can assure him that we will deal with those questions in detail when the bill comes before the committee.

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

CONTROLLED DRUGS AND SUBSTANCES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved the second reading of Bill C-7, respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof.

She said: Honourable senators, I am pleased to speak today on Bill C-7, the controlled drugs and substances bill. This bill was first introduced in the House of Commons during the previous Parliament. Unfortunately, it died on the Order Paper at the close of the session. This government recognized the need for better controls over certain substances and believed it important for Canadians that this legislation be reintroduced at the beginning of its mandate.

When Bill C-7 was referred to the subcommittee of the Standing Committee on Health in the House of Commons, members of the subcommittee worked closely to ensure that the views of a broad range of concerned individuals were carefully considered. The subcommittee heard many witnesses and examined the complexities of this legislation. There was representation from health care providers, the legal profession, law enforcement agencies, researchers, public advocacy groups and other interested parties.

This bill demonstrates how consultation and cooperation have produced a balanced piece of legislation which addresses the concerns expressed. As a result, the subcommittee unanimously supported this bill in its report. I am now urging all honourable senators to support it.

Many substances we are dealing with here have strong medical components. The prime aim of this bill is to make them available to health professionals and their patients for legitimate medical purposes. We also want to control these substances because in the wrong hands, used in the wrong way, they can cause great harm to Canadians, particularly young people and their families, while damaging the social fabric of our great country.

Bill C-7 sharpens the tools that we can use to control the production and distribution of high-risk preparations so that they can be safely used as prescription drugs. Bill C-7 also recognizes a positive approach to treatment programs for those who are afflicted by drug addiction. It supports the availability of help and appropriate treatment for those who want to get back their health and resume a normal life.

• (1530)

[*Translation*]

In other words, the bill protects the rational use of some controlled substances as medicines, while acting against the illicit distribution of these same substances. It recognizes that controlled drugs are indispensable and that their availability should not be restricted or compromised.

Bill C-7 promotes the judicious use of medications by indicating ways in which controlled drugs can be handled, distributed and used. These substances are included in the legislation to protect the health and safety of the Canadian public, while allowing their use for medical purposes by the people who need them.

On the other hand, these substances have a strong potential for abuse. These substances are powerful. They have the power to do good and also the power to do harm.

[*English*]

This bill brings together the Narcotic Control Act and parts of the Food and Drugs Act to deal with controlled drugs and substances and narcotic preparations. It is aimed at modernizing existing procedures and controlling a wider range of substances. It is therefore more comprehensive and flexible than the legislation it supplants.

Honourable senators, the government has taken seriously the concerns expressed by witnesses at the hearings of the subcommittee of the House on this bill, as well as those put forward by honourable members from all parties of the House of Commons. Many of the witnesses who appeared before the House subcommittee not only addressed Bill C-7 specifically but wanted to put broader issues on the agenda. As a result, honourable senators will be pleased to know the subcommittee recommended in a separate report that the Standing Committee on Health undertake a broad review of the policies surrounding substance abuse. This review will provide an opportunity to explore the political, social, legal and economic impacts of drug abuse.

[*Translation*]

The central focus of Bill C-7 is therefore the health of Canadians, although some of its provisions deal with judicial measures and their enforcement. This reduces the risk that drugs produced for legitimate purposes could be diverted into the illegal street market. Canadians will have access, as before, through their physician or pharmacist, to whatever drugs they need to treat their illnesses.

In concluding, I would like to point out that consultations on this legislation have brought to the fore certain concerns about the availability of medicinal herbs in Canada. It should be noted that Bill C-7 does not in any way affect medicinal herbs or homeopathic products. These products will continue to be regulated by Parts I and II of the Food and Drugs Act. Provisions covering their use, distribution and sale will not change with the coming into force of Bill C-7.

Honourable senators, we know that as legislators our task is substantially to strike the appropriate balance to meet the needs of Canadians. I believe that we have done so with this legislation. Consequently, I urge all honourable senators to support this bill, as I do today. I would like to thank all those who contributed their comments, study and hard work.

On motion of Senator Kinsella, debate ajourned.

[*English*]

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—DEBATE ADJOURNED

Hon. Joyce Fairbairn (Leader of the Government), pursuant to notice of November 1, 1995, moved:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

She said: Honourable senators, this motion is an effort to get the Senate moving again on Bill C-69, concerning electoral boundaries readjustment. This is the second time in recent weeks that I have used this procedure to try to encourage the progress of important legislation into this chamber from committee, so that all senators in this house can have an opportunity to make decisions on bills which involve critical time elements or deadlines. This exercise is in no way intended to curtail the ability of a committee to do its work. Rather, it is an effort to get that work done in a reasonable period of time.

Redistribution of boundaries of constituencies represented by elected members of Parliament has been before this Parliament in one way or another since March 18, 1994. The issue has gone through the variations of two different bills and intensive study by committees in both the House of Commons and the Senate. It has been bounced back to the House of Commons twice by the Senate with amendments. In spite of all that, the issue has advanced nowhere at all.

• (1540)

Senator Lynch-Staunton: With reason.

Senator Fairbairn: The electoral clock is ticking. Bill C-69 is trapped, deep-sixed, if you will, in the Standing Senate Committee on Legal and Constitutional Affairs. Under the guise of a requirement for even further study, this important legislation has been buried in this committee without a meeting held or a witness heard since July of this year.

Some senators opposite have declared that this bill does not suit them, and therefore it should not apply for the next election.

Senator Lynch-Staunton: Who said that?

Senator Fairbairn: Who said that?

Senator Lynch-Staunton: You said that some senators said the bill does not suit them.

Senator Fairbairn: Senator Lynch-Staunton, I do not believe that —

Senator Lynch-Staunton: I am sorry to interrupt, but Senator Fairbairn said that some senators said the bill does not suit them, and I wondered which senators that would be.

Senator Fairbairn: I speak of my friend the Honourable Leader of the Opposition, who does not agree with the bill.

Senator Lynch-Staunton: That is something else.

Senator Fairbairn: Perhaps I should change the grammar of the sentence for Senator Lynch-Staunton, Senator Murray and others, to say that some senators opposite have declared that they do not agree with this bill, and therefore it should not apply to the next election, when candidates of all parties will come forward to seek nominations.

It would seem that it is now the Senate which is deciding the kind of process that will govern the selection of boundaries in all the constituencies in every part of the country.

Some senators, and I will say this clearly again, obviously do not like Bill C-69. That is pretty clear.

Senator Lynch-Staunton: Quite right, too.

Senator Fairbairn: It sets out changes with which they do not agree. They want the process initiated —

Senator Murray: That is not the issue.

Senator Fairbairn: — by the former government to prevail for the next election. They are not moved at all by the fact that Bill C-69 was essentially drafted by the House of Commons Committee on Procedure and House Affairs in which a variety of political parties are represented.

Senator Lynch-Staunton: That is right, let the inmates run the asylum.

Senator Fairbairn: Senator Lynch-Staunton may disapprove of my grammar and implications, just as, I am quite sure, members of the House of Commons would take offence at being called inmates in an institution.

Senator Lynch-Staunton: After what they say about us, that is pretty mild.

Hon. Anne C. Cools: Honourable senators, please. If Senator Lynch-Staunton has something to say, he should get to his feet and say it so we can all hear him.

Senator Stewart: Please do not encourage him.

The Hon. the Acting Speaker: Senator Cools on a point of order.

Senator Cools: Honourable senators, Senator Lynch-Staunton has this habit; he interjects repeatedly, and it seems to be condoned. There is a place in debate for every point of view, especially Senator Lynch-Staunton's. However, Senator Fairbairn has the floor; let her speak.

Senator Lynch-Staunton: All right. I will pass that on to Senator Frith.

Senator Fairbairn: Honourable senators, it may strike a casual observer as odd that senators at the moment appear to be governing the electoral process of Canada —

Senator Doyle: And about time.

Senator Fairbairn: — particularly given the secure terms of their own appointments. The same casual observer might wonder why, after ample opportunity to express their views, their criticisms, their constructive suggestions, their sober second thoughts, the Senate is still not willing to permit this bill to come to a conclusion, one way or another, win or lose. Instead, the legislation is in a state of suspended animation within the Standing Senate Committee on Legal and Constitutional Affairs. With that, the uncertainty and the confusion as to the boundaries that will be in place for the next regular general election are escalating by the day.

Everyone in this house knows, particularly those on this side of the house, that the government cannot get this bill out of the committee because the government is in a minority in the Senate, and it is in a minority in each of the committees of the Senate. However, the government still has to keep trying. In its judgment, the bill is an important piece of legislation. It is a high priority, not just for the government, but also for the members of the House of Commons who are urging us not just to make a decision —

Senator Simard: Some Liberal members in the House.

Senator Fairbairn: — but to do so with the guidance of the precedence under which the Senate has permitted passage of such legislation in the past.

I will get to that point later, Senator Simard.

I am speaking of precedence guided by the words of our former colleague the Honourable Jacques Flynn, a former Conservative minister of Justice and also at various times Leader of the Government and Leader of the Opposition in the Senate. Mr. Flynn spoke for his party, the former Conservative government, in December of 1985 at second reading of Bill C-74, which, some colleagues may remember, was on readjustment of electoral boundaries. He said:

> I would say this is an area that almost exclusively concerns the House of Commons, and I think that we as a non-elected chamber and as appointed legislators are hardly in a position to tell the members of the House of Commons how they should proceed to draw the boundaries of their electoral districts.

I know that honourable senators do not relish or like having those words from former Senator Flynn quoted back to them.

Senator Lynch-Staunton: No. Repeat them in French, if you want. Great opinion.

Senator Fairbairn: They argue, and have argued, that the context is different today and that those words were uttered a long time ago and are not relevant in current circumstances. However, honourable colleagues, those words from Mr. Flynn are as valid today as they were 10 years ago. We recognized them as such then, albeit perhaps reluctantly, and we do so now. The principle remains the same.

As we consider the motion I brought forward, we should recall how much time, energy, and constructive effort has already been devoted in this Parliament to bring forward a new redistribution process.

The current Electoral Boundaries Readjustment Act has been in existence since 1964. In the opinion of both this government and the prior administration, the time had come to give the act a much needed reassessment and change. The current process, based on the results of the 1991 census, had already been interrupted by the previous government in June of 1992 in order to consider possible improvements in light of the recommendations of the Royal Commission on Electoral Reform and Party Financing. However, the dissolution of Parliament in September of 1993 cut short the work of the special House committee on electoral reform.

Following the election, the new government decided that that work should be resumed, and resumed as quickly as possible. On March 18, 1994, Bill C-18, the Electoral Boundaries Readjustment Suspension Act of 1994, was introduced in the House of Commons. Originally, Bill C-18 was to suspend the current redistribution process for two years in order to provide sufficient time for a comprehensive review by the House of Commons Standing Committee on Procedure and House Affairs.

• (1550)

However, there was a public concern, and a concern in this house as well, that a two-year suspension could prevent the establishment of new ridings based on the 1991 census in time for the next regular general election. In May of 1994, the Senate amended the bill to provide that the suspension would end on February 6, 1995, and if a new process were not yet in place, the current process would resume. The government, as well as the House of Commons, accepted the substance of that amendment. The date, however, was moved back to June 22 of 1995 in order to give the Commons committee and both Houses a realistic timetable in which to conduct their work. The new date was accepted by the Senate. Bill C-18 received Royal Assent on June 15, 1994.

The government, honourable senators, agreed to amend Bill C-18 in the belief that the Senate's overriding concern would be satisfied if the legislation was introduced quickly enough to have new ridings in place in time for the next regular general election. The government held up its end of the bargain and proceeded rapidly. In the House of Commons, the Standing Committee on Procedure and House Affairs heard witnesses all through the summer of 1994, thoroughly examined all aspects of the Electoral Boundaries Readjustment Act, and submitted its report, which included a draft bill, on November 25, 1994. The report was concurred in by the House of Commons on February 14 of this year. Two days later, on February 16, the government introduced Bill C-69, the Electoral Boundaries Readjustment Act, 1995, which is based on that report. The legislation was adopted by the House of Commons on April 25 of this year.

Honourable senators, having accomplished what it had undertaken to do in the course of debates on Bill C-18, the government was, admittedly, surprised by the reception accorded to Bill C-69 when it arrived in the Senate on May 2 of this year. The opposition majority's response to Bill C-69 was, in simple terms, to "gut" the bill of its major innovations by amending its key provisions and sending a message to the House of Commons on June 8, 1995.

The House of Commons, apart from one amendment, rejected the Senate's changes as being contrary to the consensus achieved in the Standing Committee on Procedure and House Affairs on most of the key aspects of the bill. On June 20, it conveyed its views to the Senate.

Because of heavy legislative pressures, honourable senators, the House of Commons came right to the edge of the June 22 provision in Bill C-18, which governed the future activity of the current redistribution commissions, and it was right to the edge.

The Senate had three choices when it received the message from the House on June 21, 1995. It could follow former Senator Jacques Flynn's advice. Having made its views known to the House of Commons where those views were respectfully considered but, with one exception, not accepted, the Senate majority could have, with reluctance, passed the bill. Failing that, the Senate opposition majority could have declared that its principles required it to maintain its opposition, insist on amendments, send the bill back to the House, or defeat Bill C-69 outright. If that was not to their liking, the Senate opposition majority could force the bill back to committee, and through the process of neglect, virtually kill the new —

Senator Stewart: Indolence!

Senator Fairbairn: — legislation through delay — in other words, simply refuse to proceed with further study. Clearly, honourable senators, that is what has been happening since June 21.

The first thing we witnessed were procedural challenges, objecting to even having the message from the House of Commons brought forward for debate. When those objections failed, Senator Murray adjourned the debate until the next day. On that day, June 22, the opposition then brought forward the argument that the bill had somehow "lapsed" and was no longer valid. That view was vigorously rejected with, I believe, compelling argument by this side of the house.

When an appeal to the Speaker of the Senate failed, the opposition majority voted to refer the question of the validity of the bill back to the Standing Senate Committee on Legal and Constitutional Affairs. Senator Lynch-Staunton stated at that time, in his usual colourful way:

> ...Senator Beaudoin will bring in expert advice which, I have no doubt, will save us the embarrassment of having to pass such a heinous bill as Bill C-69...

However, when the committee met, it was the opposition which faced the embarrassment of failing to produce a single witness who would lend any credence to the notion of a "lapsed" bill. The government, on the other hand, had the benefit of the expert testimony of Professor Beverley Baines, a law professor at Queen's University. She gave evidence that Bill C-69 was in fact valid, both legally and procedurally.

Honourable senators, having failed to gain any support for the proposition that Bill C-69 was a dead letter, the opposition majority on the committee, rather than approve a final report, suddenly discovered new concerns that required attention. Five new issues were raised, including determining the intention of the government as it advanced Bill C-69 and investigating the effect of the legislation on section 51 of the Constitution Act, 1867, which deals with the readjustment of representation in the Commons following a decennial census.

On July 12, we were told by Senator Beaudoin:

> There are very important issues which certainly deserve further clarification.

And:

> That is why the committee recommends that these issues be examined in depth and that the Standing Committee on Legal and Constitutional Affairs hold further hearings.

Honourable senators, that was almost four months ago. Though our members of the committee were prepared to carry on, not a single meeting has been held; not a single witness has been called; not a single word of testimony has been heard on these so-called very important issues.

I do not dispute Senator Beaudoin, that these are important issues, certainly to the opposition. One can only ask, if these issues were so very important, why did the committee not set aside days in early September to deal with them?

Honourable senators, the continuing failure to deal with Bill C-69 is, as I said earlier, creating confusion, uncertainty and concern about what boundaries will be in place for the next election. That confusion and uncertainty can be resolved by allowing the Senate to vote on Bill C-69 so that we can resolve the matter now.

Yesterday, when I gave notice of my intention to move this motion, Senator Lynch-Staunton remarked, and I quote with a chuckle, "The Langevin Block speaks again."

Senator Lynch-Staunton: It sure does.

Senator Fairbairn: He was obviously implying that the government alone is impelling the urgency of this bill. Of course the government has a deep concern about the failure of this house to complete its work on Bill C-69. It believes the bill will produce a better, more open system of electoral boundary review in this country and has taken its responsibility to try to have the new process in place quickly for the next election.

Honourable senators may mock these statements, but the government is deeply concerned that the process has been set aside since July with no attempt whatever by the Senate committee to continue its work and permit the Senate, and each member in the Senate, to reach a decision. This concern is also shared widely by members of Parliament in the House of Commons, who have worked hard and carefully on this issue.

Their view was made known to the Standing Senate Committee on Legal and Constitutional Affairs on September 26 of this year when the Chairman of the Standing Committee on Procedure and House Affairs in the House of Commons wrote to Senator Beaudoin to express concerns about the Senate's treatment of Bill C-69. That letter represented the unanimous view of the committee representatives of the Reform Party, the Bloc Québécois, the New Democratic Party and the Liberal Party. Not surprisingly, neither member of the Conservative Party was involved, but it was the unanimous view of the members of that committee.

The letter points out that Bill C-69 was prepared by the elected members of Parliament and that "it was the product of a long process involving members of all parties." It went on to say:

> While not all members agreed with every provision in the bill, they all supported the process and wish to preserve its integrity.

The letter notes that the Senate had exercised its responsibilities in passing the bill with suggested amendments and sending it back to the House of Commons for further consideration. The letter also quotes — I will not repeat it — Senator Flynn. In the spirit of that quotation the letter goes on to say:

> The Standing committee on Procedure and House Affairs, therefore, wishes to express unanimously its view that the delays imposed by certain members of the Senate in respect of a bill dealing with electoral affairs of the House of Commons are contrary to developed parliamentary precedent and principle.

Honourable senators, this concern and frustration is shared by the government, which places a very high priority on the bill. In fact, it would not have brought it forward if it did not place a high priority on the bill. I am quite aware that this sense of priority is not shared by members of the opposition. Their priority — and, I understand this also — is to protect the current redistribution process. That was made perfectly clear in July by Senator Lynch-Staunton when he said:

> What the government should have done is, first, accept our amendments, the amendments of my friend's opposite, although we do not dispute their right not to accept them. At least they could say, "The current process is in place. It is nearly completed. It will be completed, hopefully, in November. Let Bill C-69 go into effect after that for the next revision." At least guarantee completion of the current process.

On that same day Senator Murray said:

> I agree with the Leader of the Opposition that we should allow the present process to go forward.

The government respects the opinions of senators opposite. It certainly does not share them, nor does it share their conclusions. It understands their desire to protect a redistribution process that was launched in the final days of their administration, but it also believes that process to be flawed and in need of improvements.

Those improvements can be in place in time for the next election if we take this opportunity to move forward with Bill C-69. Why, honourable senators, should Canadians wait — as Senators Murray and Lynch-Staunton have suggested — until, in effect, after the turn of the century before they can vote in an election held on boundaries that reflect important improvements to the redistribution system?

The purpose of my motion is two-fold: First, to give our committee an opportunity and the encouragement to hold meetings on the five points raised in its report of July 11, 1995; and, second, to ensure that the findings of the committee are brought back to the Senate so that we can do our job quickly and conclusively.

Our Standing Committee on Legal and Constitutional Affairs is a very important committee. Last month, Senator Lynch-Staunton described how the committee had been entrusted with many important issues. That is the very nature of the work of this committee. It is why many senators, including myself, have found it fascinating, instructive, daunting and time-consuming. I do not dispute that the committee has had a number of interesting and serious issues to deal with during this session but, honourable senators, nothing prevents its members from meeting any day of the week in an effort to tackle and complete the agenda.

The failure of the committee to meet on Bill C-69 since July 11 is not as a result of lack of opportunity but as a result of a lack of will on the part of the opposition to move the legislation forward. Clearly, with their majority, they have the ability to do that. We on this side also have a responsibility to try to give all senators in this chamber a chance to participate in the decision on this legislation.

Honourable senators, Bill C-69 goes to the heart of how Canadians exercise their electoral franchise. This chamber has been dealing with it in total since April of 1994. It is time to come to a conclusion, to move on to other matters, to lighten the load for Senator Beaudoin, and that is the purpose of my motion. Let the committee meet, let it complete its work, and then let all senators give their judgment on Bill C-69.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, would you allow me three quick questions, or just the first two if you prefer.

We are in the midst of a discussion about conflicts of interest. A number of senators are discussing this great project about conflicts of interest between members of Parliament and senators. Does the honourable senator not believe that we have before our eyes the perfect example of a conflict of interest involving members of Parliament?

Second, I am totally prepared to respect my longtime friend, Senator Flynn. Does the honourable senator not accept that listening to Senator Flynn means the end of the Senate?

[*English*]

If on any subject, on any discussion, ultimately the Senate will bow to the House of Commons, there is no raison d'être for the Senate. I want to speak on this subject eventually.

Senator Fairbairn: Honourable senators, I wish to comment on Senator Prud'homme's remarks about Senator Flynn. Senator Flynn, as everyone who served with Senator Flynn in this house will know, was a most aggressive, articulate, erudite, engaged senator. There is no way that Senator Flynn would have said things according to my honourable friend's interpretation of his remarks. He was speaking to the particular issue before the Senate with regard to electoral boundaries. Certainly, no one took a second place to Senator Flynn in the vigour, enthusiasm and articulation he brought to his battles in this house and the other place.

His remarks were directed, as quoted, to this particular issue. I would just make that point to my honourable friend.

Senator Prud'homme: They do not refer to the conflict of interest faced by members of the House in dealing with their own future. There is no doubt about that.

• (1610)

Senator Fairbairn: Senator Prud'homme, who was an experienced member of that chamber, will know that such discussions have gone on, back and forth, for many years. They will continue to do so. That is not what is before the Senate here. Before the Senate is a bill which has been brought forward with an almost unprecedented amount of consultation on the other side, and we on this side have sent it back. We have amended it. We amended the other bill. We have done our job.

The purpose of this motion is to say, "Let's finish the job and enable all senators in this house to give their opinion through their vote on the issue."

[*Translation*]

Hon. Pierre Claude Nolin: Before adjournment of the debate is proposed, I would like to ask a question to the government leader in the Senate.

In view of the fact that the minister gave us a detailed description of all the events that led to the consideration of this bill, would it not be appropriate for her to tell us the exact date the current process, which had been suspended by Bill C-18 and which now is following its usual course, will take effect? When will the electoral maps legally come into effect? Could the minister answer that?

[*English*]

Senator Fairbairn: Honourable senators, I believe that the petitions for change are still under consideration on the other side, and they have indicated November 30 as the date when they hope to have that review completed.

Senator Nolin: Does that mean that those maps will be officially legal by that date?

Senator Fairbairn: Not necessarily. I do not know whether they will have completed their review by that date. That is the date they have before them at the moment.

On motion of Senator Nolin, debate adjourned.

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I was asked to clarify some of the orders which may be before the Senate next week. I have already mentioned that we would have second reading of Bill C-7. We have heard from the sponsor of the bill already. There will be a speaker from the other side. Obviously, we will have further debate on Bill C-69, the electoral boundaries bill.

I understand that there will be more speakers today and next week on Senator MacDonald's motion relating to the report of the committee on the Pearson Airport Agreements. There are numerous other items on the Order Paper: reports of committees,

motions and inquiries. It is not clear what other items may come from the House of Commons today, tomorrow and Monday. Of course, as outlined earlier, on Tuesday we will be dealing with Bills C-61 and C-103 at second reading. So the agenda is quite full.

The rules, of course, provide that we sit five days a week. We have sat three days this week. I am proposing that we sit three days next week, and perhaps four if it is absolutely necessary. If we do not have an adjournment motion today, in accordance with our rules we will be sitting tomorrow, Friday, at nine o'clock in the morning.

I cannot guarantee absolutely that we will not sit next Thursday if we come back Monday night. Indeed, it would be highly presumptuous of me to give any guarantees under the circumstances. I can say that if we deal efficiently and expeditiously with whatever business is before the Senate, we could adjourn on Wednesday.

[*Translation*]

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

> That when the Senate adjourns today, it do stand adjourned until Monday next, November 6, 1995, at eight o'clock in the evening.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I wonder whether my colleague might tell us a bit about the week following, that is, the week of November 13. Is there some explanation? I am talking about Monday.

As you know, some senators will be having meetings in their ridings on Bill C-68.

[*English*]

Senator Graham: It is my understanding, honourable senators, that that is a parliamentary break. It is a parliamentary break, in the true sense, only for the other chamber. However, there has been agreement that, unless some very unusual circumstances intervene, we would follow the parliamentary calendar. There have been times when we have not done so. For instance, the House of Commons adjourned for the summer break on June 23. Because we still had legislation before us, we sat until the middle of July. We sit when it is necessary.

I see nothing on the calendar at this moment which would necessitate the Senate sitting during that week. As a matter of fact, there has been an understanding that those who wanted to hold hearings on Bill C-68 in various regions of the country would do so that week. Therefore, unless something very unusual were to happen, I believe that we would follow the parliamentary calendar as it is before us at the present time, and indeed take a break at that time.

Senator Kinsella: I want to thank my honourable friend for that clarification. By way of recapitulation, my understanding is that we will sit next Monday, Tuesday and Wednesday and, unless there are extraordinary circumstances, we will not be back Thursday nor the following week, which is the traditional parliamentary break period.

Senator Graham: As I have said, I cannot give guarantees. However, with the cooperation of all sides of the house, that is what we are aiming for.

The Hon. the Acting Speaker: Honourable senators, you have heard the motion. Is it your wish to adopt the motion?

Motion agreed to.

• (1620)

PEARSON AIRPORT AGREEMENTS

CONSIDERATION OF SECOND REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the consideration of the Second Report of the Special Committee of the Senate on the Pearson Airport Agreements, (Address to His Excellency the Governor General requesting documents), presented in the Senate on Tuesday, October 17, 1995.
>
> And on the motion in amendment of the Honourable Senator Kirby, seconded by the Honourable Senator Corbin,
>
> That the Report be not now adopted but that it be amended by deleting the last paragraph thereof and replacing it with the following:
>
> > Therefore your Committee recommends that an inquiry be made of the Right Honourable Kim Campbell as to whether she is prepared to authorize the release of Submissions to the Treasury Board, dated August 1993, that relate to the redevelopment of Pearson Airport.—(*Honourable Senator Murray, P.C.*)

Hon. Duncan J. Jessiman: Honourable senators, I rise to speak to the motion by Senator MacDonald for the adoption of the second report of the Senate Committee on the Pearson Airport Agreements requesting documents, and in respect of which Senator Kirby moved an amendment.

The documents we are seeking — and which are the subject matter of this committee's second report — are three submissions to the Treasury Board and one decision letter of the Treasury Board of August 1993. If these Treasury Board documents were those of the present government, it is my opinion that they would be available to the committee because they do not involve security matters or international affairs.

It is also my opinion that, even if the pertinent documents did involve security matters or international affairs, as a strict legal matter the committee would have the right to demand to see them because the committee is the final arbiter in deciding whether it receives such documents.

These documents involve advice of certain senior civil servants to the Privy Council respecting a commercial transaction and, therefore, should be available to the committee. The committee receives its power from the Constitution Act of 1867, section 18; the Parliament of Canada Act, section 4; and the *Rules of the Senate*, rule 90, which I shall read, in part:

> A standing committee shall be empowered to inquire into and report upon such matters as are referred to it from time to time by the Senate, and shall be authorized to send for persons, papers and records, whenever required...

In Diane Davidson's paper — presented to the Joint Committee of the House of Commons and Senate on the Scrutiny of Regulations on November 16, 1994, and referred to by Senator MacDonald when he spoke on this matter — she advised that she was in agreement with the Ontario Law Reform Commission in its 1981 report on witnesses before legislative committees. That report dealt with legislative committees because it was an Ontario commission. However, Ms Davidson said that it also related to committees of the House of Commons and the Senate. It was her position that civil servants and ministers are in the same position as any other witness. In theory, they can be compelled to testify on any issue, answer any question or produce any document. There is legally no guaranteed immunity from Parliament's broad power to call for information and, therefore, no special status is conferred.

The Law Reform Commission stated:

> We are of the view that, as a matter of law, every witness before a legislative committee, including a civil servant, public servant and a minister of the Crown, is now and ought to remain subject to the applicable provisions of the Legislative Assembly Act.

It is important to note that just around the time of the Law Reform Commissions report in 1981, the federal government amended the Canada Evidence Act by adding section 39. The wording is relevant to the matter we are considering because it deals with information that the government certifies "constitutes a confidence of the Queen's Privy Council."

Section 39(1) of the Canada Evidence Act states:

> 39(1) Where a minister of the Crown or the Clerk of the Privy Council objects to the disclosure of information before a court, person or body —

I emphasize the word "body" because, at the time when I read this, it was my view that our committee might be such a body.

> — with jurisdiction to compel the production of information by certifying in writing that the information constitutes a confidence of the Queen's Privy Council for Canada, disclosure of the information shall be refused without examination or hearing of the information by the court, person or body.

If we were other than what we are, a Senate committee, if we were a court, or if we were some other person or inquiry, this section would enable the Privy Council to certify that this was something that they were not, and would not be, required to disclose.

The section goes on to state:

> (2) For the purpose of this subsection (1), "a confidence of the Queen's Privy Council for Canada" includes, without restricting the generality thereof, information contained in —

and I will only read the part that is relevant —

> (*b*) a discussion paper the purpose of which is to present background explanations, analyses of problems or policy options to Council for consideration by Council in making decisions;

Certainly, three of these Treasury Board documents, being the submissions, would be included in that wording. Whether or not the letter, the decision, which was really a Treasury Board decision of the ministers, may not. The letter is not the important thing, as far as the committee is concerned; it is those submissions.

If the term "body" mentioned above could be interpreted, as I thought it could, to include a Senate committee, then this legislation would be relevant. However, although the word "body" in this section has not been judicially interpreted, other words in federal statutes have, and I have been advised that there is no doubt that the courts would hold that the word "body" in section 39 of the Canada Evidence Act does not include a Senate committee. The reason for this is that the power of the committee is derived from our Constitution, and cannot be reduced by mere federal legislation.

I say, however, if the act did apply — which it does not — to the Senate and to this committee, the documents would be available to the committee because subsection 4(b)(*i*) of section 39(2) provides that subsection (1), which I read into the record, does not apply in respect of a discussion paper if the decisions to which the discussion paper relates have been made public. There is no doubt that the decision to proceed with the Pearson airport contracts was made public.

These Treasury Board documents are not documents of the present government — or at least they claim they are not their documents. The documents certainly were not produced during their tenure. Those documents were provided to the previous government's Treasury Board by its Treasury Board secretariat, the secretariat being the senior civil servants who advise the political cabinet ministers.

Some may argue that these particular Treasury Board documents are subject to a convention dating back to the years of Prime Minister Mackenzie King, that a government should not — and does not — look at documents that are considered the property of a previous government, and that those documents should remain confidential to the ministers of that government. However, it can be argued strenuously that although there is such a convention, it does not cover the Treasury Board's submissions, as Senator Kirby implied in his submission to the Senate on Tuesday last.

I have read several letters passing from one government to another, dating back to Prime Minister Saint-Laurent. I requested and received late this afternoon a copy of a letter that was written by the Clerk of the Privy Council dated November 3, 1993, in the French version, and approved by Jean Chrétien on November 3. The English version that I have received as a copy to the Right Honourable Kim Campbell is not dated, but it was accepted by her. It is obvious that the government of Kim Campbell which was outgoing and the government of Jean Chrétien which was incoming agreed that certain documents are the property of the previous government. However, I do not see where these Treasury Board documents would be included in those documents.

• (1630)

Let us assume for the moment that the convention applies, as Senator Kirby has asked us to do. I do not think it does. I think the government should give them to the committee. It is the unanimous view of the committee that such documents should be available to the committee as it is dealing with a matter that is in the public interest. The only dispute is as to the procedure that should be taken in respect of those documents.

I believe it was Senator Stewart who said in committee, "We agree with you. We should get the documents, but you are putting the cart before the horse."

First, I argue that the convention does not apply and that, because these documents are not cabinet documents per se, they should be given to the committee by the present government without any request being made by the committee of the Right Honourable Kim Campbell to release the documents, as Senator Kirby suggests.

The majority on the committee is saying that if the convention does apply — and in my humble opinion it does not — then it is between the present government and the previous government, something to which this committee is not a party. There is no privity between the Senate committee and the previous government, whereas there is between the two governments. No committee members voted against the motion that outlined how the committee should proceed. The Liberal senators chose to abstain.

After hearing Senator Kirby on Tuesday, October 31, and giving further consideration to this matter, I am convinced that Senator MacDonald's motion is the correct way for the Senate to proceed. The only case that I could find — and now I am assuming the convention does apply — was one in which a commission of inquiry chaired by Justice David C. MacDonald in 1979, inquiring into a matter concerning the RCMP, requested certain documents of a previous government that were protected by the convention to which I have referred. In that case an exception was made to the convention and practice in Canada governing access to records of cabinet and cabinet committee meetings. A motion on the recommendation of the Prime Minister passed by the committee of the Privy Council stated that:

> the Commissioners shall be granted access to the minutes of any Cabinet or Cabinet Committee meeting emanating from the Ministry of the Right Honourable John G. Diefenbaker only with the concurrence of the said Right Honourable John G. Diefenbaker, it having first been communicated by him in writing to the Secretary to the Cabinet;

The commissioners were not told to get Mr. Diefenbaker's consent before the government gave its consent to the release of the documents. The government passed the resolution to release the documents subject to the government receiving Mr. Diefenbaker's consent in writing so to do. That is exactly for what Senator MacDonald's resolution asks.

To get to the absurdity of the whole matter of the government refusing to release the documents to this committee, let us remember that if the government thinks the convention applies, then it is up to them to pass the resolution or to ask the previous prime minister, because it was their government that made this contract with the other government.

Let us remember that the document was advice to the previous government in August 1993, immediately prior to that government's passing a Treasury Board resolution on August 27, 1993 authorizing the Minister of Transport to execute the necessary documents to complete the airport transaction. This was before an election was called. No politician from August 27, 1993, until the 110 documents required to conclude the transaction were delivered on October 7, 1993, made any decision whatsoever as to the content of any of those 110 documents. Everything was done by the civil servants and the legal advisors to the government at the time because there had already been an agreement made. It had only to be documented.

These confidential documents which the committee is requesting, which are in excess of 200 pages, were given to Robert Nixon and his advisors sometime between October 29, 1993, and the first week of November 1993. Technically, it is possible that they were given before November 4, in which case one might argue that the old administration was still in place. However, a transition team had taken over between October 25 to November 4. After November 4 — and we cannot be clear as to when these documents got across — a 200-page document marked "Secret" from the Department of Transport was delivered at the request of the incoming Prime Minister. He was the one who said to the people at Transport, "Give them whatever is necessary."

Hon. John B. Stewart: That particular document is not specified.

The Hon. the Acting Speaker: Honourable senators, I should inform Senator Jessiman that his allotted time has expired. He may continue with the consent of honourable senators.

Is it agreed that the honourable senator be allowed to continue?

Hon. Senators: Agreed.

Senator Jessiman: Honourable senators, Robert Nixon and his advisors used parts of these documents in arriving at their conclusion to cancel the contracts. The same documents were also leaked to a reporter from *The Ottawa Citizen* who also used part of the documents to justify the Nixon report.

What has happened in this case is that Robert Nixon and his legal advisors, as well as the reporter, Greg Weston, have taken a number of the statements in these documents out of context. The statements made by Weston have all been refuted in a memorandum prepared by William Rowat, a senior official of Transport Canada, and published in a newspaper in October of 1993. Notwithstanding the answers given by Mr. Rowat, there continues to be the suspicion that unless the committee sees the 200-page document used by Mr. Nixon, his advisors and Greg Weston, the improper view which the newspaper reports have left will continue to linger in the minds of some.

As this is a matter that is important to the integrity of the government, both the previous government and the present government, the committee should have the opportunity to see these documents to enable it to complete its work and make whatever comments it decides are appropriate.

The importance of withholding production on the basis of public interest must be weighed against the public interest in the proper administration of a Senate committee attempting to get at the truth of the matter referred to it. In view of the facts as I have outlined them, there is no question that the committee should be given the documents requested. It is in the public interest to do so and no one will be prejudiced thereby.

I urge all members of the Senate to vote in favour of the motion of Senator MacDonald to adopt the second report of the Special Committee of the Senate on the Pearson Airport Agreements. If we are to vote first on the amendment by Senator Kirby, then I urge honourable senators to vote against it.

Senator Stewart: Honourable senators, I understood Senator Jessiman to say that, in his opinion, the document prepared by the Treasury Board staff would not be regarded as a Privy Council document.

• (1640)

Senator Jessiman: Honourable senators, I did not say that. I said I do not think it comes within the convention, because it gives a list of documents. It says that the meaning of the term "cabinet papers," while not precisely defined, has generally been understood to include such documents as cabinet committee agendas, memoranda, discussion papers, minutes, reports and guidelines, briefing notes for ministers related to the above papers, and correspondence between ministers and related documents.

I suggest that the document prepared by the senior bureaucrats to advise in this particular case does not come within that definition. However, if it does, I am saying that it is up to this government, if they think it applies, to pass the resolution we are asking to be passed. The government can then decide. They will either ask the Right Honourable Kim Campbell for their release or they will not. It is up to them.

Senator Stewart: I understand that. I was raising a narrow point on what you dealt with before you got to your "if."

The language you quoted uses the expression "cabinet." They really mean the Privy Council. As I understand it, the Treasury Board is a committee of the Privy Council.

The point on which I wanted enlightenment was whether a document prepared for a committee of the Privy Council would be covered by the rule with regard to privilege, but you do not seem to wish to be emphatic or categorical on that point. I am not being critical. I just wonder if you have any evidence one way or the other.

Senator Jessiman: I can only give you the act they passed. Let us assume we are a court or an inquiry. We could not look at the document until the decision in respect of those papers was made public. Well, they made it public. They said, "We are going to sign the documents." There is a contract here. It is public. Those documents are now available to anyone.

On motion of Senator Kinsella, debate adjourned.

The Senate adjourned until Monday, November 6, 1995, at 8 p.m.

THE SENATE

Monday, November 6, 1995

The Senate met at 8:00 p.m., the Speaker in the Chair.

Prayers.

THE LATE YITZHAK RABIN

TRIBUTES TO FORMER PRIME MINISTER OF ISRAEL

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I rise tonight to add my voice to those of all Canadians who have expressed their shock, outrage and deep sorrow at the assassination of Israeli Prime Minister Yitzhak Rabin, made even more unbelievable by the fact that it occurred during the course of a rally for peace.

In the short hours since his death, there has been an outpouring of grief and condolences for his family's loss, for his nation's loss, and also for our loss, for he was that rare kind of person whose courage and conviction made him a visionary world statesman, a leader among leaders.

He has been eulogized over the last two days as a tough soldier who fought for peace, a war hero turned peacemaker, a hawk who soared like a dove. He was all that and much more. His fight for a lasting peace in his historically troubled region is the legacy he leaves to the world. One cannot forget his eloquent words spoken on the lawn at the White House in 1993, in the company of President Clinton and Yasser Arafat, an old foe but new partner in the cause of Middle East peace. Mr. Rabin said on that day:

> We, the soldiers who have returned from battles stained with blood, we who have seen our relatives and friends killed before our eyes....We who have come from a land where parents bury their children....We say today in a loud and clear voice: Enough of blood and tears. Enough.

Sadly, honourable senators, it was not enough. For all of us, the fragility of the peace process in the Middle East was sharply underlined by the violent tragedy that unfolded on Saturday at a massive gathering for peace in the streets of Jerusalem. We hope and pray that his words will continue to inspire and move those who follow him.

Israel's Acting Prime Minister, Shimon Peres, who has been a colleague and companion in arms with Mr. Rabin in his cause, has affirmed his commitments to those words of 1993 and to the path to peace which they represent. We can do no less. The greatest and most poignant tribute we can offer in the tragic death of Yitzhak Rabin is to pledge our support and dedication to his vision of an enduring solution in the Middle East.

[*Translation*]

Mr. Rabin was a friend of peace, a friend of democracy and a friend of Canada.

As Canadians, we have a responsibility to endorse his vision, because we want peaceful and democratic solutions to the most heartbreaking problems.

[*English*]

Hon. Leo E. Kolber: Honourable senators, my own connection with the state of Israel goes back a long way. My wife's parents and family came from Palestine, and our son lives there as a citizen of Israel. As a matter of fact, he was on the platform with Mr. Rabin during the peace rally on Saturday, and shook his hand approximately four minutes before he was shot. Thus, the tragedy came home to me and was certainly felt very deeply, not only by the world, but by my family.

Yitzhak Rabin was the least predictable of peacemakers, an old soldier with an instinctive distrust of the kind of bright young intellectuals who contrived the Oslo breakthrough with the Palestine Liberation Organization. He visibly blanched when President Bill Clinton coaxed him to shake hands with Yasser Arafat on the White House lawn in September of 1993.

As Prime Minister for the first time from 1974 to 1977, Rabin could hardly steel himself to utter the word "Palestinian". He and his defence minister in that administration, Shimon Peres — who is one of my oldest and closest friend in the world — established the first Jewish settlements planted among Arab towns and villages on the spine of Palestine. As defence minister in the 1984-90 national unity government, Rabin ordered his troops to use whatever means necessary to stem the Intifada uprising.

• (2010)

Yet on the night of his death at the hands of a lone Israeli gunman, Rabin was singing "Shir Hashalom," the Hebrew hymn of peace, with 100,000 supporters of Peace Now. It was, Peres said afterwards, probably the first time in his life that the croaky-voiced Rabin had sung in public.

His farewell message had a ring of Martin Luther King's "I Have a Dream." His government, he said, had decided to give peace a chance. "I was a military man for 27 years," he said. "I waged war as long as there was no chance for peace. I believe there is now a chance for peace, a great chance, and we must make the most of it."

What wrought the transformation was the realization that Israel could not batter into submission the children and mothers of the Intifada without compromising its own humanity and alienating the civilized world, with which Israel identifies itself.

As early as the 1988 election campaign, Rabin and Peres argued that Israel could not go on ruling the large, hostile Arab minority if it wanted to remain a Jewish and a democratic state. The only alternative was — and I hate to use the word — separation: a line on the ground with Israelis on one side and Palestinians on the other. To the end, Rabin refused to acknowledge that his policy might spawn a Palestinian state.

The 1988 electoral stalemate denied the two labour leaders an opportunity to put "territory for peace" to the test, but after their victory in June 1992, Peres, as foreign minister under Rabin's premiership, convinced himself and his chief that Arafat was ready for a symmetrical compromise. Isolated and impoverished by the historic miscalculation of siding with Saddam Hussein in the 1991 Gulf War, the leader of the PLO had finally become a partner for peace.

It was Peres, always the more imaginative and restless of the two, who selected and backed the freelance diplomats for the Oslo back channel. However, without Rabin checking every detail and reining in their enthusiasm, the deal would never have jelled. Without Rabin, elected on the platform of peace with security, the Israeli public would not have acquiesced.

Despite their history of bitter personal rivalry, Rabin and Peres were an extraordinary team. Both in their seventies, they recognized that a solution to a century-old conflict between Jew and Arab was indeed attainable. This was their last chance, and they did not intend to let mutual recrimination get in their way.

Nor would they be deflected by the enemies of peace, Arab or Jewish. After every Islamic suicide bombing, a grim-faced Rabin announced to the television cameras that negotiations would continue. Echoing a celebrated phrase of Israel's first Prime Minister, David Ben-Gurion, he said that he would "fight the terrorists as if there were no peace process, and fight for peace as if there were no terrorism."

Rabin was equally stubborn in defying a campaign of unprecedented vilification by the Israeli right and its Jewish paymasters abroad who branded him a traitor and an alcoholic, and portrayed him in the Nazi uniform or Arab keffiyeh headdress. To their enduring shame, leaders of the parliamentary opposition were slow to disown these excesses. Even when his progressive majority was reduced last month to a single mercenary MP, Rabin drove on. "A majority of one is still a majority," he insisted.

Foreign critics accused Rabin of dictating a humiliating peace to a vulnerable Arafat. However, Israel, too, was paying a price, not just in territory but in personal security. By finely calculating when to accelerate the peace process and when to slow it down, Rabin stopped the pragmatic centre of Israeli public opinion from joining the settler ideologues at the barricades.

His tenacity won Israel a peace treaty with Jordan to match that which Menachem Begin signed with Egypt in 1979. It banished the kind of isolation that had dogged Israel in international fora for 47 years. Israeli commentators were quick to notice that when Rabin addressed the jubilee General Assembly of the United Nations last month, no Arab or Third World delegation walked out. As it happened, the Syrians and Libyans were not there.

Yitzhak Rabin was born in Jerusalem on March 1, 1922. His life and career marched step by step with the struggle for and consolidation of the Jewish state in the biblical homeland. His father, Nehemia, a working-class Ukrainian Jew who had emigrated to the United States, arrived in Palestine in 1918 as a volunteer for the Jewish legion, fighting to help the Allies oust Turkey from the Levant. His Russian-born mother, Rosa, the daughter of an Orthodox rabbi, immigrated with a Zionist uncle.

In the best pioneering tradition, Rabin studied at an agricultural school, then joined the Palmach, the elite professionals of the Haganah Jewish defence force, in the struggle for independence. During the 1948 Arab-Israeli war, he commanded a battalion that kept open the lifeline between Tel Aviv and Jerusalem.

He reached the peak of his army career as chief of the general staff in Israel's resoundingly victorious Six-Day War in 1967. Rabin collapsed with nervous exhaustion on the eve of the war, but after two days' rest he returned to his post. Moshe Dayan, the flamboyant defence minister, seized the international limelight, but the more taciturn Rabin was credited with the planning and control that expanded Israel's borders to the Suez Canal, the Jordan River, and the Golan Heights.

After retiring from the military at the end of 1967, Rabin was appointed ambassador to Washington. He scorned the frivolities of the cocktail circuit, but established a highly productive working relationship with the Nixon administration.

He returned to Israel in 1973 and ran for election on the Labour ticket in the elections in December of that year. Israelis welcomed him as a leader with a record of success who was untainted by the almost disastrous errors that exposed Israel to invasion in the Yom Kippur war. In April 1974, he defeated Shimon Peres in their first contest for the party leadership.

In 1992, the Labour Party concluded that they needed to be led by Mr. Rabin because his moral authority could carry the day. It worked, but by a dizzyingly precarious margin. The peace process was the improbable outcome. In the tradition of the Palmach and the Israel defence forces, Rabin insisted on leading from the front. Just before 10 p.m. in Tel Aviv Square on Saturday, he paid for it with his life. Shalom, Yitzhak.

Hon. Erminie J. Cohen: Honourable senators, I rise tonight to express the sadness and grief we share with the people of Israel and all the people in the world who believe in peace.

I watched the events following the assassination of Prime Minister Yitzhak Rabin for the past two days with great emotion. The attendance at the funeral of so many world leaders — the attendance for the first time of President Clinton of the United States; President Mubarak of Egypt; King Hussein of Jordan; and Mr. Yasser Arafat — and the sight of so many Arab headdresses in the assembly were significant and made a powerful statement to the world. It showed the changing face of the Middle East.

The fact that the assassination of Prime Minister Rabin was the first such event in the life of Israel was difficult enough, but that the Prime Minister was killed by an Israeli, another Jew, for political reasons was shocking; yet one felt at the time some sense of relief that the assassin was not a Palestinian, as damage to the peace process would have been inevitable. The assassin was a religious fanatic, influenced by the ideological seeds of hatred and the rejection of peace.

Mr. Rabin changed the course of history in the first breakthrough with the Palestinian people. It was said that his life paralleled the history of his people, the history that he lived. He was at the centre of many of Israel's turning points, both as a soldier and as a diplomat.

Mr. Rabin typified the Israeli sabra, the fruit of Israel — tough and prickly on the outside, and tender and sweet on the inside. He had the respect of his people and walked a very lonely road, one he was prepared to walk if it led to a peaceful conclusion.

• (2020)

Honourable senators, the international community has suffered a great loss with his death, and it will leave a huge void in the Middle East. It is ironic that a man who started his career as a soldier died for peace.

Honourable senators, we know that terrorism, ignorance and religious fanaticism are the true enemies of peace in the Middle East. We wish Shimon Peres, Acting Prime Minister of Israel, the leaders of the Arab states and Arab and Jew alike the strength, courage and understanding as they continue on the road to peace, remembering at all times the words Yitzhak Rabin uttered in Washington not so long ago, that this land of milk and honey should not be a land of blood and tears.

Hon. Jerahmiel S. Grafstein: Honourable senators, for over 3,000 years, not far from the blood-drenched stones of Jerusalem, another great warrior leader, striving to unite his people and to provide them with security and peace with their neighbours, wrote these words, which are now customarily recited at a house of bereavement. It is the 23rd Psalm.

> The Lord is my shepherd; I shall not want.
>
> He maketh me to lie down in green pastures; he leadeth me beside the still waters.
>
> He restoreth my soul; he leadeth me in the paths of righteousness for his name's sake.
>
> Yea, though I walk through the valley of the shadow of death, I will fear no evil; for thou art with me; thy rod and thy staff they comfort me.
>
> Thou preparest to table before me in the presence of mine enemies; thou anointed my head with oil; my cup runneth over.
>
> Surely goodness and mercy shall follow me all the days of my life; and I will dwell in the house of the Lord forever.

Honourable senators, we are told that King David was the greatest of God's beloved because David never lost faith. David was humble. He never blamed God for the failures of man or himself.

Yitzhak Rabin, may he rest in peace, was born in Jerusalem, the City of David. Farmer, soldier, general, strategist, politician, diplomat, statesman, peacemaker — he played a pivotal and leading role in each of the many wars that have engulfed Israel since the founding of that state in 1948. He became its youngest Prime Minister, the eighth Prime Minister, and the first to be born in Israel. As Senator Cohen said, Yitzhak Rabin was a "sabra", and the word "sabra", as she pointed out, is a desert cactus, tough and prickly on the outside and soft on the inside. This symbol personified Yitzhak Rabin's life and personality and, indeed, reflects the personalities of many of the citizens in Israel.

Honourable senators, I first met Yitzhak Rabin over 20 years ago, just after he became Minister of Defence. We met in his small office located in a temporary wooden building in the Defence compound in Tel Aviv for what was scheduled to be a very brief introductory exchange. At his insistence, this brief exchange turned into a dialogue lasting longer than two hours. Almost as if he was thinking out loud, he insisted on painstakingly reviewing the difficult options and the painful choices facing Israel in its search for security. I simply became enthralled by his precise grasp of the myriad issues, the minute detail and the knowledge that he had at his fingertips, ranging from the strategic to the tactical, from the public psychology to the private anxieties. I learned then what a meticulous thinker and a brilliant planner he was.

We know that God, like genius, lies hidden in detail. In that sense, Rabin was a genius, for he understood, as few other politicians did, that behind every public pronouncement, behind every public policy, a sure grip of detail was essential for public comprehension and ultimately for public consensus and acceptance. He seemed motivated at that time by an obsession, since he emphasized that there was a zero-sum margin for error confronting Israel's security. "Simply no room," he said, "for ill-considered ideas or shallow policies."

Honourable senators, Israel, at its widest point, covers a shorter distance than the boundaries that separate Greater Metropolitan Toronto. A hair's breadth separates Israel from its neighbours without, and a blink of an eye from its neighbours within. Yitzhak Rabin understood and lived this reality, and so he painstakingly and patiently analyzed each brick necessary to support and ensure the security and ultimately the peace for his people.

As time went on, I glanced at my watch, not wishing to intrude further on his tight schedule. Yet, he seemed to have all the time in the world. I was puzzled, quite frankly, why he spent so much of his precious time on me, for though interested in Israel and its security, I held no public office or influential position at the time. Yet, he seemed anxious for me, and I assumed countless others he encountered, to understand the complexity of the issues and

the need for careful navigation through the minefield of problems. When we talked then of the "Palestinian problem," he shocked me by saying that the difficulties with the Palestinians will certainly be resolved, but only with great care and great patience. "Solutions would come," he said, "but it would take time." This was certainly not the conventional thinking at that time. "Palestinians," he declared, "were not the strategic problem."

The real strategic problem of security confronting Israel, he quietly argued, was Syria. Syria had the military strength; Syria had the military power; Syria had the military support and the political support to undermine and destroy Israel's security. Yet, when referring to Syria, he was optimistic. Again, he shocked me when he said that when Syria moves towards peace, Syria could be relied upon because Syrians, unlike any other group or state in the region, had always kept their word. This was new information to me. They had kept their word, he said, from the time they signed the first disengagement agreement on the Golan. He was convinced that they would keep their word once they signed an agreement for peace — a written agreement for peace.

That conversation, honourable senators, took place over 20 years ago in Israel. Many times since then, when I have watched Yitzhak Rabin or listened to his carefully crafted words, I remember that dialogue, and still I marvel at his perception, his precision and his vision.

The last time I saw Yitzhak Rabin was in his office in Jerusalem, just this last August, on the Wednesday morning following the signing of the agreement between Arafat and himself, which signing had taken place the night before in Taba. I arrived mid-morning just as a meeting of the Israeli cabinet responsible for security was breaking up. This committee was chaired by Rabin as Prime Minister and Minister of Defence, and the generals continued to noisily debate the issues as they moved outside the cabinet door. Some sat down beside me on a sofa to review detailed maps and schedules spread out on a coffee table in front of the sofa. I watched with some amusement as some of the military leaders would leave the discussion from time to time, walk into the cabinet room, fetch a piece of honey cake or a piece of fruit, and return to the coffee table to continue the debate.

Yitzhak Rabin emerged after hearing the commotion from his office, which was right next door, and glanced at me as the only stranger in the anteroom observing the scene. He was dishevelled, smoking heavily, looking for all the world as if he had just slept in his clothes or, worse, as if a tank had just rolled over him. We glanced at each other, and he returned to his office with a quizzical look on his face wondering who this alien was, who this stranger was, and what I was doing there at this critical time. He emerged a few minutes later talking to an assistant and a military aide, and again he glanced at me. Finally, there was a flicker of recognition. He quickly approached me, apologized for not being able to spend some time but, as I could see, he was quite busy. I reminded him that I was there primarily not to meet with him, but to meet with Mr. Eitan Haber, his chief of staff, whom I had met several times in Canada. A few minutes later, after Rabin had returned to his office, Haber came out, apologized for the delay, and ushered me into his office connected to Rabin's office next door.

Honourable senators, for those of you who watched Rabin's funeral early this morning, you will recall that Eitan Haber was the last speaker who spoke so eloquently, reading from the blood-stained words of the song sheet dedicated to peace that Rabin sang from and stuck in his pocket just before he was so cruelly struck down.

• (2030)

On that August morning in Israel, Haber and I discussed the deep divisions that both of us recognized within Israel. I had not been there for some time and I mentioned to him that I had never seen the divisions so deep and so vitriolic. Yet, Haber said that both Rabin and he were optimistic. Movements, manoeuvres and tactics were under way to unravel the polarization, to change the very dialectics of division, to alter the public dialogue.

We discussed at length the role of the orthodox community. We discussed certain leadership personalities within that orthodox community. We reviewed our respective roots that lie deep within that orthodox community and Mr. Rabin's relationship to that group. Mr. Haber reviewed for me the complexities and difficulties necessary to gain political momentum to overcome the internal objections to peace and to the peace process. He covered the ground, as Rabin would, with a lucid, optimistic and penetrating analysis stressing, not minimizing, the day-to-day difficulties facing the Rabin government — making peace with both its neighbours on the outside and seeking to reconcile the deep and passionate divisions splitting Israeli society on the inside. His voice echoed the wear and tear, the stress lines, that I saw deeply etched on Rabin's face that morning.

Honourable senators, those in Israel now face a double tragedy — the death of a great leader and caused by the hand, of all things, of a fellow Israeli and co-religionist, unheard of since the founding of the state and so contrary to the basic tenets of Judaism, so inimical to the precious value system of Israel itself. This cowardly, vicious act will compel those within and without Israel to probe the foundations of their inner beliefs, to question how Israel could have fallen from a state of grace. This introspection and soul-searching will continue in every corner of Israel and amongst its supporters throughout the world, until a moral equilibrium is regained, until a collective sense of human dignity and respect for human life is at least partially, if only partially, recaptured.

Honourable senators, watch now. Watch carefully how this vile act will convulse the very core of that democratic society, constructed as it is on the very first principles of civilization.

Even at this early stage, is there a parallel lesson one can learn from this tragedy? The Hebrew sages remind us that we must train ourselves to seek to repair every disaster to the human condition. These sages tell us that words can kill, that ideas can kill. At the end of each service, at least three times daily, Jews the world over conclude their prayers with this phrase: "Oh, my God! Guard my tongue from evil and my lips from speaking guile." This self-restraint from speaking and spreading evil lies deep at the heart of Jewish morality.

Those in Israel and beyond who are deeply religious, orthodox in their beliefs, as well as others, have forgotten their prayers, forgotten the tenets of their faith. The uncivil discourse, the crude analogies, the obscene name-calling acted as a catalyst for this vile and venal act. Guarding one's tongue is a lesson that all of us must learn in our daily political discourse if we are not to incite others to acts of violence. Words have always been important to Israel. Now those words must be carefully chosen to continue the endless search for peace.

Jews, honourable senators, do not mourn death. The *Kaddish*, the blessing commemorating the passage of a human soul, contains words that celebrate life. We celebrate the words, the deeds and the life of Yitzhak Rabin. The final words when reciting the *Kaddish* are these:

> He who maketh peace in his high places may he make peace for us and for Israel and let us say, amen.

To Yitzhak Rabin, for all of his works, for all of his acts of humility, for all of his public dedication and personal sacrifice, for all of his deeds of greatness, for all of his *mitzvot*, let us say amen.

Hon. Noël A. Kinsella: Honourable senators, today, the world community showed its capacity for solidarity in the face of evil. It also showed the high premium we place on peace, as more than 80 global leaders, including the Prime Minister of Canada, gathered in Jerusalem to bury a great peacemaker of our time, Yitzhak Rabin.

This son of the City of David and Solomon was an instrument of peace, courageously sowing hope where there had only been hatred, seeking understanding where there was only injury and despair. Canadians — along with men and women of goodwill everywhere — expressed their dismay and sadness at this great loss and, in the next breath, expressed the wish that the good seeds sown by Prime Minister Rabin will continue to be nurtured and cultivated so that a great harvest is yielded in the wonderful fruit of *shalom*.

May Yitzhak rest in the bosom of Abraham.

[*Translation*]

Hon. Jean-Louis Roux: Honourable senators, as honourary president of Artists for Peace and as a member of the arts community in Canada, I wish to express before this house the tremendous emotion I felt when I heard the news of the assassination of the Prime Minister of Israel, Mr. Yitzhak Rabin, on Saturday, November 4, 1995.

[*English*]

I took full measure of the man's words on September 13, 1993. The whole world witnessed the historic moment at the White House as he, albeit reluctantly, extended his hand to the PLO's chairman Yasser Arafat. I remember being deeply moved to see those two men join hands in an effort to put an end to the generations-long Arab-Israeli struggle.

Beholding this bold act of courage and goodwill, the crowd stood aghast, then met it with a resounding and joyful applause. Who could have foreseen that, one day, we would hear the same words uttered by lifelong and irreconcilable enemies. Enough violence! Enough butchery! Let us give peace a chance.

[*Translation*]

Honourable senators, there are probably a host of complex reasons why Rabin and Arafat decided to recognize the right of the state of Israel to live in peace and security, and the right of the PLO to represent the Palestinian people. Economic considerations must have weighed heavily. To wage war is a costly business. The manufacture and purchase of extremely sophisticated weaponry, and keeping a large military establishment or hordes of terrorists combat ready, probably played a major role in destroying the economy of both sides.

[*English*]

However, I dare say — indeed I hope — that it is their respective peoples that allowed Rabin and Arafat to clear the hurdles toward lasting peace in the Middle East. The fanatics may yell louder and, sadly, may even be so blinded as to pull the trigger on their own to further their political ends, but it is inconceivable to imagine that the great majority of men and women that inhabit this planet would accept to allow their children, their parents or their friends to be mindlessly murdered for whatever cause it may be. I like to think that it is precisely the Israeli and the Palestinian peoples who made it possible for their leaders to renew hope on that occasion.

[*Translation*]

Honourable senators, all the commentators and all the politicians said at the time that it was not the moment for smug celebration; that the road to peace would be rocky and would require a steadfast communal will to carry on to the end; that Jewish or Arab extremists would push all the more violently and aggressively to ensure the venture failed. Alas, in the past two years, events have proven them right. So many women, children and men sacrificed to fanaticism. The latest victim, to date, is the Israeli Prime Minister, Yitzhak Rabin. He was awarded the Nobel Peace Prize together with Yasser Arafat, in recognition of their courage and determination in establishing long-lasting peace in the Middle East. Beyond their fight in mortal combat, each came to realize that Saint-Exupéry was right in having the father of he who reigned over the Empire say:

> You must never meet man in his superficiality; you must look for him at the seventh level of his soul, his heart and his mind. Otherwise, if you seek for yourself in your most vulgar movements, you end up spilling blood uselessly.

[*English*]

• (2040)

The cruel irony is that Rabin was shot and murdered while preaching peace, and even worse, at the hands of a fellow Jew. I heard on Saturday night an American official suggest that this tragic assassination might actually galvanize support for the peace process initiated two years ago.

As a member of Artists for Peace and as a Canadian citizen, I pray with all my heart that he is right and that out of this tragedy, Israelis and Palestinians may find the courage to strengthen their resolve for peace.

I call upon all honourable senators to join me in paying tribute to a hero of peace such as the world will so desperately need in the future, Yitzhak Rabin.

SENATOR'S STATEMENT

SOLICITOR GENERAL

EFFICACY OF SECURITY ARRANGEMENTS AT RESIDENCE OF PRIME MINISTER

Hon. William M. Kelly: Honourable senators, while I certainly associate myself with all that has been said with respect to Prime Minister Rabin, I would say at the same time that we should thank God that tonight we are not paying tribute to our own head of state. I refer to the break-in which occurred at 24 Sussex Drive during the weekend.

I must confess I was shocked and I was outraged. This is our head of state.

An Hon. Senator: He is our Prime Minister, not our head of state.

Senator Kelly: He is our Prime Minister. He is my head of state.

I do not know how long it will take for Canadians to outgrow this deep-seated attitude that these things cannot happen here. We are so convinced that these things happen elsewhere, but not here. Presidents, heads of state, prime ministers — important people who involve themselves in government — are attacked or assassinated elsewhere but never, ever in Canada.

Honourable senators, the recent referendum developed great passion in this country, passion at a level that in many countries could have excited violence aimed at leaders of both sides of such an issue. In any other country, security would have been stepped up but, of course, not in Canada, because serious things of this nature do not happen here.

I am not suggesting by any means that the referendum debate had anything to do with the break-in at Sussex Drive. Nonetheless, prudence in this case might have avoided the incident that happened over the weekend.

Honourable senators, it is easy to blame the police. Perhaps they have earned a great deal of the blame; I do not know. None of us knows yet. However, I have had firsthand experience with Canadian political leaders, particularly at the levels of premier and prime minister, on matters of security. In almost all the cases, the security arrangements put in place fell far short of the security arrangements recommended by police agencies and protective agencies.

It is considered bad politics in Canada for leaders to be seen taking precautions of the sort that we believe belong in the U.S, the United Kingdom, France, Italy, Greece, or even Australia.

Look what happened when Prime Minister Mulroney was seen to permit security arrangements in excess of what had been normal in Canada. The media ridiculed him. Canadians were persuaded to laugh. They thought that was silly. Let me tell you an interesting anecdote that occurred at that time.

I had occasion to discuss the issue with a well-known member of the Ottawa press gallery, and he said, "Senator, I understand your viewpoint, but there is a major difference. In the countries such as you mentioned — Indonesia, Iran, India and elsewhere — an assassination usually heralds an overthrow of a regime and a new government. In Canada, if our head of state were assassinated, the party in power would simply elect a new leader who would then become the new prime minister, and we would get on with the business of the country." How bloody cynical! That kind of attitude, I think, is pretty serious.

Honourable senators know my long-standing concern about international terrorists. My main objective is to try to keep ahead of events because terrorism has many faces. How many airplanes, for example, must be bombed and people killed before we take serious, maximum protective measures? During the debate on Bill C-71, I remarked on how slowly we are dealing with the problem of detection of plastic explosives. How many more planes, or briefcases, or apparently innocent-looking baby carriages must explode before we feel we should hurry a bit?

We all mourn the tragic death of the leader of Israel. Surely, it would have been prudent to review immediately security arrangements at 24 Sussex Drive. We are doing that now but, as usual, after the event. Fortunately, this was not a tragic event, which only goes to prove the other thing that Canadians believe: We are really lucky. Well, let us hope that we continue to be lucky.

ROUTINE PROCEEDINGS

THE ESTIMATES, 1995-96

TABLING OF SUPPLEMENTARY ESTIMATES (A)

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the Supplementary Estimates (A) for the fiscal year ending March 31, 1996.

SUPPLEMENTARY ESTIMATES (A) REFERRED TO NATIONAL FINANCE COMMITTEE

Hon. B. Alasdair Graham (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(*f*), moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31 of, 1996, with the exception of Privy Council Vote 25a.

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

Hon. Senators: Agreed.

Motion agreed to.

OFFICIAL LANGUAGES

SUPPLEMENTARY ESTIMATES (A)—PRIVY COUNCIL VOTE 25A REFERRED TO JOINT COMMITTEE

Hon. B. Alasdair Graham (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(*f*), moved:

> That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 25a of the Supplementary Estimates (A) for the fiscal year ending March 31, 1996; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Senators: Agreed.

Motion agreed to.

• (2050)

QUESTION PERIOD

SOLICITOR GENERAL

EFFICACY OF SECURITY ARRANGEMENTS AT RESIDENCE OF PRIME MINISTER—GOVERNMENT POSITION

Hon. Colin Kenny: Honourable senators, I echo and support Senator Kelly's comments regarding the appalling breach of security at 24 Sussex Drive. I should like to know if the Leader of the Government in the Senate can provide us with any more information as to what might have happened there. I should like to know if the Commissioner of the Royal Canadian Mounted Police has offered his resignation and, if not, why not?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I join with Senators Kenny and Kelly and every member of this house in deploring the events that took place at 24 Sussex Drive. I should also like to add a personal tribute to Aline Chrétien.

Hon. Senators: Hear, hear!

Senator Fairbairn: Those who have met her will know that she is a woman of character and strength, with a very cool head. She deserves a great deal of credit and, indeed, our thanks.

The Commissioner of the RCMP held a news conference this morning in which he, too, indicated that the events which took place were totally unacceptable. Today, obviously, the security arrangements at 24 Sussex Drive have been not only under review but have been the subject of strengthening. Indeed, a review of all security arrangements at official residences has been instituted, including the Governor General's residence at Rideau Hall, and the residence at Harrington Lake.

The specific incident is now under urgent review by Assistant Commissioner Martell of the RCMP. It is hoped that the results of the review will be received quickly, possibly by the end of the week.

REVIEW OF SECURITY ARRANGEMENTS AT OFFICIAL RESIDENCES—PUBLICATION OF RESULTS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, might I ask whether we can anticipate that the results of this review will, in fact, be made available to the public?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, because these matters are of a security nature, I imagine that they will remain just that. They will not be made public, any more than the methods to strengthen the security will be made public.

The honourable senator can rest assured that action has been taken already. This event is unprecedented in our history. The Solicitor General and the Commissioner of the RCMP have both said very clearly that it will not happen again.

Senator Forrestall: Honourable senators, the purpose in asking my question is to underscore the determination and the absolute necessity of the Canadian public to know what happened, how it happened, and how it may not ever happen again. Having due regard for the requirements of the security measures being taken by those who are charged with the protection of our national leaders, the basis for my question is the need for Canadians to know how, and under what circumstances, their national leaders are protected.

Once again, I ask the Leader of the Government not to hide behind the absolutely ridiculous press conference that was held today. I felt embarrassed, as I am sure most viewers of it did. Canadians must understand and know that their leaders are being protected, and should not fear a repeat of what happened to the Prime Minister last night. With all due respect to everyone, there is a need for people to know. In the absence of that, there will only be continued fear.

I ask the leader to bring forward some enlightenment on this matter.

Senator Fairbairn: Honourable senators, I am certain that the Commissioner of the RCMP, the Solicitor General and, indeed, the Prime Minister himself will weigh carefully the events of recent days, and whatever information is possible to give out will be given out, but not at the expense of the strength of the security surrounding the Leader of the Government and others.

Senator Forrestall: What security?

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have one delayed answer in response to a question raised in the Senate on June 13, 1995, by the Honourable Senator Spivak regarding the report on the state of the environment and discussion on sustainable development at the G-7 Summit.

ENVIRONMENT

CANCELLATION OF REPORT ON STATE OF ENVIRONMENT—POSSIBILITY OF DISCUSSION ON SUSTAINABLE DEVELOPMENT AT G-7 SUMMIT—GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on June 13, 1995)

Environment Canada is not cutting the report. It is planning to bring out the 1996 state of Canada's environment report in an electronic format. The report will be made available chapter by chapter on the Internet, starting this year. In 1996, when all chapters are finished, a complete version will be made available on CD-ROM and a printed edition will follow if a private sector partner can be found.

Environment Canada remains committed to a comprehensive state of the environment reporting system. By finding a different way to produce these reports we can save $3.5 million over the next three years, and still provide Canadians with the information they need.

Environment Canada will be working over the next 12 months to put in place new, more efficient arrangements.

ORDERS OF THE DAY

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

ALLOTMENT OF TIME FOR DEBATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed with Orders of the Day, I want to mention that there has been lengthy discussion with the other side about allocating a specified number of days for the consideration of Senator Fairbairn's motion to instruct the Legal and Constitutional Affairs Committee to table its final report on Bill C-69. I am happy to report that we have been able to reach an agreement.

Accordingly, pursuant to rule 39, I move:

That at 5:30 p.m. on Tuesday, November 21, 1995, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of the motion by the Honourable Senator Fairbairn, P.C., dated November 2, 1995, to instruct the Standing Senate Committee on Legal and Constitutional Affairs to present their Final Report to the Senate on the Message and on the Motion regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries, shall be put forthwith without further debate or amendment, and that any votes on any of those questions not be further deferred.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

• (2100)

Hon. Lowell Murray: This may be a good time to congratulate the government, and in particular the Deputy Leader of the Government, for invoking yet another of the excellent new rules brought in by Senator Robertson and her committee several years ago.

Motion agreed to, on division.

EXPLOSIVES ACT

BILL TO AMEND—THIRD READING

Hon. Colin Kenny moved the third reading of Bill C-71, to amend the Explosives Act.

Motion agreed to and bill read third time and passed.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

AUTOMATION OF WEATHER STATIONS—INTERIM REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventeenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (study on the safety implications of automated weather observation systems (AWOS)), tabled in the Senate on Tuesday, July 5, 1995. — (*Honourable Senator Kenny*).

Hon. Colin Kenny: Honourable senators, this order has been standing in my name for some time now, and if no other senators wish to speak to it, I should like to have it removed from the Order Paper.

Before doing that, I should like to make a few brief comments relating, to some extent, to Senator Carney's Notice of Inquiry, No. 66, with which we will deal later in the day.

Simply put, the committee's report on AWOS was that the committee had no confidence in the automated weather system which the government was installing because the pilots do not believe that the new scheme, even though it saves a great deal of money, is safe. Until the committee is convinced by the pilots flying the aircraft that the new system is safe, I believe that there will be bipartisan opposition to this proposal. Until the government gains the support of the pilots who are responsible for the safety of flying passengers, and using this new system, your committee will continue to oppose this proposal.

Later tonight, or perhaps later this week, Senator Carney will speak at some length about the committee's unhappiness with the lack of response we have been receiving from the government on this matter. We issued an interim report on July 5, four months ago, and we asked for a response from the ministers involved: the Minister of Fisheries and Oceans, the Minister of the Environment, and the Minister of Transport. Members of the committee from both sides are extremely disappointed that we have not had the courtesy of a response.

Frankly, the only way that Senate committees will have any impact is if we insist that the government reply to our reports, and if we continue to call back members of the government to respond to our reports until we get satisfactory answers. This is a serious issue that affects all senators. It affects all of our committees. Honourable senators should know that the Standing Senate Committee on Energy, the Environment and Natural Resources intends to make an issue of this until we receive a response from these ministers.

We are not asking necessarily even for a favourable response; we are simply saying we would like a response.

Senator Carney: We want a favourable response.

Senator Kenny: We would prefer a favourable response, Senator Carney, you are quite right. However, having said that, we have heard nothing from them, and that is not acceptable.

On motion of Senator Carney, debate adjourned.

PRIVILEGE

ORAL NOTICE

Hon. Anne C. Cools: Honourable senators, I rise today to give notice that I wish to raise a question of privilege pursuant to rule 43(1)(*a*) of the *Rules of the Senate of Canada*. I ask the Speaker of the Senate to rule whether there is a prima facie breach of privilege, and if so found, I am prepared to move the necessary motion.

The office of the Speaker of the Senate deserves our individual and collective support. The role of the Speaker of the Senate is quite different from that of the Speaker of the House of Commons. In legislative and constitutional powers, the Speaker of the Senate possesses no more powers than any other senator. In respect of statute-making authority, all senators are equal, and all possess the same powers. As senators, we must be mindful of this, and cause no deliberate or inadvertent intrusion into his position; that is, we must cause no imposition.

Honourable senators, I contend that such an imposition took place during debate on October 19, 1995, which is an imposition on the Senate itself and, consequently, constitutes a breach of the privileges of the Senate. The issues today concern a point of order that was raised in debate in this chamber on October 19, 1995. In the process, I ask senators to assert their individual powers, privileges and immunities, and thereby relieve the Speaker of the Senate from the growing burden of demands on him to exercise powers that he does not possess, and from requests to perform a role which is not the role of the Speaker of the Senate.

• (2110)

Honourable senators, there is developing in this chamber a practice of using points of order as implements for arresting and impeding debate. The result is the prevention of honourable senators from exercising their functions and duties as senators. The use of a point of order cannot exceed the authority, limits or purpose for which points of order are intended and cannot exceed its legitimate purpose as a point of order. In addition, points of order are precisely that — points — identifiable, discernible points, rules or orders that have been breached. The particular point must be identified and measured against the particular rule or order that has been impugned. Simply put, points of order are to maintain order, and points of order which create disorder are simply not in order. I refer to the point of order raised and advanced on October 19, 1995, by Senator Kinsella and supported by the Speaker *pro tempore,* Senator Ottenheimer, and by Senator Lynch-Staunton.

Honourable senators, the Speaker of the Senate is not the voice of the Senate, nor of the senators, and is not chosen by them. This was planned by the Fathers of Confederation and is embodied in section 34 of the British North America Act, 1867. Further, the Senate's powers and privileges are embodied in section 18 of the same BNA Act. Our Fathers of Confederation were very prudent and astute. They constituted and composed the Senate most deliberately. Further, a point of order cannot be used to compromise the Speaker or the position of the Speaker, or to limit the powers and privileges of the Senate. No point of order may ask the Speaker to adjudicate on the competence of the Senate to pass legislation. Competence is a question of the legal and constitutional powers of the Senate. Beauchesne's 5th Edition, rule 240, tells us that:

> The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

Further, in 1969, the Speaker of the House of Commons, Lucien Lamoureux, ruled that:

> I have had occasion in the past to indicate that it is not the responsibility of the Chair to rule on questions of law or on constitutional questions. This ruling has been made in many instances by previous speakers.

These limitations to the Speaker of the House of Commons are even more marked for the Speaker of the Senate.

Honourable senators, sections 34 and 18 of the BNA Act cannot be amended by the personal assertions of some senators. Though leaders on their side, they simply cannot effect a constitutional change by a wish or whim. Words are insufficient to change the Constitution and the constitutional powers of this Parliament, this Senate or the Senate Speaker. The powers of the Senate and of senators are not amended, altered or limited by any senator's say-so or wishes. No senator may hold up the business or prevent the Senate or senators from exercising their functions and duties as senators.

Honourable senators, on Thursday, October 19, 1995, the only breach of order was committed by certain honourable senators while claiming a point of order. They shielded their actions from being called to order because a point of order cannot be raised on a point of order. When I called their attention to their breach saying "Your Honour, there is nothing before us. I did not move anything," they paid no attention. The Speaker *pro tempore*, in the name of order, did not permit me to move and second the question, the question being the motion for second reading of a bill.

Honourable senators, on October 19, 1995, there was no proper point of order raised by Senator Kinsella. In addition, Senators Ottenheimer, Kinsella and Lynch-Staunton were the ones breaching order. Beauchesne's 5th Edition, rule 296, tells us that:

> It is a paramount principle that no Member may speak except when there is a question before the house.

In blocking the motion for second reading, they essentially prevented second reading debate. Bill S-11, concerning one Karla Homolka, is a bill like any bill seeking second reading. Certainly, those honourable senators know that it is in order for the Senate to pass bills, to debate second reading of a bill, and that bills are incipient acts of Parliament's statement.

Honourable senators, Senator Kinsella, under the claim of a point of order, though himself out of order, asked the Speaker *pro tempore* to make a determination on the substance of Bill S-11 while they blocked me from speaking on the substance. This was an improper request of the Speaker, an imposition. The Speaker *pro tempore* was asked to make a determination on the same substance, in particular, the powers, privileges and competence of the Senate. This determination of substance, that is, powers and competence, belongs to the Senate, not to the Speaker. Senator Kinsella asked the Speaker to appropriate a function and a power that belongs legally, constitutionally and politically to the Senate collectively.

Certainly no proper point of order was raised on October 19, 1995. When I asked the precise point of order that I had breached, neither of those three senators would identify the particular point, rule or order that they claimed had been transgressed by myself or Bill S-11. Also, I repeat, they themselves were out of order because there was no question before the Senate. The question of second reading had not been moved and seconded.

Their actions, destined to confound, designed to prevent the motion for second reading of Bill S-11, concerted to prevent second reading and second reading debate and to hinder the bill's movement through the Senate by placing it into the Speaker's cognizance, are actions that constitute a breach of this chamber's privileges.

Senator Ottenheimer, Speaker *pro tempore*, and Senators Lynch-Staunton and Kinsella, Leader and Acting Deputy Leader of the Opposition, know the rules of the Senate. Though Senators Carstairs and Stewart kindly reminded them of Senator Molgat's ruling of May 9, 1995, on points of order before questions are moved and seconded, they insisted and persisted on their course. Senator Molgat's rulings clearly indicate his and the Senate's concurrence with the time-honoured Senate rule that there may be no question before the chamber until such question is moved and seconded. On May 9, 1995, the Speaker of the Senate said:

> ...I do not think a point of order can be raised on a matter that is not yet before the Senate. The bill is not before the Senate. Until such time as Senator Tkachuk moves second reading, it is only on the Order Paper. It is not really before the Senate.

Earlier, on December 15, 1994, Senator Murray concurred with the Speaker of the Senate in saying:

> ...Senator Cools has given notice...of her intention to move a motion on that matter. Now is not the time to discuss whether or not the motion is in order, much less whether it is appropriate. However, I reserve the right to raise those questions when the motion is before us.

Senator Robertson also concurred. On February 14, 1995, she asked our Speaker the appropriate time to raise a point of order:

> Honourable senators...I would like your direction. I wish to raise a point of order on the motion when it is put....Shall I wait until the motion is put, or should I raise my point of order this afternoon?

Senator Molgat replied:

> Honourable senators, there is no motion before the Senate at this time. Until such time as Senator Cools moves the motion and it is read from the Chair, there is nothing before us. A debate at this point would be on an issue which is not really before the Senate.

Senator Robertson concurred again saying:

> Honourable senators, that is why I raised the matter, because we do not have a motion before us.

• (2120)

Honourable senators, it is a breach of our privileges and powers to paralyse our legislative rights and functions by asking the Speaker to adjudicate the Senate's powers with regard to the substance and legislative result of bills as a device to block debate and senators' opinions.

Honourable senators, the Speaker of the Senate has no power or authority to adjudicate the substance and intention of Bill S-11 or of any other bill. He has no power to settle questions regarding the judicial result of Bill S-11 or regarding the Senate's pleasure to pass or not to pass Bill S-11, or the appropriateness or righteousness of the Senate's actions in this regard. The settlement of these questions belongs to the Senate institutionally, and the manner in which the Senate usually settles such questions is by consideration and debate of the bill.

The Senate's acceptance or rejection of Bill S-11 is a judgment and a pleasure that belongs to the Senate collectively and not to the Speaker individually. The Speaker, as all senators, may participate in these considerations, may debate and vote, but from the floor, not from the chair.

Honourable senators, a similar use of a point of order occurred in debate on November 1, 1995, found at page 2170 of the *Debates of the Senate*. Raising a point of order, Senator Lynch-Staunton interrupted the senator speaking. He raised certain issues for the Speaker's adjudication, issues which the Speaker had already spoken to, settled and ruled upon in his ruling on July 11, 1995. Senator Lynch-Staunton used a point of order to interrupt and impede debate and also as a mechanism to debate, question, reopen and even negate Speaker Molgat's ruling. I believe that to use points of order in this way is also a breach of privilege.

Honourable senators, the situation of October 19, 1995, involved no breach of any order or rule of the Senate by myself or Bill S-11. There was no breach of order other than the breaches by Senators Ottenheimer, Kinsella and Lynch-Staunton. However, honourable senators, there was a breach of privilege.

I ask the Speaker of the Senate to rule as to a prima facie case of privilege regarding the use of a point of order as a device to block debate and to bypass the Senate and the Senate's expressions of its views and opinions on Bill S-11; in short, to rule as to the use of a point of order to circumvent the Senate, to block its legislative functions and to compel the Speaker of the Senate to decide questions of law, constitution, competence and pleasure of the Senate. Such use of a point of order denied the exercise of our functions as senators, denied the Senate its legislative functions and denied the people of Canada adequate representation in the Senate. It denied the representative, legislative and constitutional functions of the Senate and the senators. In addition, to use a point of order to compel the Speaker of the Senate to assume the powers that rightly belong to the Senate has the effect of involving the Speaker in controversial discussions. This compromises the Speaker and the Senate's constitution.

Honourable senators, it is patently obvious to Ontarians that there exists a legal and political malignancy. Those brutal murders, the Crown's plea bargain agreements, Karla Homolka's secret trial, Mr. Justice Kovacs' judicial action and publication bans, lawyer Ken Murray's retention of the videotape evidence, the former Ontario Attorney General's case —

The Hon. the Speaker: Senator Cools, you are getting into the substance of the matter and away from the point of order. Perhaps you could keep to the matter before us.

Senator Cools: It is a question of privilege, not a point of order.

I was trying to say that the public of Ontario perceives a terrible miscarriage of justice. This is a Medusa's head which requires Perseus' actions. The Senate's powers are crucial in light of the serious problems afflicting the legal profession, the Law Society of Upper Canada and the former attorney general's office.

Honourable senators, the practice of law as commerce — that is, the legal profession as a competitive, commercial interest — has placed the profession's self-interests —

The Hon. the Speaker: Senator Cools, I hesitate to interrupt you again, but your point, as I understand it, is the power of the Speaker. It seems to me that you are now getting into the substance of the other argument which is not before us now. It is the power of the Speaker with regard to ruling on points of order.

Senator Cools: No, that is not it totally. That is insufficient. Your explanation is insufficient. What I am attempting to say is that the powers of the Senate and of the Parliament of Canada are more crucial and more critical at this point in our history, particularly in the life of Ontario, than at any other time. We are in a particular era, a particular phase in the development of this country, when it is time for these institutions to assert and to exercise their powers rather than to run timidly and to say, as does Senator Kinsella, that we have no powers.

I assure you that I have not spoken to the substance of the matter. I assure you that if I had gone into the substance of the matter, I would have been clear.

In any event, what I want to say is that there is a crisis of confidence in the administration of criminal justice, and the exercise and assertion of Parliament's powers are necessary to overcome it. Torontonians and Ontarians are deeply perturbed by these matters. Daily, the Toronto press and the people of Ontario state these concerns.

As a senator from Ontario, I request action from the Senate.

The Hon. the Speaker: Senator Cools, I hesitate to interrupt you, but the question before us deals with the powers of the Speaker, not what the people of Ontario feel. The question is: What are the powers of the Speaker? That, as I understand it, is the question you are raising. I would ask you to stay on that point, please.

Senator Cools: I was saying, as a senator from Ontario, that I request action from the Senate. Senator Kinsella's capricious point of order of October 19, 1995, is a breach of privilege that has denied me and this Senate the fundamental right to advance the concerns of the people of Ontario in this place.

Honourable senators, I have been very restrained and very dispassionate. However, our Hansard record of October 19, 1995, at pages 2139 to 2143, is less restrained than I.

I ask the Speaker to rule as to a prima facie case of privilege. I am prepared to move the necessary motion.

Hon. Noël A. Kinsella: Honourable senators, I disagree with the arguments raised by the Honourable Senator Cools that there is a prima facie case of breach of our orders here in terms of the authority of the Speaker to take decisions on points of order that are raised by honourable senators.

I refer honourable senators to rule 18(1) which makes it very clear that the duty of the honourable senator who is in the chair as Speaker is to preserve order and decorum. That is the general duty required by the rules. It also makes eminent sense that, unless there is order, very little wisdom will come forward from any kind of deliberation.

The Speaker is not without a fair history of guidance and well-defined parameters within which he or she makes the decisions on points of order and other matters that would interfere with order and decorum in the chamber.

The most fundamental argument is that which is implicit in rule 18(4) which says, of course, that, if the honourable senators are not satisfied with a decision made by the Speaker, the honourable senators may appeal and that the decision of the senators then becomes the final decision.

In essence, the role of the Speaker is clear in determining points of order. To safeguard the authority of the Senate as a chamber, we have the added provision of appeal so that, in the end, it is the senators' decision that determines what constitutes proper order and decorum. The point of order just raised does not contain a great deal of substance to it.

• (2130)

In her argument, Senator Cools did make reference to the objection with regard to the point of order that was raised. When a motion to present a bill in this chamber is brought to our attention, the bill being proposed by an honourable senator is printed and circulated. That is what happens at first reading. That is when we can first apprehend the action that is intended by the proponent of a project.

In this case, when we examined the bill at first reading, I rose on a point of order because it was clear to me that it was not the kind of bill that is appropriate in this chamber. I asked His Honour to rule on that as a point of order, which is quite different from the case referred to by Senator Cools in the matter of Bill S-10, which was moved by the Honourable Senator Tkachuk and ruled upon by His Honour. The difference is that there was no question about challenging the appropriateness of Bill S-10, at whatever stage of reading we were at; whereas, in this instance, there is a question concerning the appropriateness of the bill and, therefore, it was quite appropriate to have raised a point of order at that time.

The Hon. the Speaker: Honourable senators, does any other senator wish to speak? If not, then, Senator Cools, do you have a question?

Senator Cools: Yes, I should like to put two questions. I made it quite clear that I was raising a question of privilege, but I would still love to give Senator Kinsella the opportunity to tell me precisely what order or rule this Bill S-11 has transgressed. It is simply not good enough for the senator to keep repeating vague words about the appropriateness or the inappropriateness of a bill. That is a judgment that the members of this chamber have a right to make. The fact that Senator Kinsella disagrees with the bill is simply insufficient cause for him to raise a point of order and to suspend the bill and to take it out of debate. Senator Kinsella's personal opinions and personal beliefs are insufficient to form the opinion of the Senate.

That is my first point.

The Hon. the Speaker: Senator Cools, is that a question that you are asking of Senator Kinsella?

Senator Cools: Yes. I have asked him the question countless times before. He has raised a point of order. He has a duty to tell us the point that has been transgressed. That is what a point of order is. Perhaps we should have some debate in this chamber at some time concerning the difference between a point of order and a point of debate. Some of this is quite tiresome. If Senator Kinsella could tell me the rules or orders impugned, I would be grateful and appreciative because then I would understand him a lot better.

The Hon. the Speaker: Honourable senators, if there was urgency in the matter, I would be prepared to rule now. It seems to me that rule 18 is fairly clear. However, in fairness, I do want to have the opportunity to read what Senator Cools has said. Therefore, I propose to defer my judgment until later.

Senator Cools: I take it that Senator Kinsella will not answer, or does not want to answer, or wants to defer his answer.

The Senate, collectively, must reach its own conclusion.

The Hon. the Speaker: I think the question, Senator Cools, was more on the substance of the argument rather than on the powers of the Speaker. I think that is the question that is before us.

Senator Cools: Yes.

The Hon. the Speaker: I will defer that question and address it at a later date.

In fairness to you, I want to read carefully what you said. I must tell honourable senators that I do not make my judgments lightly. I have officials with whom I confer and I can assure you that we have hot debates quite frequently on the subject-matter. I propose to do the same in this case.

Senator Cools: I thank you, Your Honour. I have no doubt that you will, as always, be erudite and judicious.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, November 7, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

FIREARMS BILL

LETTER INVITING SUBMISSIONS
TO TRAVELLING PANELS OF SENATORS

Hon. Lorna Milne: Honourable senators, I rise today to draw to your attention a situation which I believe needs some clarification.

While I was visiting my daughter and newborn granddaughter in Calgary last week, it came to my attention that many members of the public and, in fact, members of Calgary City Council are under the impression that the committee of the Senate charged with the study of Bill C-68 has sent subcommittees or panels out across the country to take evidence. Having sat in on that committee as a replacement, I know that the Steering Committee of the Standing Senate Committee on Legal and Constitutional Affairs made a conscious decision not to travel.

Part of the confusion in Calgary seems to arise from a letter which was given to me by several of the aldermen on Calgary City Council, and, if honourable senators wish, I can table a copy of this letter. The letter, written on Senate of Canada letterhead, is from a Mr. Stephen Ball, who seems to be an assistant in the office of Senator Ghitter.

In his letter dated October 24, 1995, Mr. Ball informs the mayor:

> Progressive Conservative Senators have decided that it is appropriate to provide Canadians a further opportunity to speak with Senators about Bill C-68.

Mr. Ball then invites the Mayor of Calgary to make a presentation to one of the "panels of three to five senators." Mr. Ball is apparently the contact person for those who are interested in appearing.

I think his opening is misleading. Perhaps it should have read, "Conservative senators have decided to provide Canadians an opportunity to speak with Conservative senators." The letter as it stands would almost suggest that the Conservative majority on the committee had voted to travel. We know that that is not the case.

Reference is made in one part of the letter to the full committee. In another part of the letter, reference is made to panels. This juxtaposition might lead the reader to believe that the panels are subsets of the full committee.

It is easy to see how people could be confused by this letter. I know that many have taken from it and others like it the impression that the Senate's committee studying the bill is travelling. I merely wish to know whether this is proper, and to clarify the record on this matter, since I understand that the steering committee took a decision not to allow the committee to travel because they preferred to hear both pro and con positions presented in a balanced way. I have been told that the full committee has heard over 65 hours of testimony from over 70 witnesses.

I find that the fifth paragraph of this letter is particularly disturbing. It states:

> Groups and individuals who asked to be heard by the full Senate Committee on Legal and Constitutional Affairs, but who were not invited to the meetings in Ottawa, will be given first consideration for one of the 30 minute allotments.

This clearly, to my mind, leaves the impression that the travelling senators are part of the Legal and Constitutional Affairs Committee and are acting on the committee's behalf. In committee, it was made clear to me that they are not authorized to speak for the committee, nor do they have to report back to the committee.

I believe that any misconception arising out of this letter should be cleared up, and I invite honourable senators opposite to settle my mind about this affair.

[*Later*]

Hon. Gérald-A. Beaudoin: Honourable senators, I agree that the expression "full Senate committee" used in the letter of October 24, 1995, by Mr. Stephen Ball to Mayor Al Duerr of the city of Calgary may perhaps indirectly lead to the conclusion that the Progressive Conservative senators who are travelling to different areas of the country are acting on behalf of the Standing Senate Committee on Legal and Constitutional Affairs, or as subcommittees of that committee.

Of course, it is a question of interpretation. As chairman of the Standing Senate Committee on Legal and Constitutional Affairs, I must say that the senators who are travelling do not, legally speaking, comprise subcommittees of our committee because, as the Honourable Senator Milne has said, the decision of the Legal and Constitutional Affairs Committee was to stay in Ottawa. However, they have the absolute right to act on their own.

I will bring to the attention of Mr. Ball Senator Milne's intervention in the Senate. Perhaps the word "full" should not have been used in that letter.

INTERNATIONAL TRADE

SUGAR—FAVOURABLE CANADIAN INTERNATIONAL TRADE TRIBUNAL RULING

Hon. Erminie J. Cohen: Honourable senators, yesterday the Canadian International Trade Tribunal confirmed what the Canadian sugar industry has been saying for months: Sugar is being dumped into the Canadian market from the United States, South Korea, and Europe. The tribunal also confirmed that imports from the European Union are unfairly subsidized. Sugar from these countries will now face tariffs of up to 200 per cent.

I welcome this ruling, which deals with one of the two trade-related problems faced by the Canadian sugar industry. I am particularly pleased because it will help lift a cloud that has been hanging over the heads of some 250 workers at Lantic Sugar in Saint John, New Brunswick.

The other trade problem concerns our access to the overly protected United States market. We do not subsidize our sugar industry, yet exports of refined Canadian sugar to the United States have fallen dramatically because of new trade restrictions. Last January, the United States said that Canada could only export 8,000 tonnes of sugar. That meant a 77 per cent cut from the previous 35,000-tonne quota. What is left of our quota is in serious jeopardy if Congress passes its proposed anti-Cuba legislation.

Our industry is not unfairly subsidized, and who we trade with is our business. Now that the problem of unfair imports has been resolved, the next step is to ensure that we have proper access to export markets.

• (1410)

ROUTINE PROCEEDINGS

NATIONAL DEFENCE

On Tabling of Documents:

REPORT OF SPECIAL COMMISSION ON RESTRUCTURING OF THE RESERVES TABLED

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have the honour to table the report of the Special Commission on the Restructuring of the Reserves to the Minister of National Defence, dated October 30, 1995.

EXCISE TAX ACT EXCISE ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. John Sylvain, Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, November 7, 1995

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SECOND REPORT

Your Committee, to which was referred the Bill C-90, to amend the Excise Tax Act and the Excise Act, has, in obedience to the Order of Reference of Thursday, October 19, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN SYLVAIN
Deputy Chairman

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

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

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1995

REPORT OF COMMITTEE

Hon. John Sylvain, Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, November 7, 1995.

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-THIRD REPORT

Your Committee, to which was referred the Bill C-105, An Act to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of Trinidad and Tobago and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, has, in obedience to the Order of Reference of Thursday, November 2, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN SYLVAIN
Deputy Chairman

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

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

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, November 8, 1995, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. John Sylvain: Honourable senators, I have the honour to deposit 450 pages of petitions containing 11,000 signatures outlining opposition to the passage of Bill C-68 as it now stands.

QUESTION PERIOD

HUMAN RIGHTS

ESTABLISHMENT OF SENATE COMMITTEE ON AFFIRMATIVE ACTION—REQUEST FOR RESPONSE TO STATEMENT

Hon. Donald H. Oliver: Honourable senators, when will the Honourable Leader of the Government in the Senate be in a position to provide this chamber with a report on our request of about one year ago in relation to Senate renewal and, specifically, on the creation of a standing committee on human rights? This is an area in which Senators Kinsella, Andreychuk, Ghitter, Di Nino and many others on this side have a deep interest. When will we receive the report on that matter?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, on the broader question of Senate renewal or reform, changes or improvements to this place, as I have indicated privately to Senator Oliver, our Deputy Leader, Senator Graham, will be pursuing those issues directly in conversation with him, as we have pursued them within our own caucus.

On the question of the precise proposal for a committee on human rights, this interest has certainly been expressed on both sides of the house, along with other areas of interest for committee studies or studies in some other form. I hope that Senator Graham can continue this discussion with the honourable senator in the near future.

UNITED NATIONS

RESOLUTION TO HALT NUCLEAR TESTING—WITHDRAWAL OF CO-SPONSORSHIP—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, it was with outrage and concern that I reacted to the article in this morning's *Globe and Mail* that Canada has withdrawn its co-sponsorship of the United Nations resolution seeking to put a stop to nuclear weapons tests. This move by the government is surprising because it comes on the heels of numerous improvements in this sphere over the past year. March 5 of this year marked the 25th anniversary of the nuclear non-proliferation treaty, or NPT, bringing with it both a sense of accomplishment and hope for the future. Canada's commitment to the indefinite, unconditional extension of the NPT was heartening.

Last June, I followed with considerable interest the passage of Bill C-87, to implement a convention on chemical weapons. More recently, I noted Canada's stated reservations vis-à-vis France's controversial nuclear tests.

In light of these recent developments, the government's decision to reverse its decision and withdraw co-sponsorship seems to be a step backward in an area in which Canada has traditionally been a world leader. What message is the government intending to send to the international community? If Canada supports the resolution, as the article states, and is simply arguing about the words — which in my opinion are the correct words in the preamble to the resolution — then why have we withdrawn as a co-sponsor of the resolution? If we are prepared to support such a resolution, should we not be seen to be continuing the line of foreign policy that, in the past, has stood Canada and the world in good stead? Can the Leader of the Government clarify this situation?

• (1420)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am advised that Canada's position on nuclear weapons testing has not changed. We did, indeed, vote in favour of the resolution, and support the cessation of nuclear weapons testing.

My honourable friend indicated that there was some concern about wording. In the end, while Canada did not co-sponsor the resolution, we support the resolution. The negotiation of a successful, comprehensive test ban treaty also remains a top priority for Canada.

Senator Andreychuk: Honourable senators, we have witnessed 167 million deaths in this century as a result of warfare. A world of peace and cooperation has been the aim of Canadian policy makers since Confederation. Moving into the new millennium requires forward policy planning by our policy makers, and calls for a bold and principled foreign policy. We cannot be seen to be voting for something we are not willing to co-sponsor. What is the difference, except that we are backing away from being leaders in this area, which I think we should continue to be?

The Globe and Mail suggested that we are backing away from our position and our aggressive stands against nuclear proliferation as a result of pressure from France. This would not be the first time that that government has reversed its stated foreign policy and pursued solely economic or political interests.

I would ask the Leader of the Government in the Senate to comment on whether Canada was pressured into a reversal by France or by any other country, and why it would yield to such pressure?

Senator Fairbairn: Honourable senators, to my knowledge, Canada did not respond to any pressure by France or by any other government. As my honourable friend knows, at the time, Canada expressed its strong regret with the decision by France to resume nuclear testing. We stated at the same time, as did others, that we were encouraged by France's renewed commitment to sign the comprehensive nuclear test ban treaty. I believe that will be done in May of next year.

Again, Canada's position on nuclear weapons testing has not changed. Its main tenet remains that no nuclear weapons test explosions should be conducted in any environment.

Senator Andreychuk: Why have we backed off from our leadership role in this area? Virtually every delegation that has left Canada has been armed with aggressive moves on the non-proliferation treaty. I accompanied Senator Bosa to the International Parliamentary Delegation in New York when his sole purpose — supported by all of us — was to put as much pressure as possible on delegations from other countries of the world to support the extension of the non-proliferation treaty, and to do whatever he could to curtail the use of nuclear weapons. Why would we now be backing off from co-sponsoring this resolution and thus putting ourselves in the position of being followers and not leaders in this area?

Senator Fairbairn: Honourable senators, I restate that Canada has not backed off in any way from its position against the testing of nuclear weapons. We have remained consistent with that policy. We will vote for the resolution. However, by reason of our disagreement with some of the language in the preamble to that resolution, we did not co-sponsor it. Nevertheless, we strongly support the principle. Canada voted against nuclear testing; that is the message that any delegation leaving from the Canadian Parliament to anywhere else in the world can take with it.

Senator Andreychuk: In light of your comments, may I say that that has been the historic precedent and tradition, particularly when the words dispute it. I cannot conceive of why we would not support the words, but should there not be some underlying reason why we did not?

In the past, we have always been in a position where we could indicate that we were voting for a particular resolution, and remaining as co-sponsors, but dissociate ourselves from the wording, particularly that of a preamble statement. We have chosen in this case to move away from co-sponsorship, and thereby to relieve ourselves of a leadership position in this area. Unless the government can produce a meritorious reason for doing so, to quibble about words when lives are at stake is not consistent with previous Canadian governments that have been leaders in this area.

RESOLUTION TO HALT NUCLEAR TESTING—
REQUEST FOR COPY OF OFFENDING TEXT

Hon. Lowell Murray: Honourable senators, by way of supplementary, as a matter of interest and for the record, would the Leader of the Government state what the words are to which Canada took such objection that it withdrew as co-sponsor of the resolution?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would want to consult with the Minister of Foreign Affairs on that matter and respond on another occasion.

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—REQUEST FOR
ANSWER TO ORDER PAPER QUESTION ON KPMG REPORT

Hon. J. Michael Forrestall: Honourable senators, my questions today are along the lines of those asked earlier last week by my colleague Senator Comeau about the Cornwallis Park Development Agency as it goes about the business of finding a future in what was once my home.

Can the Leader of the Government give me some indication of the status of the response to the request I made in my Order Paper question of September 7, 1995, for a copy of the KPMG report on the internal financial and administrative management of the Cornwallis agency?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will have to check on the status of those particular questions. I have responded to our colleague Senator Comeau on earlier occasions. However, I know that you were unavoidably absent on the day that the Cornwallis Park Development Agency issue was discussed.

In summary, ACOA has reviewed the agency's accounting and administrative procedures and has recommended improvements. Until those improvements are satisfactorily made and concluded, the funding for that organization, which, as my honourable friend knows, is a locally established one, will be withheld. When the improvements are satisfactorily made, the funding will resume.

Senator Forrestall: Honourable senators, with all due respect, the Leader of the Government in the Senate cannot have it all her own way. We might wait forever. This mess has been described by a very prominent Liberal in that part of Nova Scotia, in written form to Minister Dingwall, as "potentially the greatest boondoggle to hit this government in the last 20 years." It is not sufficient to say that the government is putting in place measures to correct what might have been a minor problem.

Honourable senators, 125 people were employed to do the work that we now understand could have been done by 20 or 25. Does the Leader of the Government intend to leave the Senate with the impression that the government will take no specific action and that no disciplinary process will be invoked with respect to this matter?

The actions in the winding down of that base come blatantly close to serious wrongdoing. It is not enough to shove the matter under the carpet and resolve to look at some report when it eventually arrives. We want to know about the expenses. How much is it costing us? What has been spent to date? To whom are the expenses being paid? What were the hiring procedures? What process was followed with respect to the disposal of material?

I buried my blessed father in a church three weeks ago. After the funeral, the priest approached me and thanked me for the great generosity of the government in Ottawa for providing the pews that were being used in that church. Incidentally, that church was built — and largely paid for — by my grandfather.

I want this mess brought into some kind of clear, public focus. We cannot do that by sitting around, waiting six months for another report. There are a dozen questions that need public answers.

Senator Fairbairn: Honourable senators, the Honourable Senator Forrestall has used some colourful language, as he is wont from time to time to do. He also indicated that I or the Liberal government may consider this to be a minor problem, and he talked about waiting around for six months.

I have stated no such belief or intention. I have said that the situation has been reviewed. Some recommendations have been made and, with respect to those recommendations, the development agency has, itself, engaged the services of a senior management consultant to review the operations and management practices of the agency.

It is my hope that the questions — which are of keen interest not just to my honourable friend but to Senator Comeau as well — will be dealt with as the review goes on, and as the management consultant investigation continues.

I am not in any way trying to minimize anything, or to hide anything. I have given the honourable senator the information that I have received. I shall seek other information for him.

Senator Forrestall: Honourable senators, the report was prepared and ready before September 7. This is now November 7. If the government is not trying to hide it, then why has the report not been tabled or addressed in any public comment? Presumably it deals with the procedures followed with respect to the agency, its winding down of that base, and the conversion to some other form of economic activity.

Senator Fairbairn: Honourable senators, I can certainly have discussions with my colleague. However, my honourable friend probably knows about some of the recommendations made by ACOA following its review of the management practices of the agency, including: that an acceptable business plan be completed and approved by the board of directors of that agency; that the CPDA address the division of responsibility between its staff and the board of directors; that the CPDA clearly define its operating procedures; and that it have appropriate long-term financial forecasts developed. Those are some of the guidelines which came through in the form of recommendations.

I will endeavour to keep my honourable friend apprised as I learn more about this issue.

[*Translation*]

FEDERAL-PROVINCIAL RELATIONS

AGREEMENT ON INTERNAL TRADE— NATURE AND TIMELINESS OF AMENDMENTS TO BILL— GOVERNMENT POSITION

Hon. Fernand Roberge: Honourable senators, last June, I asked the Leader of the Government in the Senate a question about internal trade, which was finally answered on July 11.

As I mentioned previously in my question, Quebec has serious reservations about the enforcement provisions in the present version of Bill C-88. The other provinces also said they had a problem with these provisions. Bill C-88 may give Ottawa powers that go beyond what was agreed last year by the provinces and the federal government.

The government answered my question as follows:

> Amendments to Bill C-88 to clarify the intent of the legislation will be introduced at the appropriate time.

Honourable senators, Bill C-88 passed second reading last night in the House of Commons.

I have two questions today. First, could the Leader of the Government in the Senate tell us why the government is taking so long to send the amendments to the provinces? Second, could she advise the Senate of the nature of these amendments to Bill C-88?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the bill to which the honourable senator refers will be dealt with in detail in a House of Commons committee. I would not presume to speculate upon the amendments that may be introduced or approved by members of various parties on the committee.

The bill is now in the midst of the process which may result in amendments. Along with my honourable friend, we will wait to see how things go in the other place.

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—
INVENTORY CONTROL AND HIRING PROCEDURES—
REQUEST FOR PARTICULARS

Hon. Gerald J. Comeau: Honourable senators, my question also deals with the Cornwallis Park Development Agency, to follow up on Senator Forrestall's question regarding the base assets.

As we know, the assets have not yet been transferred from DND to the agency. Could the Leader of the Government provide us with the details of the inventory control procedures which are in place to protect taxpayers' assets?

Also regarding inventory protection, the Leader of the Government is no doubt aware that questions have been raised about the hiring of the local member of Parliament's riding president as the inventory control manager at Cornwallis agency. Given the government's Red Book commitments to integrity during the last election, could the Leader of the Government advise senators whether an open competition was held for that position?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will certainly follow up on my honourable friend's question and report back.

UNITED NATIONS

HUMAN RIGHTS IN CHINA—DEFEAT OF RESOLUTION—
REQUEST FOR COPY OF TEXT

Hon. Allan J. MacEachen: Honourable senators, I should like to ask a question in connection with an answer given in reply to a question asked last June by the Honourable Senator Doyle on human rights in China. The answer tells us about action taken during a session of the United Nations Commission for Human Rights in which Canada co-sponsored a draft resolution containing what I thought was a rather powerful call to China to overcome violations of human rights and fundamental freedoms, and observe international standards in the treatment of political prisoners and equity and transparency in the judicial system, freedom of expression and freedom of religion.

What interested me was that this draft resolution in which Canada had a major hand was defeated narrowly when put to a vote. Approximately 21 countries voted against the resolution and 20 supported it, with 12 abstaining. I am quite interested in knowing what countries opposed this resolution and what reasons were given to justify members of the United Nations voting against principles which are of the essence of the United Nations Charter and its declarations. That would be very interesting.

It would also be interesting to have a copy of the resolution itself, in addition to the information regarding the countries that opposed the resolution, and the reasons for their opposition.

It is interesting that even today there is a majority at the United Nations Commission for Human Rights which opposes acceptance of a resolution of this kind. There must be an explanation that is not apparent in the answer, and one which would probably throw additional light on the difficulty that countries like Canada face in the international community when taking a leadership role in the promotion of human rights in countries such as China. Perhaps the Leader of the Government could add this further information at a later date.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to obtain a copy of the resolution to which the honourable senator refers. If senators wish, I will provide it to the Senate. I shall also try to obtain clarification on the numbers, those who opposed and, perhaps, those who abstained and the reasons for so doing.

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw to your attention the presence in the Senate gallery of a distinguished visitor, our former colleague Joan Neiman.

Hon. Senators: Hear, Hear!

PRIVILEGE

MOTION PURSUANT TO RULE 43—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before we proceed with Orders of the Day, I should like to report on a ruling that was requested of me some time ago.

On October 5, 1995, as found on pages 2105 to 2107 of the *Debates of the Senate*, the Honourable Senator Cools raised a question of privilege in accordance with rule 43 of the *Rules of the Senate of Canada*.

The question of privilege related to an article in *The Edmonton Sun* in which a witness who appeared before the Standing Senate Committee on Legal and Constitutional Affairs allegedly cast reflections upon the Senate and senators in connection with the work of the committee concerning Bill C-68, respecting firearms and other weapons.

In Senator Cools' opinion, the comments by this witness, as stated in the newspaper article, "demonstrate her contempt for the Senate and for parliamentary process and make manifest the true reasons she appeared before the Senate committee."

This is not the first time senators have attempted to raise, as questions of privilege, complaints that newspaper articles cast adverse reflections upon this chamber. However, as Beauchesne's 6th Edition, citation 69 page 20, states:

> It is very important...to indicate that something can be inflammatory, can be disagreeable, can even be offensive, but it may not be a question of privilege unless the comment actually impinges upon the ability of Members of Parliament to do their job properly.

[*Translation*]

Honourable senators, in its May 6, 1993 report on the question of privilege raised in the Senate by Senator Carney, P.C., and approved by the Senate on June 10, 1993, the Standing Committee on Privileges, Standing Rules and Orders made the following observation:

[*English*]

> An adverse reflection upon a Senator or the Senate can constitute a breach of privilege, but only if it impedes the Senator or the Senate from performing parliamentary functions. As such, it has a very narrow application, and is to be distinguished from actions for defamation, which are available to all citizens and are pursued through the civil courts. It is extremely difficult to bring oneself within the protection offered by this aspect of parliamentary privilege. There must be a link or nexus between the alleged defamation and the parliamentary work of the Senator.

I can find no link between the description given by Senator Cools of the comments by the witness and the ability of the Legal and Constitutional Affairs Committee or the senators who serve on it to carry out their mandate with respect to Bill C-68. Finding no link, I cannot conclude there has been any prima facie breach of the privileges of the Senate. Senator Cools has had an opportunity to speak on the comments made by this witness and I think that this is where this matter should end.

In my opinion, there is no question of privilege.

ORDERS OF THE DAY

AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES BILL

SECOND READING

Hon. Dan Hays moved the second reading of Bill C-61, to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act.

He said: Honourable senators, Bill C-61 creates a system that allows officials of Agriculture and Agri-Food Canada to issue monetary penalties for serious or repeated violations of the regulations in the food safety, pesticides and animal and plant health program areas. These monetary penalties can vary up to $15,000 for companies and up to $2,000 for individuals not engaged in agri-business.

The legislation also enables an independent tribunal to hear appeals of the monetary penalties. Let me define the term "administrative monetary penalty." This term is used to differentiate monetary penalties which are non-punitive in nature and not administered by the criminal courts, from fines which are meant to be punitive and are imposed by the criminal courts for convictions of regulatory offences.

The purpose of the administrative monetary penalties system, then, is to provide Agriculture and Agri-Food Canada with appropriate and more flexible responses when dealing with violations of regulations, such as the marketing of indelible food products or the inhumane transportation of animals.

The legislation will provide a framework in which Canada's high standards for food safety and quality can be effectively enforced, and it will allow Agriculture and Agri-Food Canada to regulate in a more efficient and cost effective way, requiring less time and money than pursuing offences through the provincial courts system.

[*Translation*]

Honourable senators, Bill C-61 supports competitiveness among agricultural sectors because it provides the additional measures required to make enforcement of the regulations affecting imported and Canadian products more equitable. Members of the Canadian industry have been complaining for years that they must comply with more rigorous regulations than their competitors with respect to safety and quality standards.

The industry supports the proposed system because it allows Agriculture and Agri-Food Canada to quickly take effective measures against Canadian importers and businesses marketing products that do not comply with Canada's high standards on food safety and pesticide use. Fairly applying standards to imported and Canadian products promotes competitiveness among agricultural sectors. If Agriculture and Agri-Food Canada has the means to enforce standards effectively, Canada can maintain its reputation as a producer of safe and healthy food. When exported products do not comply with health standards, the reputation of the whole agri-food sector suffers.

[*English*]

• (1450)

The concept of using an administrative process and the application of monetary penalties to encourage compliance with agricultural acts — rather than relying excessively on the criminal system to punish offenders — certainly makes a lot of sense. This is a non-punitive administrative system that has compliance as its goal. However, we will still have the option to prosecute serious offences.

The system is fair and expedient. It allows for negotiated solutions to non-compliance. Administrative monetary penalties can be reduced to zero dollars if a violator will take immediate action — for example, by purchasing new equipment — to come into compliance. Immediate corrective action, of course, results in a better product, improved health and safety, and more effective enforcement.

[*Translation*]

Honourable senators, Bill C-61 provides for the establishment of a tribunal in charge of reviewing the proposed monetary penalties from an administrative point of view. The review tribunal appointed by order of the Governor in Council is an independent quasi-judicial body. Also, alleged offenders who are unhappy with the review tribunal's administrative review may ask for a judicial review by the Federal Court of Canada.

[*English*]

I should like to say a few words about the use of absolute liability. Bill C-61 allows the issuance of monetary penalties based on absolute liability. This means that the department only needs to prove that the alleged violator committed an act that is in violation of the regulations. There would be no defence of due diligence by which a defendant could avoid liability by establishing that he or she was not negligent.

Under Bill C-61, there is no possibility of imprisonment, no record of conviction for an offence is created, and penalties are modest rather than punitive in nature. Because of these factors, there is no constitutional or other legal impediment to proceeding on the basis of absolute liability. From a policy perspective, however, the use of absolute liability is essential to encourage the food industry to exhibit a high standard of care. This is important for matters involving the food chain, and consistent with the approach the courts take in civil cases.

The concept of absolute liability is important to the effectiveness of this system as a preventive measure. Let me give you an example of the standards necessary in the food chain:

To someone with peanut allergies, even a minute amount of peanut dust is enough to send them into anaphylactic shock. To such a person, the issue is not whether a company exercised due diligence as a preventive measure. The finding that a product is mislabelled by not indicating the presentation of peanuts in itself warrants a finding of liability. The focus is on prevention and remedial action with Bill C-61, not on a finding of fault.

The use of absolute liability will also provide for an effective and efficient enforcement system. The resource base for enforcing regulations is shrinking. Bill C-61 deliberately designs a simple, efficient system to deal with those importers or domestic companies that do not follow our health, safety, and quality regulations.

These are a few words of explanation and elaboration on this piece of legislation, honourable senators. I commend it to you. At the conclusion of debate on this bill, I will, of course, as is our practice, ask for its reference to the Standing Senate Committee on Agriculture and Forestry.

Hon. Eileen Rossiter: Honourable senators, I rise today to express my party's support for Bill C-61, the Agriculture and Agri-Food Administrative Monetary Penalties Bill. This bill will allow agriculture inspectors to fine businesses which fail to comply with health, safety, or quality standards for agricultural products.

To appreciate the significance of this bill, we must consider the current regulatory regime governing health, quality, and safety standards for agricultural products. It is a fact that Canada currently does not enforce regulatory requirements on imports as rigorously as do our major trading partners, especially the United States. To Canada's detriment, this is the consequence of making farm products less competitive in our own country.

An example of regulatory non-compliance or violations of health, safety, or quality standards includes improper or misleading labelling of a product, or failure to keep facilities that handle the product in a sanitary condition; another is importing feed, seeds or foods products not properly registered or labelled.

Under the current regulatory regime, warnings, seizure, and detention of products and criminal prosecutions are usually used to enforce regulations. However, these methods are lengthy and costly, and not always effective. The legislation before us today seeks to remedy these imperfections by setting up a new administrative monetary penalty system, or AMPS. As I interpret this provision of Bill C-61, the thinking behind the introduction of these monetary penalties to the regime governing standards for farm products is to ensure greater compliance.

To this end, Bill C-61 allows officials to fine violators to a maximum of $15,000, subject to criteria specified in the regulation portions of the bill, halves the penalties if the violator pays the fine within a prescribed period, and makes provisions for a violator to request to enter into a compliance agreement. In this case, the penalty may be waived or reduced, for example, by $1 for every $2 spent to remedy the problem. Bill C-61 also allows a violator who has objections to the penalty assessed to request a review by the minister or an independent tribunal, and includes provisions for absolute liability for regulatory violations. In other words, a penalty can be imposed without proving fault.

As I stated at the beginning, this side of the chamber is prepared to support Bill C-61 at this stage of the bill's reading. However, there are a few provisions of Bill C-61 that we will be questioning in committee. We will be questioning the provision of the bill dealing with interpretation by the minister upon appeal of fines by violators. Similar to the objections that Progressive Conservative senators who are members of the Legal and Constitutional Affairs Committee have with the Order in Council provisions of Bill C-68, the firearms bill, there exists the possibility that this provision of Bill C-61 will introduce a small element of arbitrariness into how appeals under this legislation will work; an element of arbitrariness that Progressive Conservative senators would rather avoid.

A second objection is in the area of enforcement of penalties as established by regulation. It appears that the administration and regulation of the actual AMPS system could undermine one of the central objectives of the bill, which is to deal with the

length, cost and effectiveness of the current system. Although the government claims that there will be substantial savings resulting from this bill, nowhere does the government specify what, or how much, these savings will be. In fact, when reviewing the system of fines, appeals by violators to tribunal or ministerial appointees, or possible further appeals to courts, it seems that Bill C-61 could create additional costs.

Having understood this, honourable senators, we are prepared to support Bill C-61 at this stage in the process.

The Hon. the Speaker: Honourable senators, does any other honourable senator wish to speak? If Senator Hays speaks now, his speech will have the effect of closing the debate on this motion for second reading.

Senator Hays: Honourable senators, I thank the senator opposite for what I think were supportive comments, although I noted her desire that the matter be dealt with further in committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hays, bill referred to the Standing Senate Committee on Agriculture and Forestry.

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—SECOND READING

Hon. Peter A. Stollery moved the second reading of Bill C-103, to amend the Excise Tax Act and the Income Tax Act.

He said: Honourable senators, Bill C-103 resolves a problem of which some of us who have been around for a few years are well aware. It goes back to Grattan O'Leary's commission on the magazine industry. The resulting bill stopped U.S. publishers from doing that famous split run in which the issue was written and produced in the United States, with their advertising, and when it came to Canada they would drop the U.S. advertising and use the same content to get Canadian advertising revenue.

I believe that issue was dealt with by Bill C-58 in the 1970s. I was a member of the committee at that time.

This bill addresses a wrinkle which has arisen. Apparently, Bill C-58 stopped material from physically being brought across the Canadian border. However, that provision is being circumvented by *Sports Illustrated*, which is beaming its product by satellite into Canada. This bill closes that loophole. As Senator Stewart says, it closes the heavens.

Honourable senators, Bill C-103 is a measure in support of Canadian magazines. The tax measure before us today updates a long-standing policy of successive governments to recognize the unique circumstances faced by Canadian periodicals.

More than 30 years ago, the 1961 Royal Commission on Publications, more commonly referred to as the O'Leary commission, examined the situation of the Canadian magazine publishing industry. I know that many senators here will recall that process.

After an in-depth study, they recommended the implementation of policy measures designed to encourage the flow of advertising revenue to the Canadian magazine industry. This would allow the industry to operate from a more secure financial footing. Canadian magazines must be fully prepared to compete for readers with their international counterparts. However, they cannot be expected to compete with their U.S. counterparts for the limited number of Canadian advertising dollars available. Canadian magazines must recover their costs in a country of 27 million people, thus their production runs must be proportionately smaller and at a higher cost per issue.

Their U.S. counterparts can recover their production costs in a market 10 times larger. They produce larger print runs at a lower unit cost and, therefore, need only charge Canadian advertisers a rate that covers Canadian printing and administrative costs. These rates could be substantially lower than Canadian magazine publishers could charge for the same ad space.

This is a legally contentious issue which will, I understand, be proceeding through the courts, so it is important to get some of these facts on the record for what may be a prolonged legal issue.

In order to level the playing field, the government acted on O'Leary's recommendations by implementing two complementary measures in 1965. They are section 19 of the Income Tax Act and tariff code 9958.

The first measure, section 19 of the Income Tax Act, allows a deduction for an advertisement directed at the Canadian market only if that advertisement is placed in a Canadian issue of a magazine or newspaper that is, one, 75 per cent Canadian-owned and controlled and, two, contains 80 per cent original editorial content.

Tariff code 9958 is a measure directed at restricting the entrants of split runs into the Canadian market. In a split-run magazine, a publisher uses articles and other editorial material prepared and paid for in the magazine's domestic market and inserts advertising aimed at another market; for our purposes, the Canadian market. Tariff code 9958 restricts the importing of magazines containing advertisements directed at Canadians. It authorizes Canada Customs to stop the entry into Canada of the subsequent four issues of a magazine after the publication of an issue that has been deemed to be a split run. This effectively discourages foreign publishers from exporting split runs into Canada.

Before tariff code 9958 was introduced, virtually all foreign magazines containing advertisements directed at Canadians were printed in the country of origin and imported into Canada for distribution. Tariff code 9958 has worked well for over 30 years. In January 1993, Time Warner announced that it intended to publish *Sports Illustrated Canada*. *Sports Illustrated Canada* is a split-run edition that is printed in Canada, using text electronically transmitted from the U.S. The editorial content of *Sports Illustrated Canada* is largely the same as that of U.S. editions of *Sports Illustrated*, but contains advertisements that have been specifically chosen to reach a Canadian audience.

Tariff code 9958 is not applicable to *Sports Illustrated Canada* because that magazine is printed in Canada, rather than being imported. The publication of *Sports Illustrated Canada* has sent a signal that it is now possible to contravene the spirit of tariff code 9958 by using a technology that did not exist when the tariff code was implemented.

The emergence of *Sports Illustrated Canada* as a new split run magazine demonstrated the limitations of Canada's existing policy instruments designed to support the magazine industry. Accordingly, a task force on the Canadian magazine industry was struck to examine the problem and to recommend new ways to promote Canada's policy objectives for the magazine industry. The task force on the Canadian magazine industry commissioned a number of studies. These revealed the difficult challenges inherent in the Canadian marketplace faced by the Canadian magazine industry.

The most significant factors defining the environment in which Canadian publishers compete for Canadian readers are the penetration of the market by imported magazines; the relatively small size of the Canadian population; the openness of Canadians to foreign cultural products, particularly film and television; the effect of the cover prices of imported magazines on the Canadian price structure; newsstand competition from foreign magazines; and the impact of overflow advertising on the potential advertising market in Canada.

• (1510)

Magazines have two clients — the reader and the advertiser. Thus, there are two streams of revenue — circulation revenues from sales to readers and advertising revenues. Magazines with large circulations attract advertisers. With these advertising revenues, magazines can create editorial content to attract readers. The task force on the Canadian magazine industry reconfirmed that advertising revenue is by far the most important revenue stream for Canadian magazines, accounting for 65 per cent of revenues. It supports the cost of the editorial content and makes it possible for the publisher to improve and increase editorial content and attract more readers.

One could make an interesting observation at this point. In the city of Toronto, not only is the revenue from sales to readers becoming less important, but give-away newspapers in Toronto have had a huge impact on the revenues of regular newspapers. They have developed enormous circulations with no circulation revenue at all. The revenue comes entirely from advertising.

In effect, advertising is the lifeblood of the Canadian magazine industry. This is as true in Canada as anywhere else. In Canada, however, periodical publishers must attract advertising revenues and readers in the face of tremendous competition from American magazines for advertising revenues.

As the O'Leary commission stated:

> If we hold that a periodical press is essential to the Canadian nation, no more to be produced for us by outlanders than our statute books, then we face an inescapable choice: either our periodical press must have preserved for it enough Canadian advertising to ensure its existence, or it must be subsidized by the state.

Honourable senators, after reviewing the state of the magazine industry in Canada, the task force issued its final report in March 1994. This is not the O'Leary commission, but the other task force. Its main recommendation was that an excise tax be imposed on split-run editions of periodicals.

In December of 1994, the government responded to the final report of the task force and indicated its intention to implement an excise tax on split-run editions. Bill C-103 will amend the Excise Tax Act to implement this tax. The tax will apply to split-run editions distributed in Canada that contain more than 20 per cent recycled editorial material and one or more advertisements directed at Canadians. It will be imposed at a rate of 80 per cent of the value of all the advertisements contained in a split-run edition. Certain magazines that distributed split-run editions in Canada prior to the creation of the task force will receive limited grandfathering treatment.

Honourable senators, this is a tax measure of general application. It will apply to any Canadian split-run edition regardless of whether it is published by a Canadian or foreign publisher. The government is not regulating the activities of advertisers, printers, publishers or distributors. This measure simply encourages Canadian advertisers to place advertisements in magazines which have original content. In this way, the government is promoting long-standing policy objectives consistent with Canada's international trade obligations. The measure applies to all split-run editions distributed in Canada with little original editorial content regardless of country of origin.

When the task force on the Canadian magazine industry was initiated, the government indicated that it was prepared to support its policy on magazines. Moreover, the government stated that:

> Should foreign publishers decide during the work of the task force to undertake any new publishing activity which would contravene or sidestep the government's policy objectives for the magazine industry, they would do so at their own risk.

In addition to its recommendation concerning the Excise Tax Act, the task force made several other recommendations. These included a recommendation that an anti-avoidance rule be added to section 19 of the Income Tax Act. As I mentioned earlier, section 19 of the Income Tax Act is one of the principal policy instruments supporting the magazine industry. It allows deductions for advertisements directed at the Canadian market only if they are placed in Canadian issues of Canadian-owned and controlled magazines or newspapers.

Bill C-103 will amend the Income Tax Act to add an anti-avoidance rule to section 19. The purpose of this rule is to ensure that magazines and newspapers that purport to be Canadian are controlled, in fact, by Canadians.

To summarize, the two measures contained in this bill will ensure the continuing vitality of Canadian cultural expression. They will ensure that Canadian magazines continue to flourish. Canadians need Canadian magazines. They are a vital form of cultural expression. They provide a channel for the flow of Canadian ideas, information and views to Canadians. Canadian magazines provide a medium for discourse.

As noted in the O'Leary report in 1961:

> Only a truly Canadian printing press with the "feel" of Canada and directly responsible to Canada can give us the critical analysis, the informed discourse and dialogue which are indispensable in a sovereign society.

Honourable senators, Canadians will continue to have access to foreign as well as Canadian periodicals. Canadians are indeed fortunate to have unparalleled access to publications from around the world. Nothing in this bill would deny Canadians the right to purchase magazines of their own choice. However, as noted by the task force on the Canadian magazine industry, choice would be lessened if there were no Canadian magazines.

Research conducted by the task force on the Canadian magazine industry found no evidence that Canadian magazine publishers are any less efficient than their U.S. counterparts. The issue here is one of relative market size and economies of scale, not of relative efficiency of markets or lack thereof in Canada.

It would be simplistic to suggest that the Canadian magazine industry should take advantage of the economies of scale that North American free trade offers. American popular culture is part of the everyday life of Canadians, and so the editorial content of American magazines is generally of interest to Canadians.

Canadian popular culture and Canadian issues are not part of the everyday life of Americans. Canadian magazines, if they were to succeed in the U.S., would have to change their editorial content so profoundly that they would no longer be important to Canadian cultural products.

In closing, honourable senators, let me emphasize that this government stands firmly behind the Canadian magazine industry and long-established magazine policy. The government recognizes that access to Canadian advertising dollars is critical to ensure the economic viability and the continued existence of the Canadian magazine industry. Canadian advertising dollars should support an indigenous Canadian magazine industry.

The measures proposed in Bill C-103 will help maintain Canada's long-standing policy of ensuring an adequate advertising revenue base for the Canadian magazine industry. I therefore urge members to ensure speedy passage of Bill C-103.

Hon. Lowell Murray: Honourable senators, I thank the Honourable Senator Stollery for having placed so thoroughly on the record much of the background of this bill.

I am very happy to see Senator Davey in his seat this afternoon since he was one of my principal tormentors on this issue when I was Leader of the Government in the Senate. Actually, I think we saw eye to eye on the issue at the time, and still do, because I have no hesitation in declaring my support for the principle of this bill.

I do not have very much to add to the historical background that Senator Stollery has placed on the record. However, I will offer a few comments before concluding my remarks and presumably paving the way for the referral of this bill to the Standing Senate Committee on Banking, Trade and Commerce.

Honourable senators, Senator Stollery has pointed out that the bill is contentious in legal terms. I have on my desk a legal brief from a Toronto law firm which represents, I believe, the publishers of *Sports Illustrated*. I have not had an opportunity to read the brief, although I recall the same firm was active at about the time this issue first arose in 1993.

• (1520)

The committee should consider calling either the lawyers or their client to hear what they have to say, not because I think the committee should constitute itself as some kind of court to adjudicate legal issues, however, if there are valid issues, there may be remedies that the committee will want to consider.

As Senator Stollery has said, the main elements of the 1965 policy served us well for almost 30 years. Those two elements were the special code in the Customs Tariff and section 19 of the Income Tax Act. When in January of 1993 it was announced that *Sports Illustrated* intended to go ahead with a so-called Canadian edition, a test run of six, we found that the old policy was simply inadequate to deal with new circumstances.

First, the customs code was inadequate to deal with the new technology through which, as Senator Stollery said, the page proofs were electronically transmitted from the United States to Canada and then printed in Canada.

As for the income tax provision, it was still in place but considered inadequate to protect Canadian magazines from not just *Sports Illustrated* but from others that would come along taking advantage of the same technology and of the same loophole, if you will, in the law.

It turns out that the first edition of *Sports Illustrated* took about a quarter of a million advertising dollars out of Canada. It does not sound like a very large sum but, over five more issues, it would add up. Further, if, as we all expected and as I believe Time Warner acknowledged, it was in their minds to go on to 51 issues a year, then we would be looking at a considerable sum of money in the context of the perilous financial state of the Canadian magazine industry.

Magazines depend, as Senator Stollery has pointed out, upon advertising for 65 per cent of their revenues. Canadian magazines presently hold only a 40 per cent market share in this country, or so it was the last time I looked.

Further to that, as I say, it was not so much the *Sports Illustrated* case in itself but the precedent which would be created. There are some 40 United States periodicals available in Canada with a circulation of more than 50,000 each. *People* magazine, which is in the same family as *Sports Illustrated*, a Time Warner product, has a circulation of over 200,000. Clearly, the situation was unsustainable in terms of the economics of the Canadian magazine industry and had to be dealt with.

Even the protections that we thought we had under Investment Canada proved to be inadequate. Time Warner was able to persuade Investment Canada and obtain a ruling to the effect that what they were doing with *Sports Illustrated* was not setting up a new business and therefore was not reviewable by Investment Canada. Investment Canada gave them a ruling saying that because Time Warner already published a Canadian edition of *Time* magazine in Canada, the *Sports Illustrated* case was really the expansion of an existing business and therefore not reviewable.

The Customs Tariff had proven to be inadequate. We could not see how it could be made to be effective in a situation of this kind. All our advisors saw many ways in which it could be circumvented. The Investment Canada rules had proven to be inadequate. Section 19 of the Income Tax Act, while it was still in place, was not enough to do the job.

Sometime in early 1993, I believe it was in March, we appointed the task force under the co-chairmanship of Roger Tassé and Jeremiah Patrick O'Callaghan and put them to work. I recall very clearly what we had in mind in appointing the task force, and it was not simply a neutral examination of the policy. Mr. Beatty, the then Minister of Communications, made it clear that we wanted the policy brought up to date. We wanted to match the new climate, particularly the new technological climate, that was in existence. We encouraged Mr. Tassé and Mr. O'Callaghan to bring in an interim report before the final deadline of December 31, 1993. We were concerned that, now that the door was open, there would be a full-scale invasion by United States magazines looking to take advantage of this situation.

The interim report was presented in May of 1993, with two recommendations only. One was that the government should issue a policy statement reaffirming Canada's position on these matters dating back to 1965 and making quite clear our intention to take whatever steps would be necessary to block any further invasion of this kind — as I say, pour décourager les autres.

The second recommendation was to clarify the Investment Canada guidelines on this matter. As honourable senators may recall, June 1993 was a rather busy month, politically. There was a change of administration. Prime Minister Campbell took over at the end of June.

In the first half of July, the government acted on the two recommendations in the interim report of the Tassé-O'Callaghan task force. Monique Landry, then Minister of Communications, issued the statement that the task force had recommended, reaffirming Canada's policy in this matter and issuing, in effect, a caution, a warning to any U.S. or other foreign periodical publishers who might be tempted to follow the same road as Time Warner and *Sports Illustrated* had followed.

Second, and also in July 1993, the Honourable Jean Charest, who was then the minister in charge of Investment Canada, put out a ministerial directive under the Investment Canada Act entitled, "The Related Business Guidelines," which had the desired effect so far as the Investment Canada situation was concerned.

As Senator Stollery has pointed out, the final report came in a bit later than anticipated, sometime in early 1994. There were 10 or 12 recommendations in the report. Two of the most important ones are being acted upon now with Bill C-103.

I have not had an opportunity to read the legal brief which has been filed by the solicitors for Time Warner and *Sports Illustrated*. However, I do hope that it will be canvassed by the Banking, Trade and Commerce Committee when the bill is before it for study.

I also suggest that we give the bill more than a cursory examination, not because I have any particular problems with it, but because of the importance of the policy context in which this bill is being brought. Perhaps Mr. O'Callaghan and Mr. Tassé could come and discuss the two recommendations which are incorporated in this bill, as well as the other recommendations in the task force report. Indeed, there may be other witnesses, such as the Canadian Magazine Publishers Association that will want to be heard.

We want to be sure we have an effective bill. We must be sure that we have a bill that does the job we want it to do. In that spirit, I simply indicate our approval in principle and our desire to see the bill go to the Standing Senate Committee on Banking, Trade and Commerce.

Senator Stollery: Honourable senators, if no one else has anything to say at this point —

The Hon. the Speaker: Honourable senators, I wish to inform you that if the Honourable Senator Stollery speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Stollery, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[*Translation*]

CONTROLLED DRUGS AND SUBSTANCES BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Marchand, P.C., for the second reading of Bill C-7, an Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof.

Hon. Jean-Claude Rivest: Honourable senators, I would like to draw your attention to the importance of the legislation proposed in Bill C-7. This bill concerns how we control a very serious social problem in modern society: drug use.

This may be surprising, but it may be the only way to control this very serious social and human problem. The measures proposed in this bill are one more attempt to deal with the problem of drug trafficking but, and this is not only the case in Canada but in all western countries, they fail to resolve the other side of the problem: demand. Why do so many of our fellow citizens in Canada and elsewhere, and especially young people, use narcotics to try and experience what can only be the illusion of happiness?

We should probably take a long hard look at the existing demand for narcotics and drugs and at the structure and values of our society. We should realize that the economic and social problems facing society in terms of unemployment and the lack of a future for our young people have — and this should be our primary concern — a deeply human dimension which explains the current drug epidemic.

Bill C-7 is one of many measures available to the government to control the supply of drugs. The Parliament of Canada has on a number of occasions passed legislation to reinforce existing mechanisms.

The bill before us today is useful for a number of reasons. It has the effect of sending a very clear message to those who sell drugs, especially when they operate in the immediate vicinity of young people, on school property or inside schools. The bill provides that trafficking in drugs in an environment frequented by young people constitutes an aggravating factor and, as a result, the courts shall consider such factors when imposing a sentence. This is one more way, and many others have already been implemented, to prevent or try to prevent as many young people as possible from becoming addicted to drugs.

Bill C-7 allows something that is always rather controversial with respect to basic freedoms, but validates a procedure that is probably one of the most effective, and I am referring to police infiltration of networks engaging in the sale and distribution of narcotics. We are familiar with this restriction on individual freedoms. However, considering the importance and gravity of the problem, it is a restriction which in the meaning of the Charter constitutes a reasonable way to proceed in that it gives police forces a chance to infiltrate networks so as to eliminate them as much as possible.

The bill goes into great detail, not only about the drugs we know and often read about in the papers, but also the whole chemical aspect of this question; in other words, there is a group of products referred to as precursors which are used to make certain compounds.

I will not read all the schedules to the bill because this would turn into a lecture on pharmacy or chemistry, but there are any number of products used by drug traffickers to upgrade the value of the destructive merchandise they put on the market.

Honourable senators, I think the set of measures proposed in Bill C-7 is very important. More particularly, I want to stress the concern the government probably has, and which is shared by honourable senators, for having measures that are specifically targeted to young people. That is probably where we should start. These measures will probably be more effective, in the immediate and long term, in dealing with this problem.

Honourable senators, beyond these specific administrative or police measures to combat the scourge of drugs, I would like to say, on behalf of all senators, how important it is in the present context to encourage and preserve the many organizations working throughout Canada to prevent this scourge and rehabilitate those who have had problems with drugs.

In Canada, and particularly in Quebec, there is a significant number of volunteers and others working to help their fellow citizens overcome these serious difficulties.

These volunteer drug prevention and drug victim support organizations are concerned at the moment because they often depend a lot on public funds to help them continue their humanitarian activities. In the context of the present budget restrictions throughout Canada, I express the wish, and I think I speak for us all, that there be no cuts to these initiatives, which

are absolutely vital in the field and probably provide prevention and rehabilitation activities for victims of drug problems. When you think about it, this sort of measure is much more effective than simply increasing police action, which is absolutely vital and specifically addressed by Bill C-7.

As I said at the start of my remarks, the problem with drugs is not a police problem as such and probably not just a matter of health, but, rather, a problem of human behaviour, of men, women, young people and seniors living in a society which does not always give the importance — and we know this all too well — due to individual approaches and to the ambitions and hopes people create for themselves and their family.

I think it important for the Senate to look at and begin to consider the significance of the drug problem in today's society. We must take all the necessary measures, regardless of the cost, to support the volunteers and their organizations so they may continue their work and ultimately try to reduce this scourge, which, unfortunately, is one of the most distressing signs of our modern world.

Hon. Marie-P. Poulin: Honourable senators, I thank Senator Rivest for his relevant comments in strong support of Bill C-7.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

[*English*]

• (1540)

CHILD ABUSE AND MORTALITY

INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of Wednesday, July 12, 1995:

> That she will call the attention of the Senate to the issues of child mortality, child abuse neglect deaths (CAN deaths), child abuse and child maltreatment in Canada, including the physical injury of children, parental violence and aggression, child neglect, the "failure to thrive" syndrome, psychological injury to children, parental manipulation of children, and misadventure suffered by children in Canada.

She said: Honourable senators, I would like to draw to your attention child suffering and abuse in Canada, and in particular the increasing number of deaths and cases of abuse of children at the hands of their parents.

A case in point is the terrible death of three-year-old John Ryan Turner of Miramichi, New Brunswick, in 1994. The neglect and abuse of this little boy were well reported. John was routinely kept in a harness, locked in a cupboard, and had socks stuffed in his mouth to stifle his cries. When he died, John weighed half the normal weight for his age, was covered in bruises, and had broken bones. His father completely ignored him, and his mother showed him hatred and contempt from the day he was born. This abuse, neglect, and absence of love, known as the "failure to thrive syndrome," afflicted little John Ryan Turner, and ultimately led to his death and the trial and conviction of his parents this past summer.

In 1977, Toronto and Ontario were horrified by the child abuse neglect death of one-month-old Vicky Star Ellis. But for the initiative of the coroner, Dr. Elie Cass, this death would have passed unnoticed, as do many children's deaths. The five-week inquest cost over $2 million. The mother, Deborah Ellis, was a textbook case of an abused child having become an abusing parent. Deborah had grown up brutally abused by the women in her life, her mother and her grandmother.

In all, Deborah Ellis had six children, sired by different men. Of these six, three died in her care, and a fourth nearly died. Parrish, aged 17 months, drowned unattended in a bathtub; Darlene, aged 11 months, died of neglect; and Vicky Star, barely one month old, died of neglect. Charlene, aged two years, was rescued 15 minutes from death by able medical and hospital response. Of her six children, three were apprehended, including her sixth child who was apprehended at birth.

Part of Deborah Ellis' disorder was her compulsion to have children. She defiantly said:

> No one can stop me having children — not the judge, or the coroner, or the Children's Aid Society.

About her personality problem, Dr. Clive Chamberlain, then director of the Family Court Clinic, wrote:

> Since part of Mrs. Ellis' personality disorder was a compulsion to have children, and since nothing could be done to prevent it, she should have another chance, through Vicky, to learn how to mother for the sake of children yet unborn.

Little Vicky's life was to be an educational tool for Deborah Ellis, whose life was a tangle of pathologies. The judge returned newborn Vicky to her mother. This baby was dead within a month.

In 1976, a year prior, in Sarnia, Ontario, there was the terrible case of Kim Anne Popen's death at 18 months. Kim suffered physical and emotional abuse, and her condition was well known to police, social and health care workers. She died. The mother, Jennifer Popen, pleaded guilty to manslaughter and was sentenced to seven years' imprisonment.

Parental aggression, violence, infanticide and neglect are too common. The most defenceless people in our society, the children, are the innocent victims.

Honourable senators, the history of these unfortunate children is well documented and appears in much literature. Equally well known were the "killing nurses" or the "she-butchers," as they were called in England; those persons who acted as wet nurses, midwives, and home abortionists. Alix Kirsta, in her book *Deadlier Than the Male*, writes that:

> ... the scandal of Britain's 'lying-in houses', where babies were 'arranged' to be stillborn, was not exposed until 1868 — when it turned out that large areas of London's most salubrious districts, for example St. Marylebone, were a hot-bed of infant massacre and casual baby 'disposal', with corpses often to be found in public parks and ditches.

In 1845, Benjamin Disraeli, who had been Prime Minister of Great Britain, as the United Kingdom was then known, wrote in his novel *Sybil* that:

> Infanticide is practised as extensively and legally in England as it is on the banks of the Ganges.

In Toronto, at the turn of the century, when a pond on the campus of the University of Toronto was drained, the bones of many newborn infants were discovered.

On March 2, 1911, in the House of Commons, Dr. J.B. Black, member from Nova Scotia, stated:

> I have some figures here which will probably astonish some of us. In the city of Ottawa there were born last year, to the 31st of October, 1910, 2,100 children. Ninety percent of those should have lived. Of those born, 626 died, or nearly 32 per cent of all the children born in Ottawa up to that date died. This is the highest rate of mortality among infants in any city in the world where statistics are kept.

In 1912, the Legislative Assembly of Ontario published a report entitled *Infant Mortality* surveying infant mortality in Canada. The report said:

> How many of the citizens of Ontario know that we buried nineteen babies under one year old every day in Ontario in 1909, or 6,932 — nearly 7,000 — in that one year?

About illegitimate children, the report stated that:

> ... their death rate is almost twice as great as the death rate of legitimate children. That death rate is often simply murder, and a slow and cruel murder of a helpless victim.

Honourable senators, an enormous advance in the detection of child abuse came about by the use of radiology — X-ray technology. In 1946, American John Caffey boldly and bravely declared his observations regarding the association between subdural haematoma, abnormal X-ray changes in the long bones of children, and injury, stating that these traumas were not caused by accidents but were wilfully inflicted. These revelations caused much shock. The examination of children's injuries was continued by another American, Dr. Frederic Silverman, and culminated in the work of Americans Dr. Ray Helfer and Dr. Henry Kempe, who coined the term "the battered child syndrome" in 1961.

One hundred years prior, Dr. Ambroise Tardieu's work in forensic medicine at the Paris morgue concluded that children had suffered greatly at the hands of their parents, and that the injuries did not match their parents' accounts. In 1860, he published that:

> ...those defenceless unfortunate children...that their lives, hardly begun, should be nothing but a long agony...tortures before which even our imagination recoils in horror, should consume their bodies...shorten their lives, and, finally, the most unbelievable thing of all, that the executioners of these children should be more often than not the very people who gave them life.... This is one of the most terrifying problems that can trouble the heart of man.

Honourable senators, these words of more than a century ago are just as relevant today. Between April and July, 1995, *The Ottawa Citizen* and *The Toronto Sun* newspapers reported 10 cases of death involving 11 children. These two newspapers alone reported nine cases of severe abuse and neglect involving over 20 children. These numbers reflect the reports of just two newspapers in four months in two cities. The true number across Canada is unidentifiable and unspeakable.

Other newspaper reports illustrate the nature and frequency of child abuse and neglect deaths. On March 29, 1995, *The Toronto Star* reported the death of 11-month-old Ashley Johnson. The mother, 23-year-old Tammy Johnson, had left Ashley and her three-year-old sister unattended in the bathroom. Minutes later, Ashley was found drowned in the bathtub. Four years prior, Johnson's first child had nearly died under identical circumstances. Johnson's four children were sired by four different men.

The Toronto Star reported that the court was told:

> Had it not been for the previous case, Johnson probably would not have been charged with a criminal offence...

Tammy Johnson was given a suspended sentence and probation for three years.

On July 5, 1995, *The Toronto Sun* reported the story of the so-called "Toronto suitcase baby." The body of a black nine-month-old boy was found stuffed in a suitcase behind some bushes in a Toronto park. The newspaper reported that the 16-year-old mother found the infant dead, and kept the body for four days before disposing of it. The *Sun* reported a police detective as saying:

> "...it's my opinion we're not anticipating any criminal charges" including one of improperly disposing of human remains... "I think she's suffered enough."

On July 15, 1995, *The Toronto Star* reported that little two-year-old Tyrell Noble fell 13 stories to his death through a torn screen. His mother, a single mother of three, was not in the room when Tyrell fell. *The Toronto Star* quoted a police sergeant who said:

> "It appears to be nothing more than a tragic accident."

The mother was not charged in Tyrell's death.

As reported in *The Toronto Sun* of July 7, 1995, a Toronto woman broke two of her four-year-old daughter's ribs and hit her in the face after the child spilled some juice. Initially, the woman blamed the injuries on her husband. Later, she pleaded guilty to assault charges and was sentenced to 90 days in jail.

Honourable senators, in 1986, Dr. Cyril Greenland, McMaster University professor emeritus, did a study of child abuse neglect deaths from records of the Ontario Chief Coroner's office. In an article, "Preventing Child Abuse and Neglect Deaths: The Identification and Management of High Risk Cases," he reported that:

> The risk of death due to CAN —

— child abuse and neglect deaths —

> — is highest in the first year of life. The Ontario data, confirmed by most other studies, show that well over half of the victims...died before the age of 12 months. An additional 25%...died before the age of two years. Only five per cent of the victims were over the age of five years.

He also said:

> Natural parents were the perpetrators in 63 per cent of the deaths; mothers were involved in 38 deaths, fathers in 13 deaths and both parents in 12 deaths.

Honourable senators, Statistics Canada, in its Juristat 1994 Homicide Statistics, devoted an entire section to infant homicide entitled "First year of life holds greatest risk of being victim of homicide." Honourable senators, I repeat this fact: Those at greatest risk of homicide, of being wilfully killed, are babies under one year old. Statistics Canada reports that 27 babies under one year old were victims of homicide in 1994. This represented a significant increase over the previous 10 years' annual average of 20. Of these 27 babies who were killed last year, 20 were killed by parents.

These data exclude many child abuse deaths. Child death caused by parents' criminal negligence and failure to provide the necessities of life and starvation, both of which are criminal offences, are not classified as homicides and are not counted in these data. Statistics Canada states:

> In Canada, homicide is classified as first degree murder, second degree murder, manslaughter or infanticide. Deaths caused by criminal negligence, suicide, accidental or justifiable homicide are not included in the definition.

In addition, many of the children's deaths caused by parental neglect are not counted in the 596 total homicides for the year 1994.

The Globe and Mail of August 3, 1995, expressed this concern:

> ...the truth may be worse than the police statistics reveal. With the growing attention to child abuse has come a suspicion that some deaths previously categorised as accidental or unexplained may have been homicides.

Statistics Canada reported that of the 27 homicides of babies under one year old, seven mothers were charged with infanticide.

The Hon. the Speaker: Honourable Senator Cools, I am sorry to inform you that your time has expired.

Senator Cools: May I, with leave by honourable senators, finish my remarks?

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Cools: Section 233 of the Criminal Code states:

> A female person commits infanticide when by a willful act or omission she causes the death of her newly-born child, if at the time of the act or omission she is not fully recovered from the effects of giving birth to the child and by reason thereof or of the effect of lactation consequent on the birth of the child her mind is then disturbed.

Honourable senators, there is no medical relationship between lactation and murderous behaviour. The significant fact is the diminished responsibility and the slight sanctions granted women, even though some very brutal and premeditated murders are the result. Sometimes sanctions are as light as three months' probation and suspended sentences.

Confronted with the grim realities contained in a century's account of child misfortune and misadventure, statistics, reports, studies, inquiries, victims and deaths, and with the significant revenues spent on child protection, it seems unimaginable that the number of infant murders for 1994 reported by Statistics Canada has increased from 18 in 1992 to 27 in 1994, an increase of 50 per cent, and that children should continue to die at the hands of their parents.

In British Columbia, the judicial inquiry by Judge Thomas Gove into the death of five-year-old Matthew Vaudreuil is continuing. Matthew suffered severe beatings at the hands of his mother, Verna Vaudreuil, including one which broke nine of his ribs, before the final lethal beating that killed him. Verna Vaudreuil is serving a four-year prison term.

What is tragic and disturbing is that the British Columbia Department of Social Services was aware of Matthew's abuse. A *Vancouver Sun* article of December 20, 1994, said:

> Provincial court Judge Thomas Gove has been asked to determine why the ministry could not protect the boy from his mother despite repeated complaints to the ministry that he was suffering horrendous abuse.

Honourable senators, there were 60 protection reports about this child. The first one was written the day he was born and the sixtieth just two days before his death. Matthew had been seen by health professionals at least 48 times, and his mother and he had received the services of financial aid workers, home support workers, mental health workers, public health nurses, psychologists, foster parents and 16 child protection workers over the course of five years. Matthew Vaudreuil's history of maternal neglect and abuse was well known, and yet he died. The troubling fact is that Matthew's case was not an anomaly. Judge Gove explained in *The Vancouver Sun* of June 7, 1995, that:

• (1600)

> At first, I thought that my job was to investigate Matthew's life and death alone. But after 11 weeks of formal hearings and 130 witnesses, it became painfully clear to me that Matthew's story was not an isolated case. The more I dug, and the more people I talked to, the more I realized that the errors which contributed to his death were not just anecdotal, but were systemic in nature.

He added:

> ...the unprincipled, dysfunctional and inefficient system...contributed to the suffering and death of Matthew, and of many others like him.

Honourable senators, 20 years earlier another judge in Ontario, Judge Ward Allen, in the inquiry into the 1976 death of little Kim Anne Popen — and I say a "little" because I worked in the field, and "little" is how we referred to these children at the time — had also concluded that:

> Various departments, agencies and personnel of the Province of Ontario failed the child.

Honourable senators, child abuse and neglect are far too common. Daily, one observes yelling, scolding, hitting, slapping, kicking and yanking, acted out by parents — usually mothers — in public places. Many think that this behaviour is both normal and acceptable; that it is merely discipline or tough love, not at all like the stories in the news. Honourable senators, it is maltreatment, the consequences of which will remain with that child well into its adult years. Some scars will never heal. The physical and psychological damage done to children is profound.

A newly emerging form of child abuse is that from parents involved in matrimonial and custodial disputes. Parents use their children as bargaining tools, manipulating them to their own advantage, causing parental alienation of the other parent. With respect to children's pain and suffering during divorce and custody disputes, Dr. Hazel McBride, a Toronto area psychologist, said that children are "...put up as a prize, or used as a weapon."

Honourable senators, those who are maltreated learn to abuse. As Judge Gove advocated, we must ensure that those in the child protection system, those whose responsibility it is to protect children, have undivided loyalty to the safety and well-being of the child — that is, undivided loyalty to the best interests of the child.

On motion of Senator Berntson, debate adjourned.

MINISTERIAL RESPONSE TO SENATE COMMITTEE REPORTS

INQUIRY—DEBATE ADJOURNED

Hon. Pat Carney rose pursuant to notice of Tuesday, October 31, 1995:

> That she will call the attention of the Senate to the issue of ministerial response to Senate Committee reports, in particular, noting that on July 5, 1995, as Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, I submitted a copy of the Committee's report entitled "Pull up! Pull up!: An interim Report on the Safety Implications of Automated Weather Observation Systems (A.W.O.S.)" to the Minsters of Fisheries and Oceans, Environment and Transport, and asked for a response to our recommendations, and that, to date, none of these Ministers have issued a response.

She said: Honourable senators, on October 31, I drew the attention of the Senate to the failure of ministers to respond to senatorial committee reports. I specifically dealt with the report of the Standing Senate Committee on Energy, the Environment and Natural Resources, and our report called "Pull up! Pull up!:" An interim Report on the Safety Implications of Automated Weather Observation Systems (A.W.O.S.)." The latter report dealt with some of the consequences, or perceived consequences, of the government's decision to withdraw staff from weather stations used by Transport Canada and Environment Canada.

I pointed out at that time that although our report had asked for a ministerial response by October 31, only one minister had acknowledged receipt of the letter; no minister had actually responded.

Honourable senators, I feel strongly that the Senate might wish to take a look at this issue on the failure of certain ministers to respond, the boycotting of the Senate by other ministers, and the effect that that has on our work.

Our notice of inquiry must have prompted the Minister of Fisheries and Oceans, Brian Tobin, or his staff to respond because on November 6, I received a letter signed by the minister, or at least his signature machine. The letter was in reply to our letter dated July 5, 1995, concerning the report. His letter stated that his department is participating with Transport Canada and Environment Canada in the preparation of a joint response to the report, which is being coordinated by Transport Canada, and that this response will be forwarded to the standing committee on behalf of three departments.

Honourable senators, that is not a good enough response, four months after the ministers had been asked to respond to an issue which affects the safety of Canadians, particularly Canadians travelling beyond urban centres and who rely on air transportation. Canadians, such as farmers, rely for their livelihood and their safety on weather reports. It is not good enough, four months later, to say that the response is in the mail and coming later.

I urge the Senate to consider the fact that this is not just something that is happening to our committees; other committees are also being ignored by the responsible ministers.

Honourable senators, I wish to draw the attention of my colleagues to the fact that, while ministers may be ignoring this report, we have had responses to the report from mayors, municipalities, cities and municipal associations right across the country, many of them from AWOS sites, supporting the evidence contained in the report that the AWOS system is considered unsafe. I want to draw to the attention of honourable senators some of the concerns of these towns and cities.

In order for honourable senators to understand the issue more clearly, I want to review the basic recommendations of our report. I will not read them all into the record, but I will refer to the prime recommendations.

Honourable senators, our committee recommended that, since safety is the prime consideration, AWOS equipment must be proven to be at least as accurate and reliable as the human observation-equipment mix it is intended to replace before human observers are removed. Americans have had similar problems with their equipment. The office of their Auditor General has suggested that possibly the automated equipment on which they have spent hundreds of millions of dollars will never be operational.

Our second recommendation was that the current moratorium on the commissioning of AWOS sites be solution-driven and not date-driven, as it is currently, and that no additional AWOS sites be either installed or commissioned and no human observers be removed until members of user communities are satisfied that such actions allow them to meet safety requirements.

I should tell honourable senators that we have had other correspondence from pilots indicating that this moratorium is not being honoured by Transport Canada. We will bring that information to the attention of the Senate at a later date.

Our third recommendation was that the moratorium be extended to include the proposed destaffing of lightstations, to ensure that human observers remain in place until automated equipment performs as well in the provision of local weather information.

Since that recommendation was made, the lightstation keeper at Nootka has recently pulled a local priest out of the water, a famous and valuable person who serves the West Coast community, and who, of course, was involved in the performance of his duties when the lightkeeper saved his life.

Another recommendation of the committee was that, during the moratorium, all AWOS users, not just those involved in aviation, be consulted in order to ensure that the replacement of human observers with AWOS meets their operational safety requirements. That is because, while Transport Canada is allegedly talking to some of the aviation users, the other users, such as the agricultural community, are not being consulted.

The last major recommendation was that Transport Canada return the human observers to all sites from which they were removed in favour of AWOS systems until problems with AWOS are resolved and performance criteria developed in consultation with users are met, with safety of the travelling public in all parts of the country being the overriding concern.

That recommendation was based on the information we were given, that the departments involved had reinstated humans in large urban centres, such as Edmonton and Montreal, but had replaced humans with AWOS systems in smaller rural centres. Apparently, the lives of urban Canadians are considered more valuable than the lives of people who live in non-urban or rural Canada.

We also asked the three departments that are replacing human observers with automated weather observation systems — Transport Canada, Environment Canada and Fisheries and Oceans — to coordinate their policies and, in an open and transparent way, to ensure that the cumulative impact of these changes does not endanger the safety of the travelling public. We have asked for the response by October. As I pointed out, we are still waiting.

To give honourable senators a sense of the flavour of the response to our report, the City of Thompson, Manitoba — which is heavily reliant on air transportation — has written Doug Young, the Minister of Transport, to say that the council endorses the interim report of the Senate committee, and they go on to say in their letter:

> We would ask you to give your utmost consideration to the recommendation in the report for the re-installation of manned weather stations. It is our opinion, given the information contained in the Senate Report concerning Automated Weather Observation Systems, that it is only a matter of time before the inaccuracies of this system will cause a disaster. We do not want such a tragedy to occur in our community or any other community in Canada and we are sure you don't either.

> Please heed the warnings and recommendations contained in the report for the sake of the travelling public.

That is signed by the mayor. I remind honourable senators that the pilots' union, CALPA, came before our committee to say that the AWOS system, which was put in place without adequate testing, is "an accident waiting to happen."

We also received a letter from Kelowna, British Columbia. Kelowna's Mountain Weather Station Office is still staffed, and it is one of the two in B.C., I believe, which will not be an AWOS-only site. Kelowna does not have a concern about its own safety. However, the mayor of the city has written:

> ...I do have misgivings about the number of fully automated sites planned across the country, and would agree with the recommendations of the Standing Senate Committee on Energy, the Environment and Natural Resources.

He thanks us for an informative report and for the opportunity to comment.

Let me now move on to Saskatchewan, in which, I am sure, our deputy house leader is interested.

Senator Berntson: Yes, very much.

Senator Carney: The Town of Meadow Lake, Saskatchewan, wrote us to say that the council has recently passed a resolution opposing the placement of an AWOS at their local airport and that:

> Experience appears to show that these systems are unreliable and a possible safety threat to members of the aviation industry.

I would point out to senators that they are not just taking our word on this but the word of the people who live in their communities.

The mayor of the Town of Dauphin has written to say that Dauphin was one of the first recipients of the AWOS system, and they have found it to be unreliable. The mayor's letter reads, in part:

> There is no doubt that this system of reporting weather conditions is at times unsafe for the air traveller. It is logical to have AWOS replaced with humans in the interim until new software is developed by DOT to address the deficiencies. Keep up the good work.

The City of Ottawa took the time to write to us. The mayor of Ottawa points out that, although this is not an area of the city's jurisdiction, it is a matter of great importance to ensure the safety of all those travelling to the Ottawa area and that, therefore, she concurs with the committee's recommendation, which is a thoughtful note for her to send to us.

I have already spoken to Senator Adams, who is in the chamber today. During its meeting on September 11, the municipality of Iqaluit in the N.W.T. passed a resolution supporting the Senate's position that weather stations in Yellowknife and Iqaluit remain open after their suggested closing date of April 1997 and pointing out that the N.W.T. Association of Municipalities had made similar representations to the minister.

Gander, Newfoundland, sent us a letter, signed by the mayor, saying that:

> Considering the implications to our community both from an environmental accuracy, and human resources perspective, the Town of Gander is greatly concerned that the ongoing assessment of the AWOS system be conducted with great concern and accuracy for the weather reporting system in our country.

Her letter talks about some of the actions that the town of Gander has taken to discuss the implications of the AWOS system and feels that:

> While...the aviation industry...is a critical component of our community, all aspects of ground, air and especially sea transportation will be affected within our province.

The mayor writes that she is looking forward with anticipation to the final report of the committee. Of course, we cannot do that final report until we hear from the ministers concerned.

We also have a letter from Prince Albert, Saskatchewan, signed by the acting city clerk, saying that the copy of the committee's report was provided to the mayor and city council and was considered by the city council at its last meeting. The letter goes on to state:

> At that time, City Council agreed to support the recommendations of the Standing Senate Committee on the safety implications of Automated Weather Observation Systems. In that regard, the six recommendations included with the Interim Report have been supported.

They wish to be kept informed.

Next door, in the province of Alberta, the City of Calgary wrote to us on this issue as well. It is signed by the mayor. The mayor's letter says that the Calgary Transportation Authority was asked to look at the report and that:

> The CTA has confirmed that the aviation community has been experiencing false and inaccurate weather reporting from AWOS and that this has given rise to concerns about flight safety. This is particularly critical in Alberta where, because of the close proximity of the Rocky Mountains, the weather can be very changeable and has the potential to deteriorate quickly.

The letter goes on to say:

> Under present circumstances, we also see the value of having human observers on site who have the ability to interact with pilots about important questions related to present and incoming weather conditions.

The mayor of Edmonton also wrote us and expressed concern about the decision to discontinue manned weather services. You will remember that in Edmonton humans were reinstated after it was learned that pilots going into Edmonton Municipal Airport were using the local brewery sign to read the weather because the AWOS system was unreliable.

The mayor's letter says:

> We are pleased that your committee has recommended the return of human observers to all sites from which they were removed, until problems with AWOS are fully resolved. We are also pleased that your committee has recommended that performance criteria be developed in consultation with aviation users with the safety of the travelling public being the overriding concern.

The mayor adds:

> We look forward to a positive resolution of this problem.

I referred earlier to the N.W.T. Association of Municipalities which now represents 100 per cent of all eligible municipalities. They have expressed concern over the safety implications of AWOS. Mayor Bevington wrote to Minister Doug Young in a letter copied to our committee:

> ...There have been many stories that the AWOS reported weather conditions differed from actual conditions at the airport. Suppose AWOS gave inadequate weather information to an airline that supplies service once a week to a remote community. That community may be left without vital supplies for weeks before another flight could return. Add to this the fact that air medivac is the only source of travel for medical emergencies in many northern municipalities.
>
> Given the information contained in the Senate Report concerning the Automated Weather Information Systems it is only a matter of time before the inaccuracies of this system cause a disaster. Your department must realize the impacts of imposing the use of such a system could be. It is with this thought that the N.W.T. Association of Municipalities fully endorses, through the attached resolution, the Interim Report entitled "Pull Up! Pull Up!"

The Hon. the Speaker: Honourable Senator Carney, I hesitate to interrupt, but I must inform you that your time is up.

Senator Carney: I would like leave of the Senate to finish my remarks.

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

Hon. Senators: Agreed.

Senator Carney: The Association of Yukon Communities had already passed a resolution opposing an AWOS in Mayo and in Whitehorse in May, before our hearings had begun.

> ...The Association feels strongly that it makes absolutely no sense to do this since Transport Canada has found AWOS to be unreliable and has initiated further research to see if they can be made workable and safe.

The City of Winnipeg, Manitoba, takes this position:

> ...Within the City we have had very little direct experience with AWOS technologies. As the report indicates the City of Winnipeg is one of the sites comprised of human observation with AWOS assistance...
>
> In the interests of public safety I support all of the recommendations except the third (lightstations) —

— Winnipeg is a little short on lightstations —

> — and fifth (unstaffed/AWOS-only sites) which do not pertain to the situation in Winnipeg.
>
> Finally, the report and your covering letter make reference to the safety concerns of the travelling public and this is an obvious concern. It is hoped that Winnipeg will grow into an important multi-modal cargo destination and Winnipeg International Airport is a key component of these plans. To the extent that accurate weather information promotes safety of cargo flights, this should also be a concern.

Watson Lake has also written to us:

> As Safety has to be the prime consideration these Senate Committee recommendations must be accepted by Government, otherwise we are putting a price on human life, a dangerous precedent for a Government to take.

The letter goes on to describe the situation in Watson Lake.

From Ontario, the Town of Geraldton sent a letter signed by the airport manager:

> I...have heard many comments, mostly negative, from pilots that have had to use it due to it being the only source of weather in some locations.
>
> The main concern portrayed to me is that the system is not reliable and does not always give the true weather picture. The equipment that the pilots have come into contact with is only able to give weather observations within the immediate proximity of the station and is unable to depict weather inbound i.e. thunderstorms. Another concern is that the ceilometer currently in use cannot always differentiate between rain, snow, bugs, smoke, fog, etc.

We have also had letters from regional airports in Waterloo-Guelph agreeing that the automated systems were prematurely installed and that human observers were removed from the system before it was proven reliable.

That is a summary, honourable senators, of some of the responses to our report. In view of the response from so many of the municipalities across the country, from coast to coast to coast, it is particularly reprehensible that the ministers have failed to respond to our concerns in a timely manner to deal with this issue of the safety of the travelling public. I draw it to the attention of the Senate. We, as the upper chamber, should deal with the issue of ministerial response to our reports. We will keep honourable senators informed of other responses to our report as we have the opportunity to do so.

Hon. Paul Lucier: Honourable senators, I have some questions. First, I want to commend Senator Carney and her committee for their work on their report. The impending disasters which she described today hit very close to home. My son is a pilot in the Northwest Territories. I discuss this issue with him on a regular basis. There is much concern for safety. It is tough enough flying up there when everything is going right, and they do not need any more hazards placed in their way.

Perhaps Senator Carney could supply me with copies of the correspondence received, particularly from the two associations in the Northwest Territories and the Yukon. It may be helpful for all senators to have that information.

Senator Carney: Some letters have been forwarded to committee members. Senator Adams is on our committee. I would be happy to forward to the honourable senator from the Yukon those responses which come from his part of the country. Perhaps that would be a reasonable suggestion for all senators, that they should receive any responses which originated in their particular regions. I also would be happy to send other letters to any senator who requests them.

The messages in all the letters are similar. They are afraid of AWOS and they want us to pursue the work before our committee to ensure that the system is safe and that human observers are kept in place until that safety is proven.

On motion of Senator Hébert, debate adjourned.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE PRESENT STATE AND FUTURE OF AGRICULTURE AND AGRI-FOOD

Leave having been given to revert to Notices of Motions:

Hon. Dan Hays: Honourable senators, I give notice that on Wednesday next, November 8, 1995, I will move:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine the present state and the future of agriculture and agri-food in Canada; and
>
> That the committee table its report no later than June 30, 1996.

The Senate adjourned until Wednesday, November 8, 1995, at 1:30 p.m.

THE SENATE

Wednesday, November 8, 1995

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

Prayers.

SENATORS' STATEMENTS

REMEMBRANCE DAY

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it is a privilege to rise in this house today in anticipation of Remembrance Day, which occurs this weekend. On Saturday, Canadians will gather in communities large and small across this country, in every province and territory, at military cemeteries throughout the world, and here in Ottawa at the National War Memorial. We will gather to honour the memory of those who died in the service of Canada, and to rededicate ourselves in the cause for which they fought. We will commemorate the sacrifice of the men and women who served Canada during the First World War, the Second World War, the Korean War, and this year we mark the fiftieth anniversary of the end of the Second World War and the return to an era of peace.

Some of those Canadians will know in a very personal way about the sacrifices that were made. They will recall the faces, the laughter, the tears and the voices of those they knew. Inevitably, however, honourable senators, as the years pass, more and more who participate in these events take their recollections only from the history books.

With every passing year, therefore, it becomes more vital that we keep that memory alive and bright, as we saw last June in Holland, where our returning veterans were welcomed with such an outpouring of warmth, generosity and gratitude. We could not help but be touched by the young people of Holland who understood, much more than did our own young people, about the tragedy of war, the emotion of liberation and VE day through the memories of their parents and grandparents. We Canadians must make a more concentrated effort to ensure that our children and grandchildren are taught to remember what their families endured in order to protect our future.

Honourable senators, Canadians of this generation have lived their whole lives in a nation at peace, and it is dangerously easy to take our freedoms for granted. However, peace and freedom were both purchased for us with the sweat, the tears and the blood of those who fought to preserve them. So many died in those historic battles; many more came home in some way scarred from their experience, but filled with the strength and the courage to pick up their lives and contribute to their families and to their country.

We are what we are today and we have what we have today because of the people we honour on Remembrance Day. Only if we remember can we hope to give meaning to their sacrifice.

Honourable senators, we cannot help but reflect this week, as we grieve over the tragic assassination of Israeli Prime Minister Yitzhak Rabin, who died in his efforts to secure a truly lasting peace for the Middle East. His assassination serves as a reminder of what history has taught us: that peace has been lost because nations, again and again, did not realize it is their common cause and their common work.

Honourable senators, postwar Canada has chosen to make peace its cause. We were partners in that first United Nations peacekeeping mission in the Middle East, and our service throughout the world has been unbroken since. It comes at a price — the lives of 103 Canadian peacekeepers since the end of the Second World War and, most recently, in Bosnia. Thus each year, November 11 must be for Canadians, a day not only for remembrance and recognition, but for dedication to the hard and patient work of finding solutions before the battle starts.

I wish all colleagues in this house a meaningful day on Saturday as you share it with the people whom you represent in this chamber.

Hon. Noël A. Kinsella: Honourable senators, each year on the eleventh day of the eleventh hour of the eleventh month, Canadians from coast to coast to coast, in our villages, towns and great cities, gather around local memorials to mark with remembrance the sacrifice of Canadian men and women who have served in the cause of freedom and justice and the ongoing struggle for peace. It is good that we take time to pause and remember, not only in terms of the grand history upon which we all reflect at the time, but in terms of the occasion. It is one occasion when our solidarity as a people, with all our differences because of where we live in Canada, our diverse heritage and other characteristics that constitute our roots, comes together in a remarkable, unified manner to recall the sacrifices made by our brothers and sisters in this country.

• (1340)

We join with those around the world who mark these events in a symbolic way by wearing the flower from Flanders, which Canadians see as an important symbol of Remembrance Day and the sacrifice.

Honourable senators, many of the children in our schools across Canada have not experienced the tragedy of war. Happily, they are children of an era of peace in our country. Nevertheless, if you visit these schools, you will see on the windows and walls their drawings of the poppy. The symbol of the poppy represents a kind of coming together, of forgetting our differences and celebrating the peace which had been shattered years ago.

I express my solidarity with my colleagues in this place and with Canadians everywhere as we mark the fiftieth anniversary of the last great war in which so many Canadians fell. We will remember them in a special way on this Remembrance Day.

Hon. Doris M. Anderson: Honourable senators, on Saturday, we once again celebrate Remembrance Day. November 11 has special memories for each one of us. For myself, as a lifelong resident of St. Peters, Prince Edward Island, I am proud of the fact that our small rural community, made up largely of farmers and fishermen, in terms of population had the highest per capita enlistment of any place in Canada in World War II. Tragically, it had the highest casualty rate as well.

Because of this fact of history, St. Peters was chosen to host one of the first "Canada Remembers" events on July 30 and 31, 1994. The Canada Remembers program, from June 1994 until September 1995, gave Canadians an opportunity to commemorate the fiftieth anniversary of the events which brought to an end the Second World War in 1945. When inaugurating the Canada Remembers program, Prime Minister Chrétien said:

> Fifty years ago, we were a nation of less than 12 million people. More than 1 million men and women were in uniform, both overseas and on the home front. Since then, our population has more than doubled. Many Canadians today are descendants of those who fought so hard for peace. Others have come from elsewhere. But all of us have inherited the legacy of those brave men and women who defended the values that Canadians have always treasured — peace, freedom, democracy, generosity and tolerance.

Honourable senators, today we remember with gratitude those brave men and women who brought honour and a new respect to our country. It was for our freedom that these young Canadians fought, and it was for that freedom that many of them died.

We remember our courageous veterans who fought so valiantly and endured so much hardship during the war and, since its end, with impaired health and, in many cases, constant pain. We honour the sacrifice of those men and women who gave their all that we might live in freedom.

Honourable senators, it is now our responsibility — and indeed our duty — to ensure that peace will indeed prevail in our country and elsewhere so that future generations will never have to endure the ravages of unrest and war. Canada has played and continues to play a leading role in peacekeeping missions around the world. One hundred and three Canadians have died on peacekeeping missions since the end of the Second World War, but that is the price of peace.

Honourable senators, each year, November 11 is a day for all Canadians not only of remembrance and recognition of sacrifices made, but also of rededication to the difficult but extremely important work of keeping the peace.

[*Translation*]

NATIONAL UNITY

AFTERMATH OF QUEBEC REFERENDUM— NECESSITY OF REVIEWING PEPIN-ROBARTS REPORT

Hon. Jean-Claude Rivest: Honourable senators, I know that many of my colleagues are very concerned about the referendum results in Quebec and what will happen next. Clearly, both the federal government and the provincial governments of Canada will have to deal with the implications of an outcome that is a matter of great concern for the future of our country.

I am very pleased, as are all Canadians I imagine, to see that the Prime Minister of Canada has set up a cabinet committee that will be asked to put these events into perspective and try to define options for the future of this country.

I wish to say more specifically to the Leader of the Government, who is a member of cabinet, that perhaps she should get the attention of the committee that is chaired by the Minister of Intergovernmental Affairs. This committee should think about these issues. Of course, according to the commitments made by the Prime Minister of Canada, the committee will have to take into account the Meech Lake and Charlottetown accords. The Meech Lake Accord is very important in Quebec. I think the Prime Minister of Canada is on the right track in this respect.

If he really wants to find a lasting and effective solution to the problem of Quebec within the Canadian federation, if he truly wants to reconcile the principle of provincial equality with the particular identity of Quebec within Canada, I would urge the Prime Minister to ask his colleagues to read again the Pepin-Robarts report, which is probably the most relevant document we have in these circumstances.

This report was drafted by two eminent Canadians, John Robarts and Jean-Luc Pepin. I think the Government of Canada will be able to find some answers in this report. Unfortunately, it was shelved as soon as it was published. It contains elements for a future solution which should have been introduced when the report was tabled, but which are nevertheless still extremely relevant, considering the resolve of Quebecers to be and remain Quebecers in every sense of the word, while continuing to share with all Canadians the hopes and aspirations of Canada as a whole.

THE HONOURABLE WARREN W. ALLMAND, P.C., MR. LEONARD HOPKINS, M.P.

FELICITATIONS ON THIRTIETH ANNIVERSARY AS MEMBERS OF PARLIAMENT

Hon. Marcel Prud'homme: I think it would be appropriate, in the interests of good relations with the other place, to point out the anniversary of two former colleagues with whom I had the privilege to sit for many years. In fact, I was there when they first arrived in Parliament on November 8, 1965.

[*English*]

Indeed, both members arrived on November 8, 30 years ago. I am sure many senators will remember that an election was called on September 8, 1965, with voting day on November 8, 1965. That election was supposed to bring us a majority. I am sure Senator Keith Davey will remember those days. We only won one more seat and remained a minority government.

Regardless of those events, today two members are still in the House of Commons. One of those good friends will be acclaimed tonight. I will have the honour to speak and to show that, in Montreal, those who speak French and those who speak English are equal. There is no such thing as a difference in votes.

• (1350)

There will be a big crowd tonight in Notre-Dame-de-Grâce, a riding that voted No in the referendum at close to 90 per cent, and a riding that is represented very ably in the House of Commons by a very long-time friend of mine. He is a dissident like me. I am talking about the Honourable Warren Allmand.

Also celebrating his thirtieth anniversary as a member of Parliament today is another person who broke ranks recently. He told me that it was extremely difficult, but he did so on the gun control bill. Here, I am speaking about Mr. Len Hopkins.

Both of these fine gentlemen are today celebrating 30 years of extraordinary good service to the Canadian people. I have sat with them, as well as some of my colleagues across the aisle, in the House of Commons. I am sure honourable senators will want to join with me in wishing these two members of Parliament many more years to serve in the House of Commons, and in congratulating them both very warmly.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before I move the adjournment motion, I should like to look ahead to what we anticipate will be taking place in the Senate on Monday, November 20, 1995. Specifically, on that date we will receive the report on Bill C-68, the gun control legislation, from our Standing Senate Committee on Legal and Constitutional Affairs. That was part of the house order we unanimously adopted on October 18. The other part of that house order provided that all remaining votes on the bill will take place on Wednesday, November 22, at 5:30 p.m.

Honourable senators opposite have expressed a desire to begin debate on the report of that committee as soon as it is tabled on the Monday. Normally that would not be possible because rule 58(1)(*g*) requires one day's notice for a motion to adopt a committee report; consequently, debate could not begin until Tuesday. Any votes called for on Tuesday could be deferred by either whip, under rule 68, until Wednesday at 5:30 p.m. This means that, as things now stand, all votes on Bill C-68 would be held on Wednesday, November 22.

We on this side of the chamber are prepared to give unanimous consent to allow debate on the committee's report to begin on Monday, November 20, in order to provide the greatest possible opportunity to debate this important piece of legislation. However, that consent is conditional on the clear understanding that all votes on Bill C-68 would still take place on Wednesday, November 22. That understanding could be in the form of a house order, or it could be on the basis of an agreement in this chamber that no votes will be requested on the Monday.

If this approach is acceptable — and there have already been discussions on this matter between the leadership on both sides — I am prepared to move that when we adjourn today, we stand adjourned until Monday, November 20, at two o'clock in the afternoon.

If this approach is not acceptable, and we cannot begin debate on the committee's report until Tuesday, then I would move the adjournment until eight o'clock on Monday, November 20. However, as I understand it — and according to the discussions I have had with the leadership on the other side — we have agreement that all votes would be on November 22.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, it is true that we have had some discussion on this matter. It is also true that we run some small degree of risk of having debate seriously limited if we do not agree to proceed immediately to debate the report from the Legal and Constitutional Affairs Committee on Monday, November 20. To that extent, we have agreed with the position of the Deputy Leader of the Government that, for all intents and purposes, this agreement will have the effect of a house order, and I see it as such.

I have one additional question, which has nothing to do with this particular topic: There is another possibility. In the event that debate is concluded, and on the agreement of our respective whips, perhaps it would be possible on November 22 to advance the time of the vote rather than to adhere strictly to the house order, which says 5:30 p.m. There is a possibility that debate could be concluded earlier. Perhaps, at the discretion and agreement of the whips, we could advance that time.

Senator Graham: Yes, honourable senators, with unanimous consent we could advance the time of the vote.

Hon. Lowell Murray: Honourable senators, I do not want the leadership to think that there is an independent at this end of the chamber.

Senator Prud'homme: Why not?

Senator Murray: However, there is one other matter that I should like to address, if I may.

Senator Lynch-Staunton: You are not in caucus now! Be careful.

Senator Murray: I should like to draw to the attention of the Deputy Leader of the Government a house order on which we have already voted to deal with Senator Fairbairn's proposed instruction to the Legal and Constitutional Affairs Committee on Bill C-69. We had agreed to have that vote on Tuesday, November 21. I want to be sure that, in planning the business of the Senate, my friend the Deputy Leader of the Government, who has control of the agenda, will allow time for some debate on Senator Fairbairn's motion. I should like to say a few words on that debate, and I think Senator Nolin would also like to be heard.

Senator Graham: As a matter of fact, Honourable Senator Murray, Honourable Senator Nolin, or any other senator who wishes could say a few words on it today, or tomorrow, or on any other day in advance of the time that we take to vote. However, it is to be understood that the vote will take place no later than 5:30 p.m. on Tuesday, November 21.

Hon. Marcel Prud'homme: Thank you very much for having informed me of all of these discussions and decisions. If a vote were to take place earlier on Wednesday on Bill C-68, precaution must be taken to ensure that every senator is informed of the change. I understand that you make deals or may come to an agreement with the official opposition, but it will be sad, as far as I am concerned, if for some reason not every senator is kept informed. I know that on Tuesday at 5:30, there is an order of the house. I, faithfully, will be there. There is also one at 5:30 on Wednesday.

I certainly agree to the proposal made by the honourable senator representing the official opposition, that we may advance the vote on Wednesday for all kinds of reasons. I accept that, as long as someone does not leave some of us in limbo, so that we arrive too late to exercise our vote.

Senator Graham: Honourable senators, I recognize the concerns that have been properly expressed by Senator Prud'homme. We would advance the vote, I assure you, only with the unanimous consent of every living, breathing senator who is able to vote on that legislation.

Therefore, honourable senators, with leave of the Senate and notwithstanding rule 58.1(*h*), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, November 20, 1995, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1400)

INTER-PARLIAMENTARY UNION

NINETY-FOURTH CONFERENCE, BUCHAREST, ROMANIA—REPORT TABLED

Hon. Peter Bosa tabled the report of the Ninety-fourth Inter-Parliamentary Conference, held in Bucharest, Romania, from October 7 to 14, 1995.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Donald H. Oliver, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

That the Standing Senate Committee on Transport and Communications have power to sit at three o'clock in the afternoon, today, November 8, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:15 p.m., today, November 8, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

INTER-PARLIAMENTARY UNION

NINETY-FOURTH CONFERENCE, BUCHAREST, ROMANIA—
NOTICE OF INQUIRY

Hon. Peter Bosa: Honourable senators, I give notice that on November 22, 1995, I will draw the attention of the Senate to the report of the Ninety-fourth Inter-Parliamentary Conference, held in Bucharest, Romania, from October 7 to 14, 1995.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. Paul Lucier: Honourable senators, I have the honour to present a petition received from Mr. Ed Helwer, MLA in Manitoba, and from the Council for Responsible Firearms Ownership of Manitoba. This petition is being presented on behalf of Senator Molgat.

QUESTION PERIOD

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—
RATIONALE FOR CHOICE

Hon. J. Michael Forrestall: Honourable senators, I see that Senator Prud'homme has left the chamber. I just wanted to remind him that I was one of those who denied the Liberal government, on this day 30 years ago, the majority it wanted.

I should like to ask the Leader of the Government a question about the replacement program for search and rescue helicopters. Many Canadians will be surprised, and I am sure very pleased, to learn of Minister Collenette's announcement, made here in Ottawa this morning, regarding the acquisition of 15 new pieces of equipment.

Can the leader tell us whether there was any deliberate reasoning or rationale behind proceeding with the replacement for the Labradors before acquiring replacement equipment for the Sea Kings? Keep in mind, honourable senators, that it is the Sea Kings that have had all the trouble, not the Labradors. If there is a rationale, could the Leader of the Government in the Senate tell us what it is?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot. The Minister of National Defence has been working methodically on a series of priorities to provide the Armed Forces with the best possible equipment. Today's announcement dealt with search and rescue helicopters. The others will be dealt with at another time, which in no way detracts from the importance or the urgency of that decision.

Senator Forrestall: Honourable senators, could the Leader of the Government indicate whether there is any truth to the rumour that the government has already reached a deal or a settlement with Paxamax Systems and EH Industries for the cancellation of the EH-101 contract? Could she indicate, first, whether there has been any such deal struck? If so, how much is the settlement for? Will this amount be added to the $600-million figure that Minister Collenette has suggested would be the cost of an outright capital purchase, in addition to the $166 million we have already paid back to the contractor?

I am trying to get at the cost of this helicopter. Bear in mind that the government of which the Leader of the Government is proud to be a supporter told us that such a scenario was out of the question, that there was only one way we can go. In my judgment, it is irresponsible to continue to use the Cadillac-Chevrolet analogy when selecting equipment of a sensitive nature such as this.

I am trying to determine whether there is a game of smoke and mirrors being played to hide the real cost to the Canadian taxpayer of the search and rescue helicopters and the Sea King replacements. In the beginning, it was a single contract and the costs were shared.

Could the Leader of the Government give us an idea of whether a deal has been struck, for how much, and what portion of it will be borne by the search and rescue helicopters, and what portion will be left to the devices of the already overly strained National Defence budget?

Senator Fairbairn: Honourable senators, at the beginning of my friend's question he referred to rumours that were circulating. I can only deal today with the facts of the announcement that was made by the Minister of National Defence. That announcement spoke very clearly of his intention to seek the best possible equipment at the best possible price for Canadians. This will be an open process. Bids will be sought. It is hoped that he will be able to reach a conclusion through this open process later in 1996, when an agreement will be reached.

Senator Forrestall: Honourable senators, we are concerned about the total. The estimates of what we had spent on the EH-101 contract with pre-engineering work and the penalties which arose from the cancellation of it range up to in excess of $2 billion.

• (1410)

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—
NATURE OF REDUCTION IN CAPABILITY—
REQUEST FOR PARTICULARS

Hon. J. Michael Forrestall: My final question for the Leader of the Government concerns what is, perhaps, the most important aspect of this whole matter. At the press conference this morning, Minister Collenette alluded to a 15 per cent reduction in the capability of these new search and rescue helicopters. Can the Leader of the Government tell us specifically just what are these diminished capabilities? Is there a reduction in terms of airborne

endurance? Will the helicopters have three engines instead of two, thus limiting their capacity to hover over mountainous regions? Will the reduction in capacity relate to lift capability? How many people is it contemplated that these new helicopters will be able to carry? We have heard some very startling rumours that they may only be able to handle one or two people at a time, and that they may not have the over water night-flying or the de-icing capabilities which are so necessary, particularly in mountainous regions and off the Atlantic and Pacific coasts.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, those are questions which deserve factual answers and not rumour. I would be pleased to obtain those answers for my honourable friend.

[*Translation*]

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—PROPORTION OF CANADIAN CONTENT IN CONTRACT BIDS—REQUEST FOR PARTICULARS

Hon. Pierre Claude Nolin: Honourable senators, does the Minister of National Defence require bidders to include a specific Canadian content, and if so, in what proportion?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will undertake to obtain that figure for Senator Nolin.

[*Translation*]

NATIONAL UNITY

QUEBEC REFERENDUM—POSSIBLE REDUCTION IN ELDERLY BENEFITS—GOVERNMENT POSITION

Hon. Thérèse Lavoie-Roux: Honourable senators, my question is for the Leader of the Government in the Senate.

During the referendum, on all sides. great use was made of arguments either to convince people to vote Yes, or to convince people to vote No. One of these arguments was used on the initiative of Mr. Bouchard and Mrs. Vézina, namely that if seniors voted No they would find their old age pensions reduced.

This took on such proportions that Minister André Ouellet intervened at one point to state that there was no question of this. Later on, Prime Minister Chrétien made a statement in the same vein as well. At that time, both stated that the amounts currently being paid to seniors would not be affected, regardless of what discussions might take place concerning social programs.

I would like the Leader of the Government to confirm to us again today that the government has no intention, even after the social program review, to reduce the pensions currently being paid to seniors.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the comments made by the Prime Minister and Mr. Ouellet during the referendum campaign speak for themselves. I am sure that they will be honoured.

FIREARMS BILL

FUNDING ARRANGEMENTS WITH GOVERNMENT OF NOVA SCOTIA—REQUEST FOR PARTICULARS

Hon. Gerald J. Comeau: Honourable senators, last month, with respect to Bill C-68, the Premier of Nova Scotia stated:

> I've stated quite categorically that this is a federal responsibility....We have established with the federal minister Allan Rock that there will be no cost to the province.

Will the Leader of the Government please advise this house of the contents of the deal that has been worked out between the federal government and the government of Nova Scotia? Will she table the deal?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will consult with the Minister of Justice on this matter. I am certain that the Minister of Justice was restating, as he has done all along, the difference between the responsibilities of provinces and the federal government in terms of this legislation. However, I will be pleased to have a further conversation with him in this regard.

AVAILABILITY TO OTHER PROVINCES OF SIMILAR ARRANGEMENTS—COSTS TO TAXPAYERS—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, would the Leader of the Government in the Senate also please advise whether the financial arrangements with the Province of Nova Scotia include payments for both the registration and the enforcement of the bill? In his response, the Premier of Nova Scotia said that there would no cost whatsoever to the taxpayers of Nova Scotia. If this is the case, has a similar deal been offered to the other provinces of Canada? I would assume that it must have been offered, since one province cannot be treated differently from another. Has a calculation been made of the total cost of such a deal to the Canadian taxpayer?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, first, I preface my response by saying that I do not concur with the words of the honourable senator, which refer to a special deal with any one province. The Minister of Justice has been very clear in his explanations about costing. However, I will be happy to double check that for my honourable friend.

HEALTH

NEW LEGISLATION TO CURTAIL TOBACCO CONSUMPTION—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, last June in this chamber, I asked the government to consider placing tobacco products under the provisions of the Hazardous Products Act, in order to fill gaps in legislation that would have the effect of reducing smoking. Since that time, our body of effective law has been substantially reduced, not enhanced. The Supreme Court has gutted the Tobacco Products Control Act, and we have seen good evidence that the law to prohibit sales to minors is not being well enforced.

In recent weeks, we have seen reports that after three decades of decline, the rate of smoking in Ontario has begun to rise significantly. A survey by the Addiction Research Foundation found, for example, that more than 30 per cent of students in grades 7 to 13 in Eastern Ontario are now smoking. It also found that the surge in smoking in both adults and teenagers is directly related to the lower price of cigarettes, effected by the current government when it slashed taxes.

In response to my question of June, the government stated that tobacco products cannot be placed under the Hazardous Products Act because it contends that the act's unwritten purpose is to make products safe, and that cannot be done with tobacco. Urea formaldehyde-based insulation and asbestos products can be regulated under the law, but not tobacco, which kills more than 41,000 Canadians yearly.

Now that we are seeing the effect of the government-induced price reduction on tobacco products, the government's failure to adequately enforce the ban on sales to minors and its inadequate defence of the law banning tobacco advertising, what new law to curb tobacco consumption does the government propose? If not the Hazardous Products Act or the Food and Drugs Act, what precisely does it have in mind to restore a downward trend in tobacco use?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot give the honourable senator a specific answer to her question. She has described accurately the concern and dilemma of the Minister of Health over the use of the Hazardous Products Act in this case. She is quite right when she says that the response has been that it is impossible to make tobacco products safe. Thus, legislation that would place tobacco within this particular act would be ineffective.

• (1420)

However, the minister does agree that the Hazardous Products Act has features that would be very useful if included in legislation that deals specifically with the special and the difficult problems created by tobacco consumption. This subject is very close to the minister's heart. She is working assiduously on it.

Honourable senators, I cannot give my honourable friend an accurate time frame, but the minister shares my honourable friend's concerns and will be proceeding to find an alternative to the one prescribed by my honourable friend.

Senator Spivak: Honourable senators, the Supreme Court of Canada has invited such legislation. I do not doubt the motives of the minister, but the important thing is action. Perhaps I could ask the Leader of the Government if she would use her good offices to give us some idea of a time frame. This matter cannot be kept in limbo forever.

Senator Fairbairn: Honourable senators, I would be pleased to do so.

ABORIGINAL PEOPLES

REPORT OF SENATE COMMITTEE ON PLIGHT OF ABORIGINAL VETERANS—REQUEST FOR RESPONSE

Hon. A. Raynell Andreychuk: Honourable senators, in light of the tributes paid to veterans and this time of remembrance that will culminate in ceremonies on November 11, would the Leader of the Government in the Senate tell me when the government will respond to the aboriginal veterans report that was unanimously passed in this house? If there is no answer to the report, have any initiatives been undertaken to answer the plight of aboriginal veterans? Since this issue was brought to the attention of the Senate, many of those aboriginal veterans have passed away. It is becoming increasingly important that this issue be addressed, and addressed quickly.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, to Senator Andreychuk and all senators who served on the committee that studied the matter, I would like an answer to that question as well, and I will pursue it.

TRANSPORT

AUTOMATED WEATHER OBSERVATION SYSTEMS—REPORT OF SENATE COMMITTEE—REQUEST FOR RESPONSE FROM MINISTERS

Hon. Pat Carney: Honourable senators, my question is also to the Leader of the Government in the Senate.

Yesterday, I brought to the attention of this chamber the failure of three ministers to respond to our Senate committee's report on automated weather stations (A.W.O.S.), which Canadian pilots say is an accident waiting to happen. In the four months since we asked for a response to the report, we have received one reply from Brian Tobin's signature machine saying that at some point our report will be answered.

In view of the fact that nearly 20 municipalities and cities have written us to express their concern with this technology and their opposition to it being installed in their communities, what can you do to encourage the ministers to deal with this issue in a more timely manner?

Hon. Joyce Fairbairn (Leader of the Government): Senator Carney, since this issue was raised in the Senate by yourself and by Senator Kenny, I have made inquiries. The lead department on this issue is the Department of Transport. It is coordinating the responses of other departments and hopes to have a coordinated response soon.

Senator Carney: Honourable senators, it is not good enough to tell us that we will have a response soon. It is the very fact that three departments are involved, all of them buck-passing this issue between themselves, that this particular ball will be fumbled and Canadian lives will be lost. I am asking the Leader of the Government to get us an answer now, not soon!

Senator Fairbairn: Honourable senators, I will be pleased to facilitate the speed with which this answer is given. The reason for the delay of the answer is not a question of buck-passing; it is a question of coordinating the best possible answer for the Senate.

[*Translation*]

INFRASTRUCTURE PROGRAM

EFFECT ON CONSTRUCTION INDUSTRY—
GOVERNMENT POSITION

Hon. Pierre Claude Nolin: My question is for the Leader of the Government in the Senate and concerns the economy in general and the construction sector in particular.

On several occasions your government has promoted the infrastructure program. It referred particularly to the beneficial effects it would have on the construction sector. Could you explain to us how 56,000 jobs were lost in the construction sector between mid-October 1994 and the month of October 1995?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will have to take that question as notice, check the figures, and get back to my honourable friend.

UNITED NATIONS

RESOLUTION TO HALT NUCLEAR TESTING—GOVERNMENT
OBJECTION TO WORDING IN TEXT—REQUEST FOR PARTICULARS

Hon. A. Raynell Andreychuk: Honourable senators, I have a further question related to the non-proliferation treaty. As I asked yesterday, if this matter was not an issue of pressure from other governments, could the Honourable Leader of the Government in the Senate tell us why the government strongly disagrees with the wording "strongly disagrees with nuclear testing" in the resolution as it is presently before the United Nations? Historically, we have always strongly disagreed with nuclear testing. Why are we not in agreement with that wording today?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as I said in response to Senator Murray yesterday, I will seek advice on that particular question. Canada has followed through on its commitments, and I will seek to find more detail on the question that Senator Andreychuk and Senator Murray have asked.

ORDERS OF THE DAY

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-90, to amend the Excise Tax Act and the Excise Act.

Motion agreed to and bill read third time and passed.

INCOME TAX CONVENTIONS
IMPLEMENTATION BILL, 1995

THIRD READING

Hon. Peter Bosa moved the third reading of Bill C-105, to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of Trinidad and Tobago, and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

He said: Honourable senators, before I move third reading of this bill, I wish to respond to a question put to me and to the leadership by Senator Sylvain concerning the reason why Bill C-105, on conventions to avoid double taxation, had its origin in the House of Commons rather than in this chamber.

I made an inquiry of the Government House Leader, the Honourable Herb Gray, and he sent me the following reply:

> In exercising my Ministerial duties with regard to planning the Government's legislative program, I must take into account the legislative burdens in each House when a bill is ready for introduction. It was my judgment that the House of Commons agenda was more conducive to consideration of Bill C-105 early in the autumn than it would be later in the session. It is for this reason that the bill was initiated in the Commons.

Having said that, if there are no other questions concerning this bill, I move the third reading.

Motion agreed to and bill read third time and passed.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

November 8, 1995

Sir,

I have the honour to inform you that The Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 8th day of November 1995, at 4:00 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Anthony P. Smyth
Deputy Secretary,
Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Stewart,

That it be an instruction of this House to the Standing Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, regarding Bill C-69, an Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. Gérald-A Beaudoin: Honourable senators, I wish to rise at this point in the debate to establish the context and point of view under which the Standing Senate Committee on Legal and Constitutional Affairs has considered Bill C-69 up to now.

• (1430)

[*English*]

Section 51 of the Constitution Act, 1867, provides that the number of members of Parliament and the representation of provinces in the House of Commons are readjusted after each decennial census, the first one having been made in 1871, under the authority of Parliament. Parliament has a certain discretion, but, according to the letter and the spirit of the said section 51, the readjustment is mandatory, legally and constitutionally.

The last census was taken in 1991. The present government was elected in October 1993.

[*Translation*]

The House of Commons passed Bill C-18, an Act to suspend the operation of the Electoral Boundaries Readjustment Act, in its final form in 1994, after agreeing to the amendments proposed by the Senate. This provisional legislation was to remain in effect until June 1995, at the latest. The aim of Bill C-18 was simply to suspend the Electoral Boundaries Readjustment Act (Chapter E-3), during the time it took to find another process for readjusting electoral boundaries.

The suspension was to end June 22, at the latest, or earlier, with the passing of Bill C-69.

[*English*]

Bill C-69 was not adopted on June 22. Bill C-18 became spent or, as we say in French, caduc. As a result, section E-3 now applies. Bill C-69 constitutes a new process. The bill has the objective to abrogate and replace E-3.

Bill C-69, adopted by the other House on April 25, 1995, was studied by the Senate; six amendments were proposed by the Legal and Constitutional Affairs Committee. The bill as amended was reported in June 1995. The other House rejected five of the six amendments, but accepted the amendment on the criterion of residence. This is a technical amendment. As I said before, the amendment reducing disparity between constituencies was rejected.

[*Translation*]

The message from the other House was referred to the Senate. It passed it on to the Standing Senate Committee on Legal and Constitutional Affairs.

A second report was tabled July 12, 1995, in the Senate by the Standing Senate Committee on Legal and Constitutional Affairs.

I have made arrangements for an expert to appear before the committee on the morning of November 21. I am waiting for confirmation today. I will also ask a senior official of Elections Canada to appear as well to deal with the legal and technical questions.

[*English*]

Our main concern has always been to do everything we can to assure Parliament that the next federal election will be based on the census of 1991 and not on the census of 1981. We think that the letter and the spirit of section 51 of the Constitution Act, 1867, leave us no choice.

What is the legal situation now? Section E-3 applies. We have returned to the previous legal situation. The Chief Electoral Officer has worked on that basis for a few months. I am informed that the new maps under E-3 will be ready in January 1996. They will be in force one year after; that is, January 1997. It means that if the current process continues, a general election could be held on the basis of the 1991 census after January 1997.

Some senators think that if the readjustment of boundaries of electoral constituencies is suspended again, and if we start again at square one, chances are that the next general election will not be based on the census of 1991.

[*Translation*]

Honourable senators, it has been said that the Senate should not intervene in an area that concerns the elected representatives of this country.

There is a tendency to quote from a speech made on December 18, 1985, by Senator Jacques Flynn, in which he said:

> In any event, I would say this is an area that almost exclusively concerns the House of Commons, and I think that we as a non-elected Chamber and as appointed legislators are hardly in a position to tell the Members of the House of Commons how they should proceed to draw the boundaries of their electoral districts.

But they forget to add what follows — this is still Senator Flynn, and I quote:

> Nevertheless, if there were some major questions of principle, the Senate would certainly have a contribution to make.

Personally, I regret the fact that the other place did not see fit to accept the amendment reducing the degree of disparity between ridings from 25 per cent to 15 per cent.

• (1440)

[*English*]

No doubt some will say that the courts of justice in this country and even the Supreme Court of Canada have accepted such a disparity in some cases. I do not contest that fact. I have read that decision. The Supreme Court has ruled, but it is still a question that is debated because, in my opinion, Canada is a great democracy. That is why I think such an amendment should have been accepted.

It is not surprising that some of us have expressed a desire to insist on the proposed amendments. We will hear witnesses on November 21. The whole Senate — as agreed earlier today by a special order, confirming a previous one — will be invited to express its opinion after a debate takes place on this bill. I am confident that the correct position will be taken in this case.

On motion of Senator Carstairs, debate adjourned.

UNITED NATIONS

FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA—DEBATE ADJOURNED

Hon. Landon Pearson rose pursuant to notice of October 17, 1995:

> That she will call the attention of the Senate to the Fourth World Conference on Women, held in Beijing, from September 4 to 15, 1995, which Senator Cohen and I had the privilege to attend as parliamentary observers on behalf of the Senate.

She said: Honourable senators, I rise today to report on the Fourth World Conference on Women held in Beijing from September 4 to 15, 1995, at which it was my privilege to be present as a parliamentary observer.

Since returning to Canada, I have thought a great deal about what I saw and heard there. I should now like to share with you why I consider that conference a success.

There are many ways in which one can evaluate an international gathering of this scale. I have chosen three: as a parliamentarian, as a Canadian and, for me, perhaps the most important, as a woman committed to the rights and the well-being of children, in this case, the girl child.

I enjoyed the presence of my parliamentary colleagues on the Canadian delegation and was impressed by their performance. There were 10 of us, ably led by the Honourable Sheila Finestone, Minister for the Status of Women. We represented different political parties, different parts of the country and, to some extent, different visions. However, each one of us took our responsibilities seriously and worked hard to make ourselves useful.

I was equally impressed by women parliamentarians I met from other countries. I felt strengthened as I listened to them in the plenum making formal presentations on behalf of their country women with eloquence and power. They were splendid models for all of us, but especially for the girls and young women present, of whom there were many.

As a Canadian, I was extremely proud of the role our country played in the success of the conference, not only at the conference itself but also in the years of preparation leading up to it. It was quite clear to all of us there that the leadership of Canada was greatly appreciated by the countries present. Canada has earned the respect of the world through commitment, hard work, and a remarkable capacity to work with others.

Our commitment to the cause of women was demonstrated by the careful work of Status of Women Canada in preparing our position and producing the necessary documentation. It was also demonstrated by the Government of Canada ensuring, through Status of Women Canada, Foreign Affairs and the Canadian International Development Agency, the presence of not only a large number of Canadian non-governmental organizations but also African and Eastern European women who would not otherwise have been able to attend.

Our hard work was demonstrated through the extraordinary efforts of Canadian representatives, governmental and non-governmental alike, at the preparatory committee meetings and at the conference itself, where our negotiators were quite simply brilliant. In conjunction with the work of Canadian delegates, both official and non-governmental, their success attests to our capacity to work well with others. At the Fourth World Conference on Women, I was proud to be a Canadian.

However, honourable senators, it was as an advocate for the girl child that I drew my greatest satisfaction from the conference. The Fourth World Conference on Women was the latest in a series of UN conferences on the situation of the world's women. Following the 1975 conference in Mexico City, 1976 to 1985 was declared the UN Decade for Women. In 1980, the Copenhagen conference produced the Program of Action for the Second Half of the UN Decade for Women. The 1985 Nairobi conference resulted in Forward-Looking Strategies for the Advancement of Women, a blueprint for action through to the year 2000.

Each of these conferences addressed serious problems related to the status of women, but none of them gave a separate place to the situation of the girl child. However, since the unanimous adoption of the UN Convention on the Rights of the Child in 1989, the consciousness of the world has changed. Now, every United Nations conference must take children into account. This was true at the Vienna World Conference on Human Rights in 1993, the Cairo International Conference on Population and Development in 1994, and the Copenhagen World Summit for Social Development in 1995.

With the Children's Convention, and through the United Nations, the world has formally recognized its responsibility for children and the obligation of states to protect, nurture and provide for them the opportunities they require to grow up as caring and responsible citizens in an increasingly complex world.

Honourable senators, I know that you have no difficulty in recognizing that children have needs and indeed rights that must be attended to. You also know that throughout the world children of both sexes are at risk. However, because she is female, the girl child has, historically, been particularly vulnerable to discrimination, exploitation and neglect.

It was the African countries that insisted the girl child become a "Critical Area of Concern" in the Platform for Action to be negotiated and decided upon at the conference. Then, Canada helped to redraft the initial text so that it would apply to all girls, no matter where they lived. The Children's Convention was used as a framework.

A completed text, section L of the Platform for Action, was brought to the conference in Beijing, but it contained many square brackets indicating the consensus was still lacking. The main issues of contention to be negotiated at the conference included early marriage, sexual exploitation, female genital mutilation, education, inheritance and parental rights and responsibilities.

At the conference, delegates agreed to the following: That child marriage is detrimental to the healthy development of a young girl and should be made illegal; that female genital mutilation is an act of violence — and this is the first time there has been an agreement on female genital mutilation at the international level — and that governments and non-governmental organizations should be obliged to develop formal and informal education programs that support and enable girls to acquire knowledge to develop self-esteem and to take responsibility for their own lives.

• (1450)

With respect to inheritance, the agreed text of the Platform for Action in paragraph 274(*d*) commits to:

> Eliminate the injustice and obstacles in relation to inheritance faced by the girl child so that all children may enjoy their rights without discrimination, by, *inter alia*, enacting, as appropriate, and enforcing legislation that guarantees equal right to succession and ensures equal right to inherit, regardless of the sex of the child.

Finally, with respect to parental responsibilities, the Platform of Action in paragraph 267 reads:

> Taking into account the rights of the child to access information, privacy, confidentiality, respect and informed consent as well as the responsibilities and duties of parents and legal guardians to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the *Convention on the Rights of the Child* and in conformity with the *Convention on the Elimination of Discrimination Against Women.*
>
> In all actions concerning children, the best interests of the child shall be of primary consideration.

Honourable senators, United Nations conferences like the Fourth World Conference on Women are essentially about language, about the evolution, shaping and refinement of the language the international community agrees to use in its analysis of the major issues of our times. Changing language may not immediately change attitudes or provoke action, but without the necessary language, progress, if it takes place at all, will be very slow indeed.

Listen now to how the language about children's rights has changed in this century. The first International Declaration on Children's Rights in Geneva in 1924 spoke primarily to children's welfare needs for food, health, protection, and so on. There was no reference to autonomy. In the text of the UN Declaration of the Rights of the Child in 1959, the emphasis is still on welfare and protection, though there is a new focus on child development. However, the same declaration indicates little understanding of the importance of children's views, nor does it address the concept of empowerment.

The Children's Convention in 1989 changed all that. For the first time the child is recognized as a person, as a holder of rights as well as entitlements, and as having a certain autonomy to be encouraged as the child matures. It is the convention's language that informed the negotiations in Beijing.

In the section on the girl child in paragraph 279(*c*) of the Platform for Action, governments commit to:

> ...promote human rights education in educational programmes and include in human rights education the fact that the human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights.

Honourable senators, as a result of the work at the Fourth World Conference on Women in Beijing, there will be a new climate for girls. Never again will a member state be able to neglect its responsibility to the health, education and protection of girls without incurring international censure. Never again can a state justify the violation of the rights of women and girls on the sole basis of custom, tradition or religion.

We know that the situation of girls will not improve overnight, that exploitation, neglect and discrimination will continue. Yet, I am here to say today that your granddaughters and mine, as well as countless little girls in the rest of the world, are more likely to now have their human rights protected and to have wider choices and greater opportunities to have their human potential fulfilled because of what happened in Beijing. This is no mean accomplishment.

Hon. Noël A. Kinsella: Would the honourable senator entertain a question?

Senator Pearson: Certainly:

Senator Kinsella: Would the honourable senator explain to us the nature of the Canadian delegation to the Fourth World Congress on Women? In your inquiry, I note that the honourable senator used the phrase that she and the Honourable Senator Cohen were present as "parliamentary observers." What was the relationship of your participation and that of Senator Cohen's with the official Canadian delegation?

Senator Pearson: My understanding of how these delegations are created is that, aside from the actual negotiators and officials, all of us are described as "observers." I assume that that is the same case in all UN functions.

Senator Kinsella: Was any contact made during the course of the official intergovernmental meeting in Beijing and the meeting of the women's forum, which was made up of NGOs from around the world, some 30 or 40 miles outside of Beijing?

Senator Pearson: Was there any contact?

Senator Kinsella: Yes.

Senator Pearson: There was a great deal of contact. Senator Cohen and I went out two or three times. We interacted as the members of non-governmental organizations came in. Some were on the delegation.

While we were observers on the official Canadian delegation, we were all accredited to the conference. In that sense, we were all delegates. I have forgotten how many Canadian non-governmental women were accredited to the main conference, but I know it was a large number. Having spoken with many of them, I know that they were extremely active and effective.

Senator Kinsella: Honourable senators, criticism has been raised by a number of Canadian women who attended the women's forum. They indicated that on several occasions when they came in from the NGO women's forum to observe the UN conference they had a difficult time finding the Canadian delegation. Have you heard that criticism?

Senator Pearson: Honourable senators, I spoke last week in Toronto with several non-governmental delegates from York University. They expressed no particular problem. It was a very large conference. People who know their way around in those kinds of conferences know how quickly to make contact.

Negotiators conducted a formal debriefing with the non-governmental organizations in the main conference building every single day. However, it is possible that some Canadians were not aware of that.

Senator Kinsella: I read a criticism in the news media levied by women participating in the NGO forum against members of the official delegation. Apparently, for a considerable period of time, for a few days when the intergovernmental conference was on, the Canadian delegation was not present. It was off in a different city doing other things. Is that true?

Senator Pearson: A certain number of us — that is, the parliamentarians, not the other members of the delegation — undertook two missions to China. I went to the northwestern part of China to look at development projects involving women. It gave us a great opportunity to understand better the situation in China and, in particular, the situation of women in China. I can assure the honourable senator that it was difficult work. One of us came back with typhoid fever. It was not a junket. We did not desert our post.

Senator Cohen can speak for herself about the importance and significance of the trip that she took.

Honourable senators, after a week, we could see that our negotiators and officials were doing a superb job. There was no problem in our going away for a few days in order to enrich our experience and the Canadian presence in China.

Hon. Allan J. MacEachen: Honourable senators, perhaps I could ask Senator Pearson a question. It has to do with the role of the Vatican delegation at the conference. There was considerable comment as to that particular role.

• (1500)

Can the honourable senator shed any light on what was filtered through the press? Did she have an opportunity to meet the lady from the United States who headed the delegation representing the Vatican?

Senator Pearson: Honourable senators, Senator MacEachen's question reflects, in a sense, the way the media reported on this conference. For those of us who were there, the media's reflection of what went on at the conference was not accurate.

It is true that the Vatican had a position and a great many concerns about some of the issues that were raised at the conference. Since the Vatican has but observer status at the UN, it expressed those concerns quite vocally through the countries which represent their points of view. I refer to Malta and some other countries. Those who were present expected there to be more contention than there actually was. That is because the language had already been agreed to at the population conference in Cairo, which reinforces the point I tried to make in my speech. Therefore, with respect to some of the issues on which one might have expected the Vatican to take a strong position, it did not.

I did not have the opportunity to meet the leader of the Vatican delegation. I am not sure whether other members of our delegation may have done so.

On motion of Senator Cohen, debate adjourned.

AGRICULTURE AND FORESTRY

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE PRESENT STATE AND FUTURE OF AGRICULTURE AND AGRI-FOOD

Hon. Dan Hays moved:

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine the present state and the future of agriculture and agri-food in Canada; and

That the committee table its report no later than June 30, 1996.

He said: Honourable senators, the Agriculture and Forestry Committee has completed two reports, both of which were tabled in June. One dealt with the subject of farm machinery and safety issues. The other was the committee's findings pursuant to a fact-finding trip to Washington, as well as to Winnipeg where it heard from the Canadian Wheat Board.

The committee is currently without a reference. Accordingly, it is not in the position to hold public hearings, which is the reason I am requesting this rather general reference on behalf of the committee today. Currently, it is our intention to call the co-chairs of the blue ribbon committee which is making a report pursuant to a request from the Minister of Agriculture and the American Secretary of Agriculture concerning the grain trade between Canada and the United States.

We are also in the process of requesting and taking briefings from the Department of Agriculture on a number of policy initiatives that are in the works in Agriculture and Agri-Food Canada. We would like to have the ability to hold public hearings, if that would serve better our agriculture and agri-food constituencies.

We have included a report date of June 30, 1996. It is quite possible there may be a prorogation of Parliament before that time.

I would also point out that if the committee does settle on a specific subject, I anticipate that we will pass a specific request for such a reference, the budget of which it would then take to the appropriate subcommittee of the Internal Economy Committee and then in turn to the main committee for approval.

Honourable senators, if we do that, we would try, probably for the first time, to have the reference continue for at least a few days beyond the reporting date for the purposes of handling publicity, and so on, which matters are sometimes awkward to deal with the moment a report is tabled because the reference ends. After the reference has ended, there is no authority to deal with such matters as publicity, or even providing information about the report.

I would be happy to deal with any questions that honourable senators may have.

Motion agreed to.

The sitting of the Senate was suspended until 3:55 p.m.

[*Translation*]

ROYAL ASSENT

The Right Honourable Peter deC. Cory, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Right Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Canada-United States Tax Convention Act (*Bill S-9, Chapter 34, 1995*)

An Act to amend the Explosives Act (*Bill C-71, Chapter 35, 1995*)

An Act to amend the Excise Tax Act and the Excise Act (*Bill C-90, Chapter 36, 1995*)

An Act to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of Trinidad and Tobago and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (*Bill C-105, Chapter 37, 1995*)

The House of Commons withdrew.

The Right Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Monday, November 20, 1995, at 2 p.m.

THE SENATE

Monday, November 20, 1995

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to advise you that we have two new pages from the House of Commons, both of whom have been selected to participate in the exchange program with the Senate for the week of November 20 to 24. One of our pages is presently over in the House of Commons.

I would like to introduce to you Carine Lavoie, who hails from Noëlville, Ontario. Carine is enroled at the University of Ottawa in general art studies.

We have as well Mark Coward from Burnaby, British Columbia, who is currently enroled at the University of Ottawa in arts and philosophy.

Welcome, Carine and Mark.

SENATORS' STATEMENTS

ASIA-PACIFIC ECONOMIC COOPERATION

SUMMIT CONFERENCE HELD IN OSAKA, JAPAN

Hon. Jack Austin: Honourable senators, the purpose of these remarks is to draw your attention to some of the main features of Canada's role at the Asia-Pacific Economic Cooperation Summit Conference held in Osaka, Japan, last week. This summit meeting was among the heads of government of the APEC community, numbering 18 in all, including President Jiang Zemin of China, Prime Minister Tomiichi Murayama of Japan, Vice-President Al Gore of the United States and, of course, Prime Minister Chrétien. Other members of the Canadian group were Foreign Minister André Ouellet, International Trade Minister Roy MacLaren and Secretary of State (Asia-Pacific) Raymond Chan.

The reason for Canada's high-level focus on the Asia-Pacific region is clear: Our trade with the region is 50 per cent greater in value than our trade with the European Community. For example, in the first six months of 1995, Canadian exports to Pacific nations totalled $12.7 billion, compared with $8.1 billion to the European Community.

The Asia-Pacific region is an economic powerhouse with 2 billion of the world's population. World trade with this region has grown in the last 30 years from 15 per cent to nearly 40 per cent.

Japan by itself is a world economic giant, and quickly developing to parallel status is China with 15 per cent GDP growth in 1994, and India with 8 per cent GDP growth in the same year. Indonesia, Thailand, Taiwan and Malaysia are examples of countries whose economic expansion in each year of this decade has been three times greater than that of Canada or the United States.

Prime Minister Chrétien told a meeting in Canberra, Australia, last week that:

> The Pacific is Canada's future. APEC is extremely important because the money, the people, the growth and the dollars of tomorrow will be in the Pacific.

One year ago in Bogor, Indonesia, APEC leaders signed a declaration committing developed Pacific Rim nations to reaching a free trade deal by the year 2010 and developing countries to joining by 2020. By that time, APEC will represent seven of the world's ten largest economies.

A critical step in advancing Canada's interests in the Asia-Pacific region was achieved at the Osaka APEC summit on November 19. Secretary of State (Asia-Pacific) Raymond Chan announced that the 1997 APEC summit would be held in Vancouver. At that time, Canada will chair the APEC process and will host a number of APEC events, including the leaders' meeting, several ministers' meetings and meetings involving senior officials and the private sector. We will see a number of preparatory meetings held in other centres in Canada. It is estimated that 3,500 people from outside Canada will participate.

It is estimated as well that, by the year 2005, the Asia-Pacific community will represent 50 per cent of global economic growth, adding at least five new economies the size of Canada's to global consumption. To secure our own business growth, create the jobs we vitally need for our citizens and maintain our social security system, we must be significant participants in the Asia-Pacific region. We must plan on using 1997 to achieve a greater profile and greater business participation in the Asia-Pacific region.

The Hon. the Speaker: Honourable senators, I regret that Senator Austin's time has expired. Is leave granted for him to complete his remarks?

Hon. Senators: Agreed.

Senator Austin: We in the Senate should do our part to make Canadians more aware of that region, where so many of our future prospects lie.

[*Translation*]

FIREARMS LEGISLATION

PRESENTATION OF RESOLUTION

Hon. Marcel Prud'homme: Honourable senators, whereas since December 6, 1989, when 14 young women were killed at the École polytechnique in Montreal, over 1,000 people have been killed by firearms, 300 have died in accidents, and more than 6,000, including many young people, have committed suicide in Canada;

Whereas three million people own seven million guns in Canada;

Whereas since that day six years ago, a coalition of organizations, including several from Montreal, has called for effective gun control legislation in order to save lives;

Whereas the Canadian Association of Chiefs of Police and the Canadian Police Association support the government bill designed to better control the movement of firearms;

Whereas in June 1995, the House of Commons passed Bill C-68 on gun control to the satisfaction of all those concerned;

Whereas this bill, currently under Senate consideration, must be passed quickly so that it can take effect in January 1996;

Whereas the Coalition for Gun Control, including the December 6 victims' foundation against violence and the families of the victims at Concordia University, is calling on the Senate to take all necessary measures to ensure that Bill C-68 is passed in time for the gun control legislation to take effect in January 1996.

It is proposed by Councillor Daviau, seconded by Councillor Lavallée and all the other members of the Municipal Council of the City of Montreal;

First, that the Municipal Council of Montreal ask the Senate to pass Bill C-68 quickly, that is to say, in time for the gun control legislation to take effect in January 1996;

Second, that a copy of this resolution be sent to each senator.

• (1410)

Therefore, I am pleased to table this resolution as I was asked to do by all members of the Municipal Council of the City of Montreal, who were kind enough to welcome me and who entrusted me with this delicate mission, which, of course, does not affect in any way the discussion I would like to have during the debate to be held in the next two days.

[*English*]

ROYAL CANADIAN MOUNTED POLICE

CENTENNIAL OF ASSOCIATION WITH THE YUKON

Hon. Paul Lucier: Honourable senators, in 1895, Inspector Charles Constantine and a troop of 20 men of the Royal Northwest Mounted Police arrived in the Yukon. Gold had been discovered and, within three years, Dawson City was transformed from a moose pasture to "the Paris of the North" with a population of 30,000 people — the largest Canadian city west of Winnipeg at that time.

During the stampede, Skagway, Alaska, was controlled by a gang of thieves and murderers led by the notorious Soapy Smith. Smith was eventually killed in a gunfight with a citizen, Frank Reid, who died a week later of his wounds.

On the Canadian side of the border, law and order prevailed because Superintendent Sam Steele and the Royal Northwest Mounted Police ruled with a fair but iron will. From these beginnings, the mounted police began its 100-year association with the Yukon.

This year, 1995, is our Yukon Royal Canadian Mounted Police centennial. Yukoners and tens of thousands of visitors have been treated to a fantastic year of celebrations, parades, music and displays by the force. We were even fortunate enough to have had the famous Musical Ride in the Yukon, which thrilled everyone who saw it.

Since Inspector Constantine's arrival in 1895, we have undoubtedly been serviced and protected by the best police force in the world. Members who have served in the Northwest Mounted Police have included, for example, former Corporal G.I. Cameron who, at 95 years of age, is still living in Whitehorse; Alan Innes Taylor and Special Constable Peter Benjamin from Old Crow, dear friends of mine who passed away some years ago; Inspector Frank Fitzgerald and his "lost patrol" who perished between Fort McPherson and Dawson City, and Inspector Jack Dempster, who located the bodies; and Captain Henry Larsen, who not only made the first crossing of the Northwest Passage but also made the trip in both directions. The first crossing west to east took three years from 1940 to 1942, inclusive.

Honourable senators, recent events at 24 Sussex Drive have made life very difficult for our Mounties across Canada. While corrective actions have been and will continue to be taken, surely this is a good time to let our members know that we appreciate and support the task that they have taken upon themselves on our behalf, and the difficulties that their families are suffering at this time.

I have personally been ticketed, arrested, assisted by, and have worked with the RCMP in the Yukon. As well, I have attended regimental dinners and coached RCMP hockey teams in Whitehorse during my 47 years in the Yukon. A finer group of people will not be found anywhere.

To Chief Superintendent Edward Henderson, soon to be retired, Commanding Officer of the Yukon "M" Division in Whitehorse, Sergeant Dana Gibbons at the Watson Lake detachment, Constable Karen Olito of the Old Crow detachment, and all their colleagues, I say: "Thank you for being there when we needed you."

NATIONAL CHILD DAY

Hon. Ethel Cochrane: Honourable senators, I would like to add my voice to those who have spoken in recognition of the celebration today of National Child Day.

As a former teacher, I have spent most of my adult life in the company of children and youth. Since my appointment to the Senate, I have frequently returned to speak at schools throughout my province. I am well aware that our young people represent the promise and potential of Canada's future.

Today, across our nation, we pay tribute to our future leaders, innovators and entrepreneurs, and our future workers in all sectors of our economy. Today, I salute the children and the youth of Canada.

Hon. Landon Pearson: Honourable senators, today, as my colleague has just said, is National Child Day, a celebration of children and a commemoration of the adoption of the Convention on the Rights of the Child by the United Nations in 1989.

The manner in which we celebrate demonstrates the value of what is being celebrated, and nothing is more precious to the health and prosperity of Canada than the well-being of our children. As elders of our nation, a category most of us fall into, we stand in a relationship of special trust to the children of Canada, far too many of whom are poor, neglected, abused and humiliated. We owe them protection, and we owe them support for their growth and development.

In the context of today's debate on gun control, I believe we also owe them a "culture of caution" respecting the possession and use of firearms. I acknowledge the legitimate use of guns and I respect the hunter, but I can never forget that guns are designed to kill. We must ensure that our children are safeguarded from their misuse, and that they do not fall victim to the use of guns, either by accident or design. At the same time, we must also do everything within our power to mitigate the difficult conditions in which so many of our children now live and grow. This is the only way we can make sure that neither today nor tomorrow will they be tempted, out of anguish or anger, to turn a gun on themselves or on others. On National Child Day, honourable senators, let us deliberate with children on our minds.

Hon. Sharon Carstairs: Honourable senators, I too rise to speak on National Child Day.

Last week I watched a program on CBC in which a number of male and female students were interviewed and shown interacting with one another at the high school level. The young women were portrayed as being terribly subjected to physical and sexual harassment. It was very sad to see the egos of those young women being damaged because of what they were subjected to on a daily basis. However, I also felt enormous compassion for the young men who were portrayed. Somehow or other, society has sent them the message that, in order to be accepted within their own peer group, they must behave in a "macho" way.

Surely today, National Child Day, we must understand that junior high school students, who are generally between the ages of 11 and 14, are children who need our guidance and our direction. These are the children who need some societal guidelines and objectives that unequivocally convey the message that each and every young person should and can be his or her own person, and need not feel pressure to be something they do not want to be. They should view the development of ego, with all of its strengths, as a positive challenge in their lives.

• (1420)

When dealing with young people, I ask that we all strive to give them the correct, positive images so that they can be the very best that they can be, rather than the worst that they can be.

[*Translation*]

ROUTINE PROCEEDINGS

FIREARMS BILL

REPORT OF COMMITTEE

Hon. Gérald-A. Beaudoin, Chairman of the Committee on Legal and Constitutional Affairs, presented the following report:

Monday, November 20, 1995

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTEENTH REPORT

> Your Committee, to which was referred Bill C-68, An Act respecting firearms and other weapons, has, in obedience to the Order of Reference of Thursday, June 22, 1995, examined the said Bill and now reports the same with the following amendments:

1. *Pages 52 and 53, clause 112*: strike out lines 25 to 44, on page 52 and lines 1 to 25, on page 53 and substitute the following:

"**112.**(1) Subject to subsection (2) and section 112.2, every person commits an offence who possesses a firearm that is neither a prohibited firearm nor a restricted firearm, unless the person is the holder of

(*a*) a licence under which the person may possess the firearm; and

(*b*) a registration certificate for the firearm.

(2) Subsection (1) does not apply to

(*a*) a person who possesses a firearm while the person is under the direct and immediate supervision of a person who may lawfully possess it, for the purpose of using it in a manner in which the supervising person may lawfully use it;

(*b*) a person who comes into possession of a firearm by the operation of law and who, within a reasonable period after acquiring possession of it,

(i) lawfully disposes of it, or

(ii) obtains a licence under which the person may possess it and a registration certificate for the firearm; or

(*c*) a person who possesses a firearm and who is not the holder of a registration certificate for the firearm if the person

(i) has borrowed the firearm;

(ii) is the holder of a licence under which the person may possess it; and

(iii) is in possession of the firearm to hunt or trap in order to sustain the person or the person's family.

112.1 (1) Subject to subsection (2), every person commits an offence who, being the holder of an authorization or a licence under which the person may possess a firearm that is neither a prohibited firearm nor a restricted firearm, possesses the firearm at a place that is

(*a*) indicated on the authorization or licence as being a place where the person may not possess it;

(*b*) other than a place indicated on the authorization or licence as being a place where the person may possess it; or

(*c*) other than a place where it may be possessed under the *Firearms Act*.

(2) Subsection (1) does not apply in respect of a replica firearm.

112.2 (1) Every person who, immediately before the coming into force of subsections 112(1) and 112.1(1), possessed a firearm that is neither a prohibited firearm nor a restricted firearm without a firearms acquisition certificate because

(*a*) the person possessed the firearm before January 1, 1979, or

(*b*) the firearms acquisition certificate under which the person had acquired the firearm had expired

shall be deemed for the purposes of those subsections to be, until January 1, 2001 or such other date after that date as is prescribed, the holder of a licence under which the person may possess the firearm.

(2) Every person who, immediately before the coming into force of subsections 112(1) and 112.1(1), possessed a firearm that is neither a prohibited firearm nor a restricted firearm and was the holder of a firearms acquisition certificate shall be deemed for the purposes of those subsections to be, until January 1, 2001 or such other date after that date as is prescribed, the holder of a licence under which the person may possess the firearm.

(3) Every person who, at any time between the coming into force of subsection 112(1) and later of January 1, 1998 and such other date as is prescribed, possesses a firearm that is neither a prohibited firearm nor a restricted firearm shall be deemed for the purposes of that subsection to be, until January 1, 2003 or such date after that date as is prescribed, the holder of a registration certificate for that firearm."

2. *Page 53, clause 115:* strike out lines 36 to 39 and substitute the following:

"**115**. Every person who commits an offence under section 112, 112.1, 113 or 114 is guilty of an offence punishable on summary conviction."

3. *Page 58, new clause 117.1:* Add the following new clause:

"**117.1** A museum is exempt from the payment of all fees prescribed under paragraph 117(*p*)."

4. *Page 59, Clause 119:* Strike out lines 20 to 23.

5. *Page 73, Clause 139:* Strike out lines 33 to 37.

6. *Pages 77 and 78, Clause 139:*

(a) on page 77, strike out line 8 and substitute the following:

"offence who possesses a prohibited firearm or a restricted firearm, unless the"; and

(b) strike out lines 28 to 46 on page 77 and lines 1 to 11 on page 78 and substitute the following:

"(*a*) a person who possesses a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition while the person is under the direct and immediate supervision of a person who may lawfully possess it, for the purpose of using it in a manner in which the supervising person may lawfully use it; or

(*b*) a person who comes into possession of a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition by the operation of law and who, within a reasonable period after acquiring possession of it,

(i) lawfully disposes of it, or

(ii) obtains a licence under which the person may possess it and, in the case of a prohibited firearm or a restricted firearm, a registration certificate for the firearm."

7. *Pages 78 and 79, Clause 139:*

(a) on page 78, strike out line 14 and substitute the following:

"offence who possesses a prohibited firearm or a restricted firearm, knowing that"; and

(b) strike out lines 42 to 45 on page 78 and lines 1 to 36 on page 79 and substitute the following:

"(*a*) a person who possesses a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition while the person is under the direct and immediate supervision of a person who may lawfully possess it, for the purpose of using it in a manner in which the supervising person may lawfully use it; or

(*b*) a person who comes into possession of a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition by the operation of law and who, within a reasonable period after acquiring possession of it,

(i) lawfully disposes of it, or

(ii) obtains a licence under which the person may possess it and, in the case of a prohibited firearm or a restricted firearm, a registration certificate for the firearm."

8. *Page 78, Clause 139:* strike out lines 28 to 40 and substitute the following:

"indictable offence and liable to imprisonment for a term not exceeding ten years."

9. *Page 79, Clause 139:* strike out line 41 and substitute the following:

"prohibited firearm, a restricted firearm, a prohibited weapon, a restricted"

10. *Page 84, Clause 139:* strike out line 32 and substitute the following:

"94(1) and the later of January"

11. *Page 111, Clause 139:* strike out lines 22 to 29 and substitute the following:

"(2) In making regulations, the Governor in Council may not prescribe any thing to be a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or prohibited ammunition if the thing to be prescribed is reasonable for use in Canada for hunting or sporting purposes."

12. *Page 111, Clause 139:* add after line 29 the following:

"(3) The Minister of Justice shall lay or cause to be laid before each House of Parliament, at least thirty sitting days before its effective date, every regulation that is proposed to be made under subsection (1), and every appropriate committee as determined by the rules of each House of Parliament may conduct enquiries or public hearings with respect to the proposed regulation and report its findings to the appropriate House.

(4) For the purpose of subsection (3), "sitting day" means, in respect of either House of Parliament, a day on which that House sits."

13. *Page 137, Clause 193:* add after line 17, the following:

"(3) Notwithstanding subsections (1) and (2), no order shall be made by the Governor in Council pursuant to subsection (1) or section 117 that applies to the aboriginal peoples of Canada until full and considered consultations have been carried out so as to ensure that the existing aboriginal or treaty rights recognized and affirmed by section 35 of the *Constitution Act, 1982* would not be abrogated or derogated from by such an order."

14. *Page 137, New Clause 194:* add after line 17, the following new Clause:

"**194.**(1) This Act or any of its provisions or any provision of any other Act enacted or amended by this Act as it relates to the registration of a firearm that is not a prohibited firearm or a restricted firearm shall come into force in a province in accordance with an order issued under section 193, unless an Act of the legislature of the province authorizes the possession of a firearm that is not a prohibited firearm or restricted firearm.

(2) Subsections 91(1), 92(1), 93(1) and 94(1) and paragraph 117.03(1)(*a*) of the *Criminal Code* as enacted by section 139 of this Act as they relate to a possession of a firearm that is not a prohibited firearm or restricted firearm shall come into force in a province in accordance with an order issued under section 193, unless there is an Act of the legislature of the province that authorizes the possession of a firearm that is not a prohibited firearm or restricted firearm.

(3) An Act of the legislature referred to in subsections (1) and (2) means an Act that is in force on the day this Act is assented to or an Act that comes into force not later than six months after the day this Act is assented to.

(4) Notwithstanding that an Act of the legislature referred to in subsections (1) and (2) is in force in a province, this Act or any of its provisions or any provision of any other Act enacted or amended by this Act as it relates to the registration or possession of a firearm that is not a prohibited firearm or a restricted firearm shall come into force in that province eight years after this Act is assented to.

(5) When the provisions referred to in subsection (1) come into force in a province as a result of the repeal of the Act of the legislature referred to in that subsection or in accordance with subsection (4), every person who, on the coming into force of the provisions of this Act in the province, possesses a firearm that is not a prohibited firearm or a restricted firearm is deemed for the purpose of section 112(1) of this Act and subsections 91(1), 92(1) and 94(1) of the *Criminal Code* to be the holder of a registration certificate for that firearm for a period of two years."

Respectfully submitted,

GÉRALD-A. BEAUDOIN
Chairman

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

On motion of Senator Beaudoin, with leave of the Senate and notwithstanding rule 58(1)(*g*), report placed on the Orders of the Day for consideration later this day.

[*English*]

CULTURAL PROPERTY EXPORT AND IMPORT ACT INCOME TAX ACT TAX COURT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. John Sylvain, Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Monday, November 20, 1995

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-FOURTH REPORT

Your Committee, to which was referred the Bill C-93, An Act to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act, has, in obedience to the Order of Reference of Thursday, November 2, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN SYLVAIN
Deputy Chairman

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

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

NATIONAL DEFENCE

SPECIAL COMMISSION ON RESTRUCTURING OF THE RESERVES—NOTICE OF MOTION TO REFER REPORT TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senator, I give notice that tomorrow, Tuesday, November 21, 1995, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the report of the Special Commission on the Restructuring of the Reserves, tabled in the Senate on November 7, 1995;

That the committee present its final report no later than January 15, 1996; and

That notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this chamber.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. Brenda M. Robertson: Honourable senators, I have the honour to present a petition on behalf of the constituency of Carleton—Charlotte in the province of New Brunswick, signed by 754 citizens who are asking the Senate to delete in their entirety all of those portions of Bill C-68 dealing with the registration of firearms.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, on behalf of 210 Canadians who live in Elgin and Middlesex counties in Ontario, I should like to present a petition asking the Senate not to proceed with Bill C-68.

QUESTION PERIOD

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—APPROVAL FOR LETTER TO SWISS AUTHORITIES—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in its November 18-20 issue, which was available on Saturday, the *Financial Post*, in a front-page article, reported, in part, that the Justice Department had asked Switzerland for information to support allegations of, to quote the Justice Department's letter, "criminal activity on the part of a former Prime Minister" of Canada. According to the article, the letter is signed by Kimberly Prost, who is identified as a Justice Department senior counsel.

Honourable senator, I am unaware of any instance where, ever before in the history of this country, a former prime minister has been subjected to such extremely serious allegations. Were it to end there, it would be bad enough. However, the article goes on to say that the letter concludes that there was a "persisting plot/conspiracy by Mr. Mulroney [and others]...who defrauded the Canadian government in the amount of millions of dollars."

If this report is accurate, the letter goes beyond making allegations; it accuses Mr. Mulroney of serious crimes, in obviously carefully selected language.

Such a letter is not an ordinary letter. It is a government-to-government communication. It deals with suspected criminal activities by a former prime minister of Canada. Such a letter is certainly not simply put in the mail and sent on its way. It cannot have simply been signed by a senior bureaucrat in the Justice Department. It must have been approved by higher authorities.

Not only is one individual's reputation at stake, the entire country's reputation is at stake. When a former leader of the government is accused of crimes of such a nature, everyone in the rest of world who has been made aware of this accusation wonders exactly what is happening.

I am very distressed by this incident, as are many other Canadians. I want to know — and Canadians have a right to know — who approved this letter before it went out? When were the Deputy Minister of Justice and the Minister of Justice apprised of it? When did they approve it, and on what basis did they do so?

• (1430)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as I understand it, the letter in question came about as a result of an investigation undertaken by the RCMP. In turn, the RCMP asked the Department of Justice to forward a letter to other authorities in an attempt to seek further information, which is the normal course in these kinds of procedures.

I wish to inform my honourable friend that in this case, and in others, the minister has not been involved. I repeat, he was not involved in this case, nor was he made aware of the request in this case. When asked about this story on Saturday while he was overseas, the Prime Minister himself indicated that he, too, was unaware of this case.

Senator Lynch-Staunton: Honourable senators, I find that to be the most unbelievable answer to any question raised in Parliament since God knows when. I cannot believe that this letter is similar, as this press release tries to point out, to 100 or 150 such letters which are sent out during the course of requests by police departments across the country for information which can only be found in other countries.

I wish to quote from an article in today's *Globe and Mail* which is found in *Quorum*. It states in part:

> — excerpts from a Swiss Federal Public Prosecutor's Office document —

It is the Swiss authorities who claim:

> Director Kimberly Prost, acting on behalf of the Canadian Minister of Justice and Attorney-General —

Are we to accept the fact that a former Prime Minister of Canada can be subjected to such a request? Are we to be told that Kimberly Prost wrote this letter and that no one else in the department at a more senior level than herself saw it? This is a letter written on behalf of the Government of Canada to another government which affects the reputation of a former prime minister of Canada. Are we to believe that no one in this government knows what is going on? Are we to believe that the letter included the following information without the knowledge of anyone in the government, including the Minister of Justice, the Clerk of the Privy Council and the Prime Minister of Canada? The Swiss authorities write as follows:

> The investigating authorities assume —

This refers to the Canadian investigating authorities.

> — that, from 1988-1991 alone, more than Can. $11-million was transferred in this manner and, if all 34 aircraft had been supplied, the commissions would have totalled about Can. $20-million (possibly U.S.$), 25 per cent of which for the benefit of the accused Mulroney.

Is the Leader of the Government trying to tell us that the senior counsel at the Department of Justice wrote this letter on her own, that the Deputy Minister and the Minister of Justice knew nothing of it and that the Privy Council and the Prime Minister were not advised? Is this what we call the protection of the fundamental rights of Canadians? Shame!

Senator Fairbairn: Honourable senators, I will reiterate what I have said for the Leader of the Opposition. I understand my friend's point of view. However, this is a legal process that has been used by governments and by the RCMP over the years. Such a request is passed on internationally, as they have been many times before, through the Department of Justice. Ministers have not been involved in the past, were not involved in this case and, presumably, will not be involved in the future in such matters. Nor are they advised about the substance of these investigations.

Some Hon. Senators: Shame!

Senator Fairbairn: That is the procedure under the laws of Canada. The Minister of Justice and the Prime Minister did not know. That is the process that has been used in our country. It is the process that was used in this case. There was no intervention by a minister. The minister was not involved in the decision-making process of this case.

Senator Lynch-Staunton: Honourable senators, by the refusal of the Minister of Justice to accept the responsibility, and by the Prime Minister once again detaching himself from what is going on around him, we can only assume that they gave their tacit approval to this accusation. Unfortunately, it reminds me of when the then Minister of Justice, Lucien Cardin, blurted out a word which turned out to be "Munsinger," and we were launched into the Spence inquiry. It was interesting that at the time, the government was privy to RCMP documents and fully informed, and used that information when it was appropriate to use it for political partisan reasons. I can only think that history is repeating itself today.

Senator Fairbairn: Honourable senators, the government was not privy to RCMP information. It was not manipulating RCMP information. It was not intervening in any case that was being carried out under the process of the laws of this country.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—MOTIVATION FOR RCMP INVESTIGATION—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question is for the Leader of the Government in the Senate. Over and above all the other matters, the disturbing aspect of this incident is that it appears that actions are being instituted by the Royal Canadian Mounted Police and other authorities within government, based on television programs and media reports.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am not, nor should I be, aware of the substance of the RCMP investigation. The RCMP has been undertaking an investigation, obviously, based on whatever information it has. It is not information to which I, the Minister of Justice or the Prime Minister should be privy. It would be totally improper and inappropriate if that were the case.

Senator St. Germain: Honourable senators, I am not referring to whether any minister should be involved in the process of the administration of justice as such. I am referring to the fact that, in a report broadcast yesterday by the CBC, the Prime Minister indicated that this investigation was taking place because of a TV program and a report in the media, and that they were the basis for this investigation proceeding.

Honourable senators, as a politician, I find it disturbing when our good friends at the CBC or some other network decide to put on such a program, when they have erred in so many cases before. They decide to take a run at someone in this place or the other place and, based on their reporting or innuendo, a major investigation is triggered into allegations that are possibly politically motivated, and which may get out of control. That is my concern.

Based on what the Prime Minister said in the interview abroad, I tend to believe that that is the basis upon which this particular incident is going ahead. Could other such instances not take place in this country, affecting members of this place and the other place? I should like the Leader of the Government to comment. It is time that we laid our cards on the table and found out what is going on. If this is a politically motivated activity, then Canadians should know about it.

• (1440)

Senator Fairbairn: Honourable senators, I thought I was clear but, obviously, I was not, so I will repeat what I said.

This is not, by any stretch of the imagination or in any way, shape or form, a politically motivated activity.

Some Hon. Senators: Oh, Oh!

Senator Fairbairn: My honourable friends may laugh, but this process has been undertaken — I repeat — by the RCMP, using whatever sources of information are available to them. We are not aware of those details. It would be, I suggest, absolutely improper for the Prime Minister or the Minister of Justice to be involved in, or to intervene in, any decision-making process involving the kind of investigations undertaken by the RCMP. That absolutely underlines my answer to my honourable friend. This is not, in any way, a politically motivated process.

Senator St. Germain: Honourable senators, the Honourable Leader of the Government in the Senate is not answering my question.

If there is a witch hunt or a fishing expedition going on, why is it that the Minister of Justice and the Prime Minister are not intervening? My question relates directly to a TV program and a media report. According to the Prime Minister, this coverage triggered this particular incident.

I am concerned as a senator, and that concern extends to my colleagues in the other place. I am concerned about our parliamentary system as a whole if we allow people, based on some media report, to conduct a witch hunt or a fishing expedition, or whatever you want to call it, which would trigger an activity which is directed against any parliamentarian. This is reason for concern. It was the Prime Minister who said it was based on the media scenario, not me. That is the question I want answered.

Senator Fairbairn: Honourable senators, the question of what motivated the RCMP investigation is known to the RCMP.

Senator St. Germain: The Prime Minister said it on television.

Senator Fairbairn: Honourable senators, I will be quite prepared to review comments made by the Prime Minister, but the Prime Minister, in his comments abroad, has made it perfectly clear that when this issue arose on the weekend, that was his first knowledge of it.

Hon. John Lynch-Staunton (Leader of the Opposition): It was just like the referendum. He just realized, a few days before, that it was being held. Where does he live, this man? The land of make-believe?

Senator Fairbairn: My friend has used certain rather aggressive words. I am simply saying to him, once again, that this process was carried out through the RCMP. The Prime Minister, the Minister of Justice and other ministers should not — and must not — be part of any kind of manipulation of those kinds of investigations.

Senator Lynch-Staunton: By way of supplementary, the RCMP are an easy target these days. However, the RCMP did not sign the letter; the RCMP did not send the letter. The letter was signed and sent by an official of the Department of Justice on the Department of Justice letterhead.

The RCMP went to the Department of Justice and said: "Look, we think we have something going here. Will you help us find what we hope to find?" The Department of Justice, on behalf of the Government of Canada, said: "Sure, we will have fun here. We will pick on Mulroney again. Let's go for it."

The Minister of Justice knows nothing; the PCO knows nothing; it just involves another 150 requests, as this press release says. It does not matter if you are a drug dealer, an accused serial rapist or if you are known across the world as a counterfeiter or a former prime minister of Canada, everyone should be treated the same. The minister knows nothing. The Prime Minister knows nothing. Nobody knows anything. Lay it all on the RCMP. I should stop this, because it just gets worse and worse.

Senator Fairbairn: The RCMP is a law enforcement agency in this country with a very high reputation. Again I say the Minister of Justice and the Prime Minister should not be involved, and must not be involved, in these issues.

My friend opposite laughs at the news release. In the news release —

Senator Lynch-Staunton: It is so pathetic that I think it was written by Robert Nixon.

Senator Fairbairn: The process of this kind of investigation was clearly set out in the news release, as was the comment that the minister is not informed of these requests, and was not made aware of the request in this case.

[*Translation*]

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—
ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—
RCMP INVESTIGATIVE PROCEDURES—REQUEST FOR PARTICULARS

Hon. Pierre Claude Nolin: Honourable senators, the Honourable Leader of the Government is referring to a longstanding procedure.

Would it be possible for you to transmit to us the specific text of this procedure so that we might be in a position to judge whether it has, indeed, been properly followed?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the process was carried out, as I am advised, in accordance with the law and the rules of procedure that have governed that sort of process for many years. I will certainly convey my honourable friend's request, but this is not a new process. It is not a new way of dealing with these kinds of issues.

What would be extraordinarily new and inappropriate is if the Minister of Justice and the Prime Minister of Canada were involved in this in any way. That would be improper.

[*Translation*]

Senator Nolin: Honourable senators, from the response of the Leader of the Government, I take it that even if it is an old procedure, it is surely written down somewhere —

Senator Gauthier: It is given in the Constitution.

Senator Nolin: No, it is not a constitutional question, but a question of the rules and procedures followed by the Department of Justice.

I would ask the Leader of the Government to provide us with the precise text according to which this Department of Justice employee acted, as well as the authority under which she acted, and the procedure she followed.

[*English*]

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—EQUALITY OF CITIZENS BEFORE THE LAW—REQUEST FOR CONFIRMATION

Hon. Herbert O. Sparrow: Further on this subject, I would like verification of the fact, although you have already done so, that no one in this country is above the law. It should be of no consequence if that person is a member of the Senate, the House of Commons, a former prime minister, or holds any rank held by any of the other people mentioned in the releases we are discussing.

I do believe — and I hope the Leader of the Government in the Senate is confirming — that, where any action is taken regarding any citizen, whether he be a former prime minister or otherwise, there should be no interference in that process. I am asking for confirmation that, regardless of one's position, no one in this country is above the law.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would be pleased to confirm that to my honourable friend. That underlines the very reason why no one, no matter how high their position, whether a minister of Justice or a prime minister, would be able to in any way influence or interfere in this kind of a process.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—NUMBERS OF RCMP INVESTIGATIONS PUBLICIZED—REQUEST FOR PARTICULARS

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Could the Leader of the Government in the Senate indicate how many of the 100 to 150 such requests that are made each year are made public?

• (1450)

Hon. Joyce Fairbairn (Leader of the Government): To my honourable friend, I have no idea as to the classification of this information. Obviously, no matter who it touches, this is expected to be a confidential exchange of information. In any event, I cannot answer my honourable friend's question about the 100 to 150 requests, nor do I have the knowledge to judge whether or not that is an appropriate question.

Senator Berntson: Honourable senators, I notice that there was no paragraph in the press release deploring the fact that this particular request, out of a total of 100 to 150, was made public. Has there been any internal investigation to discover why this particular request was made public?

Senator Fairbairn: I would be pleased to follow up on that question.

Hon. Consiglio Di Nino: Before I ask my question, I would also suggest to the Honourable Leader of the Government in the Senate that if she can obtain an answer to my honourable friend's first question, it would be very informative for all of us. That is: Of the number of requests dealt with on an annual basis, how many are made public? I would like to have that information.

Senator Lynch-Staunton: Only when it suits them.

[Later]

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—REQUEST FOR TABLING OF LETTER TO SWISS AUTHORITIES

Hon. J. Michael Forrestall: Honourable senators, one is tempted to ask the Leader of the Government whether she might care to urge upon her colleagues in cabinet, particularly the Minister of Justice, that this particular letter be tabled so that Canadians might understand our concern with maintaining the very clear idea of what is an investigation and what is an outright accusation; an accusation for which I join with my leader in ascribing shame to each and every one of the members on the opposite side of this chamber.

Is there any possibility of having that letter tabled?

Hon. Joyce Fairbairn (Leader of the Government): I cannot answer that question, Senator Forrestall. I will take it as —

Senator Forrestall: Will the Leader of the Government take the earliest possible opportunity to ascertain whether or not it is possible to have this letter made available? After all, it has been made available to the world.

Senator Fairbairn: I will take the senator's question as notice.

IMMIGRATION

DEPORTATION OF MEMBER OF ALLEGED TERRORIST ORGANIZATION—DECLARATION OF FEDERAL COURT OF CANADA

Hon. Consiglio Di Nino: As reported in the November 7 edition of *The Globe and Mail*, the Federal Court of Canada declared that it was unconstitutional to deport someone who holds membership in an organization that is likely to engage in terrorist acts. This was an issue relating to a Mr. Issam Yamani, a Palestinian who was alleged to have been a member of the PLO.

Can the Leader of the Government in the Senate tell us what is the position of the Government of Canada on this issue?

Hon. Joyce Fairbairn (Leader of the Government): I regret, honourable senators, that I do not have sufficient background on that question. However, I would be pleased to obtain an answer for my honourable friend.

Senator Di Nino: Honourable senators, this is a serious issue. It is the kind of action which I believe weakens the tolerance of Canadians towards immigration.

Would the minister please also determine whether or not the Government of Canada is prepared to appeal this ruling to the Supreme Court of Canada?

Senator Fairbairn: I will seek information on that aspect as well, hounourable senators.

[*Translation*]

ELECTIONS CANADA

ELECTORAL BOUNDARIES READJUSTMENT PROCESS— EXTENSION OF DEADLINE—REQUEST FOR PARTICULARS

Hon. Pierre Claude Nolin: Honourable senators, the redistribution of the electoral map and the establishment of new electoral boundaries in Canada is drawing to a close. Some members have argued about the boundaries of their own ridings. We know that the present law provides for this process. The House of Commons decided to delay the deadline for considering and tabling its report with the Speaker of the House of Commons.

Could the Leader of the Government in the Senate tell us the exact date the Speaker of the House of Commons will be given the final report?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): I must tell my honourable friend Senator Nolin that I cannot answer that question in terms of the specific date, but I will speak with my colleagues on the other side with respect to this matter.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I have a supplementary on the same subject.

We know that the Senate was given assurances that the report would be tabled as scheduled. Members had until October 19 to make presentations, consider various aspects and ask the Speaker of the House of Commons to transmit their report to the Chief Electoral Officer of Canada. The Chief Electoral Officer would then transmit the report to the various commissions which had 30 days to respond.

It is now November 20, and the Commons committee is still considering these reports from the provinces. They asked the House for an extension and they were given an extension. My question is as follows: How many more extensions will they need to finish consideration of this bill?

The Senate was given the assurance that there was a definite time frame, but so far none of the deadlines have been met. We are to vote on your motion to the effect that the Standing Senate Committee on Legal and Constitutional Affairs be instructed to submit its final report to the Senate.

Meanwhile, all they have been doing in the House of Commons is to ask for postponements. This very straightforward process is costing taxpayers nearly $6 million. Of course this is not a speech but a question.

Could you give us some assurances tomorrow, before we vote on the motion? I do not want a written answer. I would like to have an oral answer here in the Senate. How much longer will the committee of the House of Commons postpone tabling its report?

[*English*]

Senator Fairbairn: Honourable senators, obviously the area for which we have responsibility here is the progress of Bill C-69, which is currently before the Standing Senate Committee on Legal and Constitutional Affairs. Tomorrow, we will find out whether that committee is as yet ready to report on that bill and place its report before the Senate.

With respect to what is happening in the other place, they are involved in their own procedures. I know only what my honourable friend knows at this point: that their process at the moment takes them to November 30, I believe. However, I am not privy to any inside information from the other place.

Senator Prud'homme: This is not inside information. These are public requests.

There is a game now being played between the House of Commons and the Senate. They are asking to postpone something that should have been done a long time ago, in order to wait and see just what will happen to Bill C-69. In my humble estimation, there is no relation between the two. Bill C-69 is one thing, but the due process of law that should have taken place is something else. There is now a game of chicken going on between the House and the Senate to see who will give in first.

• (1500)

I do not think extending the time in the House of Commons on something that should have been completed, in order to see what will happen in the Senate, is conducting the affairs of the country in a proper manner. I hope that the Honourable Leader of the Government in the Senate will bring to the attention of those responsible in the other place our great displeasure at this move.

We understand the game being played. We are not fools. We know a game is being played between the two houses. It is not in the best interests of those of us who believe that we should defend, in a very strict way, the money being spent at the moment, and the money that would be spent if we were to pass Bill C-69.

Senator Fairbairn: Honourable senators, my primary concern is to see that this house and its committees do their jobs. That is what we are in the process of doing. Unlike my honourable friend, I will not characterize the activity of people in the other place one way or the other. They are operating within their area of authority; we are operating within ours. I hope we will do a good job.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on October 17, 1995, by the Honourable Senator Forrestall regarding the merger of the Canadian Coast Guard with the Department of Fisheries and Oceans.

TRANSPORT

MERGER OF CANADIAN COAST GUARD WITH DEPARTMENT OF FISHERIES AND OCEANS—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on October 17, 1995)

These reports are not accurate.

The speculation in the press regarding the elimination of some 150 shipboard jobs and 24 vessels from the service and the closure of the Coast Guard base in Dartmouth is based on a study completed in the fall of 1994 that examined options to have the Coast Guard and Fisheries and Oceans fleets operate within a more independent organization. The results of these studies were overtaken by events such as the Program Review and the announcement in the February 1995 Budget Statement that the Canadian Coast Guard would merge with the Department of Fisheries and Oceans (DFO). Copies of the studies are available upon request.

The only reductions affecting the Coast Guard continue to be the ones that were planned before the merger. To summarize, these reductions are: $32 Million based on restructuring and reengineering (e.g. Lightstations, Marine Communications and Traffic Services, EL/INM Integration, Shop/Base Maintenance); $30 Million in Levels of Service reductions (e.g. Dredging, Aids to Navigation Standards); $25 Million for CCG Fleet Integration (e.g. Best Practices, Seasonalization).

At this time there are two studies underway that are examining our facilities and ships. The Facility Rationalization study is examining all existing bases and locations where the combined fleet could be best supported. The Fleet Integration Study is examining the total DFO program requirement and the complete fleet needed to deliver the programs. The results of these studies are expected over the winter.

[*Translation*]

ORDERS OF THE DAY

FIREARMS BILL

CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the Sixteenth Report of the Standing Senate Committee on Legal and Constitutional Affairs, presented in the Senate earlier today.

Hon. Gérald-A. Beaudoin: Honourable senators, after conducting several weeks of public hearings, listening to more than 160 witnesses, examining more than 1,300 briefs and listening to a presentation by the Minister of Justice at the beginning and conclusion of our public hearings, today the Standing Senate Committee on Legal and Constitutional Affairs has tabled its report and proposes the following amendments to Bill C-68.

A number of questions were raised about the process for consulting with aboriginal peoples. A majority of committee members believes that Bill C-68 should not come into force before sufficient consultation with aboriginal peoples, in accordance with their treaties and the relevant provisions in the Constitution.

This majority also recommends that the coming into force of Bill C-68 should be at the discretion of each province; this option comes with a maximum extension of two additional years, after which the bill would automatically become law in the provinces that took advantage of the option. This amendment was the result of a joint presentation made before the committee last September by witnesses representing Manitoba, Saskatchewan, Alberta, Yukon and the Northwest Territories in which they mentioned the various reasons why Bill C-68 would be difficult to enforce.

[*English*]

This is why a majority of members of the committee have proposed an amendment that we may designate as the "opting-in" formula. Through an act of its legislature, any province or territory would be able to delay the start of the implementation of the licensing and registration scheme with respect to shotguns and rifles for up to eight years. However, all provisions of the legislation would be fully enforced in all provinces and territories within 10 years.

[*Translation*]

As for the draft regulations, we propose that the Minister of Justice take a more traditional approach by tabling the draft regulations at least 30 sitting days before their effective date so that public hearings can be held, if necessary.

Another amendment is aimed at deleting the words "in the opinion of the Governor in Council" in subclause 117.15(2). Otherwise, the minister could add firearms to the list of prohibited weapons, and this decision would not be reviewable by the courts. In fact, the Canadian courts have said many times that their opinions cannot replace those of the minister, that is to say, of the Governor in Council. One way of allowing the courts to review the minister's decisions is to delete the words "in the opinion of the Governor in Council" in subclause 117.15(2) of Bill C-68.

[*English*]

The majority of the members of the committee are of the opinion that the registration system of firearms should not be criminalized. An amendment would transfer to the actual Firearms Act part of the offences related to the possession of firearms. The potential penalties and consequences for these administrative offences, as presently set out in Bill C-68, are, in their opinion, excessive when compared to similar offences related to motor vehicles and driving licences.

[*Translation*]

The minimum prison terms provided in clause 92(3) of Bill C-68 were discussed. Every person who possesses a prohibited or restricted weapon, knowing that he or she does not have the proper licence, is liable to a minimum term of imprisonment of one year in the case of a second offence, and of two years less a day in the case of a third offence. A majority of committee members feel that these provisions on minimum punishment are excessive and violate section 12 of the Canadian Charter of Rights and Freedoms. Such provisions on minimum punishment prevent judges from using their discretionary power and assessing a penalty based on the circumstances of each case. Moreover, many crimes more serious than those provided for in Bill C-68 are not subject to minimum punishment provisions. This is the case for homicide, attempted murder and dangerous driving resulting in bodily injury. Consequently, the committee proposes that these minimum punishment provisions be eliminated.

A majority of committee members also feel that museums should be exempted from having to pay licence fees. The Canadian Museums Association stated that museums would have to pay more than four million dollars to meet the current requirements of Bill C-68. Under the existing act, museums do not have to pay annual fees. We feel that this should continue to be the case.

Other concerns were raised regarding antique weapons.

[*English*]

Muzzle-loading firearms, such as muskets and antique collectibles, do not pose a significant threat to society. The proposed section 84(3.1) of Bill C-68 would impose on antiques all the regulatory restrictions for regular firearms. The current law does not contain that requirement.

It would become a criminal offence, for example, to hang a musket on the wall over the fireplace. The committee recommends that this provision be deleted.

[*Translation*]

It goes without saying that these eight substantive amendments trigger several consequential amendments.

Honourable senators, that is a brief presentation on the amendments proposed by the Standing Senate Committee on Legal and Constitutional Affairs.

• (1510)

[*English*]

Hon. Sharon Carstairs: Honourable senators, as I sat last Thursday in the Standing Senate Committee on Legal and Constitutional Affairs and learned of the way in which senators opposite wanted to amend this legislation, my first reaction was to be absolutely appalled, because this was not sober second thought; this was evisceration. This was taking the blood and guts of a piece of legislation and throwing it out.

As I spent Friday, Saturday and Sunday in contemplation of these amendments, I was filled with deep sadness — sadness for the many victims who have been threatened, harassed, shot and, in far too many instances, killed by illegally owned weapons in this country; sadness for emergency physicians who see the attempted — and all-too-often successful — shootings and suicides; sadness for the police officers who will still not know what weapons are in a home to which they are called during an incident of domestic violence; and sadness for the families of children who are accidentally shot and, in far too many cases, killed.

Honourable senators, in my view, the amendments which have been presented to you today in this report range from the mischievous to the downright dangerous. The report of this committee, as outlined by Senator Beaudoin, contains seven substantive amendments, and I wish to deal with each and every one of those.

I shall begin with the three amendments which I consider to be mischievous. The first deals with the removal of fees for museums, the second with safe storage provisions for antique firearms, and the third with aboriginal peoples. Following that, I shall deal with the amendments which I consider to be dangerous.

First, with regard to the removal of fees for museums, there are 100,000 weapons in museums across this country. Some of them are prohibited; some of them are restricted; some of them are antique. Some of these museums operate for profit; some do not.

The minister made it very clear when he discussed museums that consideration would be given in the regulations to the budgetary limitations imposed upon museums. However we surely must have knowledge and information of what weapons are in those museums. We must assure ourselves of the safe storage of those weapons. We must certainly ensure that a group of individuals with a vast cache of weapons could not decide at some point to declare itself a museum.

Licensing and registration is a simple process. Registration takes place once during the ownership of a weapon by a museum. It is not onerous. The government has even gone so far as to give special consideration to museums with regard to safety courses which are a normal procedure for people handling weapons. In the case of an antique weapons museum, museum workers would only have to be trained in the narrow use of, for example, antique weapons. The government has addressed these very serious issues. I believe that the Senate committee was mischievous to recommend removing fees for museums but not for anyone else.

With regard to safe storage of antique weapons, antique weapons can be deadly weapons. Do you really think that a child of four or five knows the antiquity of a weapon? Do they say, "Gee, this is a 150-year-old weapon so I should not shoot this one"? Of course they do not. It is just as important to keep antique weapons in safe storage as it is to keep any weapon in safe storage. That again, in my view, is a little mischief-making by the other side.

I shall now deal with a more serious amendment, one having to do with aboriginal peoples. Honourable senators, I think we are all concerned that the cultural aspects of the aboriginal way of life be very carefully considered. That is why there is within the legislation a very clear power for the minister which has never existed before. Clause 117(*u*) of the bill states that very special and unique regulations can be made for aboriginal people, recognizing their culture and their traditions. In addition, there is a non-derogation clause in the legislation which states that the treaties of the aboriginal people must not be derogated by this legislation.

Quite frankly, honourable senators, it was insulting to the Minister of Justice when he appeared before the committee and members of this chamber told him that he had not done that which he clearly has done. He has indicated time after time which groups of aboriginal peoples he has consulted. He provided us with a 10-page list of the aboriginal groups with which either he or his consultative unit has met.

It is true that as a result of some of those consultations not all of the aboriginal people agree with what the minister is going to do, but that does not mean that the minister has not consulted them.

This proposed amendment states that, in the view of this chamber, everything the minister has done up to this point, everything he suggests he will do before the regulations are promulgated, and everything he has said he will do with regard to meeting with aboriginal groups in order that they can study the regulations to determine for themselves whether they are culturally sensitive and make changes to them before they are proclaimed, are of no consequence to some senators opposite. They have decided that there has been no consultation. Honourable senators opposite surely cannot dismiss the evidence before them quite that easily.

However, even if they were to do that, that is not what the aboriginal people who appeared before us wanted. Grand Chief Mercredi said that we have no power to make any regulations or pass any legislation with respect to aboriginal people. The chief of the Cree said, "I have nothing against regulation and licensing. I want to do it myself. I do not want to let the federal government do it." That was his testimony; that was his evidence.

What do you think will be achieved by this amendment demanding that consultation take place when it has already taken place? The only person who can judge whether it has taken place is the Minister of Justice. No one else can make that evaluation; not the aboriginal people.

• (1520)

Senator St. Germain: Can they not make this judgment?

Senator Carstairs: The amendment that you moved, Senator St. Germain, says that in the government's view, full and considered consultation has taken place, and when the government is of the opinion that full and considered consultation has taken place, then the government can proclaim the regulations and, in fact, the legislation. It has nothing to do with our aboriginal people.

What has angered me for so long in terms of our treatment of aboriginal people is that we pretend to do things for them. We say, "We will give you this little bit." We pat them on the back and say, "Come on, everyone, be happy with that." If we are not to do something substantive for the aboriginal people, then let us stop mischief-making. Do it properly or do not do it at all. I believe that, for the first time in history, the minister has done it properly with this legislation. He has engaged in consultation with our aboriginal people.

I wish now to address the other serious changes which this group of senators on the committee chose to introduce. These changes fall into what I call the "dangerous" category. For example, they have moved that under regulatory powers the Minister of Justice will no longer be allowed to list by Order in Council a prohibited weapon until the House of Commons has

sat for 30 days. If tomorrow we were to get wind of a cache of weapons that we have never seen in Canada coming across the border, the Minister of Justice has the right to say that they are prohibited weapons. He has had that right since 1968. However, this amendment would take that power away from the minister. For six months, or perhaps even longer because it might be during an election or a summer recess, those weapons would be allowed to circulate in this country. We are talking about prohibited and restricted weapons. That is very dangerous, honourable senators, and not something that I think we should be contemplating in this chamber.

This regulatory-making power is an important power. It is absolutely essential that the Minister of Justice be able to act quickly by Order in Council. That is why such a provision was placed in the legislation in 1968. That is why such a provision was put into Bill C-17. Honourable senators opposite would now strip that power from the Minister of Justice.

Honourable senators, one of the issues that has been very difficult with this legislation is finding the means by which we can have the correct balance between the registration and licensing of long arms and rifles, and the criminal aspect where people fail to register their long arms and rifles. It is a difficult balance to find; no one questions that. That is why the House of Commons' amendment made in June was such a positive one. It said that for the first offence one would be charged by way of summary conviction, if one were clearly not a criminal and did not have criminal intent. Once one has been convicted of a summary charge, then what is one's excuse? What reason can one possibly then give for not knowing what is the law? By virtue of their summary conviction, one has been told what is the law. We would now suggest that, no matter how many long arms or rifles one is found with, the authorities should always proceed by way of summary conviction.

For example, let us say that a cache of weapons is found in the possession of a motorcycle gang. Let us say that it is a bunch of sawed-off long arms. Can they then be charged with anything beyond a summary conviction? Not by virtue of this amendment.

It is appropriate that we find a balance. I believe this bill achieves that balance. Universal licensing and registration will help reduce the smuggling and illegal trafficking of firearms. It will assist the police in criminal investigations. It will help the police to enforce the growing number of prohibition orders by the court and to remove firearms from situations of domestic violence.

However, the legislation must have some teeth. Some honourable senators opposite would yank the teeth right out of the mouth of this particular piece of legislation.

Honourable senators, another dangerous amendment would remove mandatory minimum sentences. There may be a lot of bleeding hearts on the other side but, with the greatest respect, my heart does not bleed for the criminal who is out there with a prohibited weapon. I think that criminal should be given a mandatory sentence. By removing mandatory sentences for the possession of prohibited and restricted weapons, senators opposite have basically invited criminals to pay not the slightest bit of attention to the law. That deterrence factor has been stripped from the legislation by this particular amendment.

The area that concerns me the most is the final one that I will address this afternoon. It is with respect to the opting-out clause available to the provinces. As many of you in this chamber know, as many of you have been in disagreement with me, the Constitution of Canada has been of great interest to me since I studied constitutional law in my undergraduate years. Over the years I have listened to people saying that we have to give more power to the provinces, that we have to make —

The Hon. the Speaker: Honourable Senator Carstairs, I regret to interrupt you, but your time has expired.

Senator Carstairs: Honourable senators, I ask leave to finish my remarks.

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

Hon. Senators: Agreed.

Senator Carstairs: I thank honourable senators.

In terms of provincial opting-out, this is a serious issue. I have never heard anywhere in this country a desire from the Canadian people that responsibility for the Criminal Code be split between the provinces and the federal government. If we have one sense of identity, surely it is the power of criminal justice at the federal government level. Yet, for a period of two years, this amendment will give provinces the right to decide what falls under the provisions of the Criminal Code in their province and what does not.

Can honourable senators imagine the difficulties that there might be during that period of time? I should like to provide a couple of examples in that regard. What happens when someone crosses the border between Canada and the United States? Does the customs officer say, "Are you entering a province that has opted out or are you entering a province that has opted in?"

Senator Berntson: Or, "Are you going hunting?", in which case it does not matter.

Senator Carstairs: How do you make it enforceable or workable? There is also a serious question as to whether or not it is in direct conflict with the Charter because some of the penalties for those who choose to opt in are different from the penalties for those who choose to opt out. Where is equality before the law if you can give one penalty in one province that has opted in and another penalty in another province that has opted out? Surely we are not serious about wanting to have two different criminal codes in Canada.

The proposed amendment actually suggests that the province have constitutional authority to pass criminal law. That is contrary to the Constitution Act, 1867. It is our duty as senators to amend legislation if we think we can improve it. If these amendments improved the legislation, yes, they would need to be given serious consideration. However, I do not believe they do.

• (1530)

I ask you, honourable senators, to think about what this unamended bill was intended to do. The bill was to protect children so that they do not have access to their parents' hunting rifle and accidentally shoot themselves, or, indeed, someone else. The bill was to protect women, women who are more often shot and killed by a spouse or someone they know than by a stranger. There are 48,000 prohibition orders in Canada, and this bill was introduced so that we could enforce them. This bill is also to protect police officers. With registration, stiffer sentences, and the smuggling provisions of this act, they will be able to do their job better while at the same time having better protection for their own personal safety. This bill sends a message to all who would own firearms in this country that the ownership of a firearm carries with it a responsibility, and that misuse of it is to be subject to a penalty.

This bill is supported by trauma doctors, by crime prevention experts, by suicide prevention experts, by victims' groups, and by a vast majority of Canadians. All of these groups have asked for speedy passage of this bill. They have asked senators not to delay this bill — not to put it into the mill once again where it may or may not see the light of day. They want this legislation, they want it now, and they want it without amendments.

Hon. Gerry St. Germain: I have a question for the honourable senator. Did I understand the honourable senator to say that if the government says it has consulted, that is the end of it and it does not matter what the aboriginal peoples have to say? If that is what she said, heaven forbid. If the country is run in that manner, it would be anarchy at its highest level. That is basically what the senator said. Does she wish to retract that statement?

Senator Carstairs: Honourable senators, that is what their amendment does. Their amendment says that if, in the minister's view, full and considered consultation has taken place, that is it. You put that, sir, in the amendment. It was your amendment which stated that the only person who would make that evaluation of full and considered consultation would be the Minister of Justice. I do not think that is good enough.

Senator St. Germain: Perhaps, the honourable senator will present an amendment which will deal with the concerns of the native peoples and not allow this to proceed. I also believe that this is constitutionally flawed and that it creates an egregious situation which we will impose on our native communities. If the honourable senator shares that view, then she should move an amendment which will deal with the constitutional rights of our aboriginal people.

If there is anything wrong with this legislation, it is to be found in the manner in which we have dealt with our aboriginal peoples. Having travelled in the north as I have, the honourable senator is well aware of that. I compliment her on taking that one step further, something which many of our other colleagues never did. I do not mean to be critical, because possibly they never had the chance, but it would have been most educational and enlightening had they done so. They may have understood the importance of this aspect of the legislation in dealing with our aboriginal peoples, and how it fails to deal with their situation as far as constitutional rights, treaty rights, and agreements are concerned.

Senator Carstairs: I am presuming that the honourable senator asked a question. Let me respond in the following way: Yes, I did meet with aboriginal people. I went into their hunting camps. The greatest concern they reflected to me was the need to make the regulations culturally sensitive to their needs. That is absolutely essential. It was for that reason I tried to introduce a recommendation to this legislation last week which reflected their concerns about how this bill would be implemented.

Hon. Ron Ghitter: Honourable senators, I suppose there is always another side to an analysis of legislation, and I suppose what Senator Carstairs has just referred to in this chamber shows the complexity of this legislation and how difficult it is for legislators, lawyers, and experts to understand it, let alone the average individual on the streets of Canada.

As I rise to present my comments, I do so knowing that this bill presents some unusual challenges to all of us. We all wish our streets to be safer. We all wish for a society rid of domestic violence and suicide. We abhor the use of weaponry of any kind which destroys families, harms our citizens, and creates fear in the minds of Canadians. The question is how best to achieve those ends and how best to apply our limited financial resources to control the use of firearms in order to bring a sense of comfort back to Canadians, particularly in urban Canada.

I wish to preface my remarks with respect to this bill against the backdrop of tensions which exist in Canada today that, in my view, must be kept in mind when examining Bill C-68. These are very treacherous times for Canada. Our nationhood is at risk. Our leaders are groping for solutions that will keep our nation strong and maintain its survival; solutions which will recognize the great variances that exist in a geography with the demographics that lie within our borders; solutions that to this point have evaded us. These solutions must be found. We all recognize the fact that time is running out.

Leading up to the referendum on October 30, the federal government, through our Prime Minister, seemed to offer Quebec the right to a distinct and special society, along with the right to veto constitutional changes that affect their powers. These overtures were not exactly received favourably in many regions of Canada, and these attitudes will be not be easily overcome. The splits run deep; so deep that, when the premiers met after the referendum, one word seemed to reverberate across Canada, and that was "decentralization."

I do not believe we should embark on decentralization merely for its own sake, but there are areas where we must recognize and give scope to regional differences. We must respect them and use them as the cornerstone for refiguring this great nation. Whatever the solutions may be, we must all work to find them. There can be little doubt that if this nation is to survive, new arrangements must be undertaken which will overcome the tensions that have for too long been part of the Canadian psyche.

It is time for our leaders to stick up for Canada, its variances, its great history, its wonderful vistas, its mannerisms, its pioneering spirit, the recognition of our differences, our compassion, our freedoms, and our willingness to recognize a variety of aspirations, accommodate them, and work in a spirit of goodwill and cooperation.

Honourable senators, you might well ask what this has to do with Bill C-68, the bill which is before us, and I say, "everything." This bill is a microcosm of what is wrong with federal-provincial relations in our nation and what is missing in the treatment of our first nations peoples. We have before us today a piece of legislation that is bitterly opposed by the very jurisdictions that are obliged to implement, enforce, and even pay for it. In a totally unprecedented action, the Provinces of Manitoba, Saskatchewan, Alberta, the two territories, and separately, Ontario, came to us with, in the majority of the cases, a totally unanimous agreement in their legislatures and told us of their opposition to a number of elements in this bill.

In a joint submission of Alberta, Manitoba, Saskatchewan, the Northwest Territories and the Yukon, we were told:

> We are convinced that the dedication of large amounts of scarce public resources to initiatives of questionable value, on the scale proposed, is not the best use of the public purse.

• (1540)

Then they added:

> The administrative burden the universal licensing and registration systems will impose upon our police services and affected provincial/territorial departments is contrary to the public interest.

The Solicitor General and Minister of Corrections of the province of Ontario stated before the committee that the amount of money that he has available to deal with serious crime, to deal with real gun control, to create real safety on our streets, will be wasted if applied to a universal registration system.

The leader of the Liberal party in British Columbia — probably, we understand, the next premier of that province — sent us a letter through a candidate in the next election to tell us that the Senate should set aside the universal registration proposals so that the positive aspects of the bill can proceed "...untarnished by the inadequacies of the bill that attack individual rights, cost millions of dollars and create only illusions of public safety."

From all the correspondence I have received, and notwithstanding the full court press that has been put on us and on Canadians by the Department of Justice and the minister, nothing could be clearer than the fact that the people directly involved, namely, the four million gun owners, are bitterly opposed to this bill. We now have the scenario in Canada where the citizens who are directly affected by this bill, and the governments that must implement, enforce and pay for it, are all opposed to it.

How well I remember an old law professor of mine who suggested that laws that are not followed by those who are directly affected by them, and those who have the obligation to enforce them, are bad laws because they will not be respected and they will bring law into chaos.

Last week, the Minister of Justice came before the Senate committee to charm us. I asked him, first, considering the divisions that we have in this country, and, second, considering that the Minister of Justice is an individual who has been appointed by the Prime Minister to sit on a committee to advise Canadians about the new Canada and the new approaches we must take to keep us together, would he consider amendments that would bridge the gap and take into serious consideration the positions of our aboriginal peoples and the many jurisdictions that are opposed to the bill. I suggested that these amendments would neither ruin the registration system nor in any way take away from it, but would help overcome the divisiveness that is being created in this country at a time when we should be trying to bring people together. I said, "Will you consider such amendments, Mr. Minister?" He had not even seen the amendments when he said: "No. It is my way or the highway", and left that room and went on television across the country saying, "I do not need amendments. My way is the way. I know how to do it."

Let me say, Your Honour, that this minister does great disservice to this country if he thinks that he will succeed with his legislation by jamming it down people's throats. In the best tradition of the Canadian Senate, where better can we conduct a process to try to bridge the gap and the division this legislation is causing to bring the country together and create understanding? That does not take major amendments. That takes an element of harmony, of compromise and of understanding. That is a process that will bring us together, not move us farther apart, which is what is happening now.

How in the world can we ever build a great nation? How can we ever reconstruct the great vision of a Confederation created for all our peoples when the Government of Canada is acting as the sole and supreme body, ignoring the views of its partners in Confederation? It will not work. With such attitudes, I hold little hope for Canada.

Whether or not one supports the legislation, there is no justification for such actions. I say to the government: Either show us some leadership, some understanding of our regions, some open mindedness and, yes, some humility, or this nation has no hope to find the solutions necessary to bring us together.

I want to take a few moments to explain the seven substantive, supposedly dangerous and mischievous amendments that are contained in the package before us today for consideration.

I will leave the value of the registration of arms aside. I will not deal with that because that is not before us. I want to deal in terms of these amendments and the impressions that this legislation has left as we travelled this country. Many honourable senators had the occasion, as did I, to travel to the west, to Whitehorse and Kamloops, and talk to people to get their views. It was quite an experience. I invite all senators to do so, not only from a learning point of view but because of the image it creates for a Senate that is willing to listen and not hide in Ottawa in this chamber.

What am I to think of legislation that I believe to be unconstitutional with respect to our First Nations peoples and that contravenes express provisions in treaties? What am I to think of legislation that creates criminals out of law-abiding citizens by Orders in Council that are issued behind closed doors, that do not have to be placed before Parliament for consideration? What am I to think of legislation that confiscates the property of law-abiding citizens without compensation?

What am I to think of legislation that allows the police or appointed inspectors to enter upon private property without a warrant and confiscate property? What am I to think of legislation that criminalizes Canadians for the failure to apply for a mere licence and then imposes penalties that contain mandatory minimum sentences that are more severe than the imprisonment penalties for rape, manslaughter, and all the serious, vicious crimes that, sadly, we have in our society?

What am I to think of legislation that forces antique owners to remove their collections from Canada and, in the process, to remove some of our history with them, and that taxes our museums for $4 million, which they do not have, for unwarranted procedures that have no reasonable application to this legislation? What am I to think of legislation that forces tourism in many important areas in many of our regions to die because of regulations that are not applicable?

Finally, what am I to think of legislation that forces our provinces to engage bitterly in a dangerous confrontation with the Government of Canada?

Would you not agree that such legislation should at least be examined? Would you not agree that the Senate, acting in our tradition, must endeavour to bridge the gap of the perception that exists throughout many regions of this country towards this legislation? Surely we have that obligation.

Let me deal with a couple of the amendments. My time is short but there are a few, and there must be a response to the comments Senator Carstairs made so that there can be some understanding of this legislation.

Let us talk about our aboriginals. Let us talk about their agreements that are being forgotten. Let us not just glibly say that we are being mischievous when we are concerned with our aboriginal people, and when our committee heard from three noted authorities on constitutional matters. I quote Ian Binnie, who, in conclusion, having examined the legislation, said:

> Having regard to the foregoing, it is our view that some of the provisions of Bill C-68 in their present form would infringe the treaty and aboriginal rights of Yukon Indians, and that the federal government would not, at present, be able to justify the infringement. If this conclusion is correct, the result would be that the offending provisions would be inoperative in relation to Yukon aboriginal peoples and to the firearms and ammunition used in their exercise of constitutionally-recognized aboriginal rights.

Mr. Binnie said in his presentation that the federal government has a requirement by agreement to consult with the aboriginal peoples. "Consultation" is not just some word you take out of the sky. "Consult" or "Consultation" is defined in the agreement to mean:

> (a) to the party to be consulted, notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter;
>
> (b) a reasonable period of time in which the party to be consulted may prepare its views on the matter, and an opportunity to present such views to the party obliged to consult; and
>
> (c) full and fair consideration by the party obliged to consult of any views presented.

I asked the minister, "Did you do these things?" He did not answer the question and moved on to something else, because he did not do any of these things.

We then have Senator Carstairs and the minister coming before us and saying that he consulted. Of course, he did. He sent out 600 letters. That is "consulting." I travelled to a few locations. Our little committee that travelled to Alberta talked to some of the Treaty 7 people. We asked them, "Were you ever consulted?" They never even received a letter, let alone consultation. They have no understanding of what is occurring. They came to us grievously speaking about the impairment of their treaty rights and grievously speaking about their hunting privileges and how the bill will affect their rights to basic survival. They say that the federal government does not give a darn — their language was stronger — about us. The more I look at this legislation, the more I think that that is true.

• (1550)

Are we being asked in this Senate chamber to accept legislation which we know is not constitutional, which will force the aboriginal people to go to court, as they have told us they will, and which will leave a cloud hanging over their heads for seven to ten years while this goes all the way to the Supreme Court of Canada, not to mention the costs they will be forced to incur? That is what will happen because there has been no consultation.

Not only Mr. Binnie says that that is so; Ms Turpel also says that that is so. Another authority gave a lengthy opinion expressing the same view. The government has not done the consultation and it is not dealing with the aboriginal peoples in accordance with its responsibilities. That is totally inappropriate.

I shall talk about delayed implementation for a moment. This is a very important amendment. I am not sure whether my friend Senator Carstairs put this into the dangerous or the mischievous category. This amendment was recommended to us by various justice ministers in all seriousness after spending months examining the issues. I wonder how they would view their relations with Ottawa if I were to tell them that the federal government has said that their recommendations were mischievous or dangerous.

More important, what is the real purport of this amendment? There is great scepticism about this legislation in the provinces. There is a lack of understanding about the costs that will be incurred. We have heard estimates ranging from $85 million to $1 billion. No one seems to have an accurate figure.

The Hon. the Speaker: Honourable senator, I hesitate to interrupt, but Senator Ghitter's time has expired.

Is leave granted to allow Honourable Senator Ghitter to continue?

Hon. Senators: Agreed.

Senator Ghitter: Thank you, Your Honour, and fellow senators.

Delayed implementation will allow the provinces time to better understand legislation to which they are bitterly opposed. They will not be allowed to opt out of the legislation. The amendment will ensure that they accept the legislation after eight years. The delay will provide the provinces with an opportunity to finalize their financial arrangements with the federal government.

I am sure honourable senators are aware that the provincial governments are still waiting for money from the federal government under Bill C-17. Even before those arrangements have been finalized, we are moving on to something else. We must take into account that such long-term changes as these require long-term solutions.

More important, it will give those provinces which are sceptical an opportunity to see this working. If the Province of Quebec wishes to proceed with the legislation immediately, it may do so, and other provinces will be able to examine the results to determine whether it does work. If it works, the other provinces will also proceed, as they should. If it does not work, we can find a better way to reduce crime in our society than a registration system the likes of which has not worked anywhere in the world where it has been tried.

Let it be understand that this is not, as Senator Carstairs alleges, an attempt to create criminal law in one province and not in another. It must be understood that this amendment goes hand in hand with the decriminalization amendment. If it is decriminalized, it will not even be in the Criminal Code; rather, it will be in the Firearms Act.

I have a list of eight examples of delayed implementation in Canada. This has been done before with respect to the Criminal Code, the Young Offenders Act and the Referendum Act. This is not unprecedented. It has been done, and it has worked. It has worked because it recognizes that ours is a large country. It recognizes that laws for urban Toronto must be very different from those for Whitehorse. It recognizes that Alberta is different from urban Toronto. It recognizes that sometimes you must phase in measures such as this in order that people can become aware and knowledgeable of them and slowly accept them. We must not impose such measures on our native friends. We must give them time to accept them, to work out the regulations, to implement the legislation, and to trust the government.

This is "trust me" legislation. The Minister of Justice has said to Canadians, "Trust me in the regulations. Trust me to do it behind closed doors by Order in Council. Trust me to amend the Criminal Code by Orders in Council, which need never be laid before Parliament, to create a new class of criminal. Trust me, Canada. Trust me, aboriginal people. I will give you a wonderful set of regulations which you will love. Please trust me."

We have learned the hard way that trust does not exist today. We have learned the hard way, through the grief which our past Prime Minister is being put through. We should trust these people? We do not have to trust these people. This must be put in legislation. We do not govern Canada by regulation. We govern Canada by statute and legislation.

In conclusion, these amendments are not recommended facetiously. These amendments are not dangerous. These amendments are not mischievous. These amendments are necessary approaches which must be taken to create wholeness and harmony in our country. We must recognize that when the justice ministers come to us and tell us of their concerns, they do not do it to be mischievous or dangerous; they do it out of a deep concern that the laws of Canada will fall into disrepute, and that the laws of Canada will appear to many Canadians to be inappropriate to the needs of their regions. The least that the Senate can do is try to bridge that gap in order to bring Canadians together, rather than creating another wedge which divides us at a time when we cannot afford to be divided more than we are.

Senator Carstairs: Honourable senators, may I ask Senator Ghitter a couple of questions?

He made a statement to the effect that weapons had been confiscated without compensation. Can he give the Senate any specific examples of a weapon being prohibited without either the paying of compensation or the grandfathering of that weapon?

Senator Ghitter: Honourable senators, under this legislation, by Order in Council the minister can, if he wishes, prohibit certain weapons. If this legislation comes into force, he can confiscate prohibited weapons without compensation. Compensation has been paid for weapons that are presently classed prohibited, but in the future, under grandfathered legislation, there is no obligation to give compensation.

I believe Senator Stratton knows of other examples which he may wish to add.

Hon. Terry Stratton: Although I cannot respond to Senator Carstairs' question, I should like to ask a question of Senator Ghitter.

What happens when an individual legally purchases a long arm which subsequently becomes restricted and thereafter becomes prohibited? That situation has occurred to two individuals who currently reside in Manitoba. They purchased guns legally which subsequently became restricted weapons. They dutifully registered their weapons. Two months later, the RCMP informed them that the weapons were now prohibited, and they were confiscated without compensation. This occurred on two occasions.

Should he wish, I would be glad to provide the pertinent information on that to Senator Ghitter.

• (1600)

Senator Ghitter: I would appreciate that.

The other area I wish to discuss relates to prohibited firearms being inherited by family members. In the event of the death of an owner of a prohibited firearm, that weapon may be passed on down through his or her family. However, when that process ends, that gun is prohibited and must be turned over to the government. Again, no compensation is paid.

Honourable senators, it is a fact that, under this proposed legislation, the government will have the power to confiscate property without compensation. That is hardly the Canadian way, honourable senators.

Senator Carstairs: If Senator Ghitter believes that the provisions for our aboriginal people are so unconstitutional, why did he not introduce an amendment to exempt our aboriginal people? What would be the reaction to that exemption from Manitoba, Saskatchewan, Alberta, the Northwest Territories and the Yukon?

Senator Ghitter: Honourable senators, I do not believe that the aboriginal peoples, our First Nations, or the rest of the population of Canada want to build Canada on the basis of exemptions. Understand, however, that we are not talking about exemptions for our aboriginal peoples as much as we are talking about their treaty rights. We are talking about agreements and rights under which they are protected by the Constitution. It is not a matter of exemption; it is a matter of stating that these people have entitlements by our very Constitution and the agreements which they have entered into with the Government of Canada. I am not coming forward with amendments to exempt them. I do not have to. They are protected by agreements and by section 35 of the Constitution.

Honourable senators, I do not think the aboriginal people of Canada want to be excluded from the mainstream of Canadian life — I think they are begging to become part of it. I do not think that is where the answer lies; the answer lies in that if we are to have this legislation, then the minister has the ability to perfect it. If the minister were operating in a *bona fide* and honourable way, then all he need do is follow the obligations as set out in the legal precedents and agreements that I have referred to, and truly consult. Do not insult the aboriginal people of this country by sending out a bunch of letters, flying in to the communities and staying for 10 minutes, and saying "I have consulted". Wherever we went and talked to these people, we were told that this is what happened.

Consultation is not saying "hello" and running off; consultation is sitting around a table for however many months, days and hours you have to in order to create agreements. The minister did not do that. There was no consultation.

Hon. Paul Lucier: Honourable senators, I also have a question for Senator Ghitter.

The opting out formula took me by surprise. It would delay the registration of shotguns and rifles.

I read the transcripts of the committee hearings. Never did I hear any justice minister from the three western provinces or the two territories suggest that they would find acceptable a delay in the registration. I heard them say they did not want registration. I did not hear them say they would accept a delay.

Did I misunderstand, or is there something here that was not brought out before by the ministers?

Senator Ghitter: Honourable senators, I have before me the abbreviated form of the presentation given by the justice ministers of Alberta, Manitoba, the North West Territories and the Yukon. They stated:

> However, if a jurisdiction does not want to implement this program, it should be able to refuse to do so. We see no justification for the inflexible approach that the federal government has adopted.

Basically, they wanted the power to opt out entirely.

I then contacted Minister Evans from Alberta, the spokesperson for this group. I told him that I did not think that was acceptable, and that I did not believe any of my colleagues in the Senate believed that any province should opt out. However, I also said that there may be some support to delay implementation if he wanted to consider it.

Minister Evans then sent me a legal brief that spoke in terms of how delayed implementation has been utilized in Canada. It assisted us in drafting the amendment in the sense that it takes into account the type of amendment the provinces would find acceptable. As a result, the amendment before you has been vetted through these jurisdictions and was, basically, prepared by these jurisdictions. I felt that if they were going to delay implementation, they should do so by an act of their legislatures. In this way, the province of Alberta, for example, will have the ability to hear the debate in an open forum. They cannot merely proceed by Order in Council, as seems to be the case in the legislation before us. The provinces accepted that and felt it was useful.

We vetted this through Mr. Phillips in the Yukon. He is fully aware of it. We discussed this with him no later than Sunday. These jurisdictions will accept this measure and they feel that it is a step forward.

I thank the honourable senator for asking this question because it has given me an opportunity to respond to his concerns. I feel that the provinces would be much more comfortable if this amendment were incorporated into the proposed legislation.

What are we doing? We are extending the time limit by two years on a program that does not become effective for eight years in any event. It would be an appropriate way to bring these jurisdictions within our ambit, and the Senate would be doing good work if it were to pass this amendment.

Hon. Jerahmiel S. Grafstein: Did I hear the honourable senator correctly when he suggested that he did not trust the Minister of Justice to keep his undertaking to the Senate with respect to subsequent regulation?

Senator Ghitter: Honourable senators, the minister was talking about the non-derogation clause in the bill and endeavouring to show respect for their point of view regarding the creation of the regulations. The aboriginal peoples told our committee that they do not trust regulations. As a result, they want to see these measures in the legislation.

Honourable senators, I am not saying that I do not trust the minister. Frankly, I do not like the lack of humility we saw last week in our committee. That is personal but, in another sense, I do not have a distrust of the minister. I can tell you, however, that many people in Canada do.

Senator Grafstein: What is the basis upon which the honourable senator raises this issue? Could he point out to the Senate where the Minister of Justice has breached an undertaking to the Senate respecting legislation or regulation? Is there any single instance where this Minister of Justice has breached his undertaking to the Senate or to the people of Canada?

Senator Ghitter: Honourable senators, in my view, the minister breached his undertaking when he said that he had consulted with aboriginal communities. I say he did not. He has an obligation to do so, not only under the Charter but under the very agreements that Canada has entered into. I say he has breached that obligation.

Some Hon. Senators: Hear, hear!

Senator Grafstein: I do not mean to belabour this issue, but that is not exactly what I heard the honourable senator say in the course of his comments.

Senator Berntson: But you agree.

Senator Grafstein: No, I do not agree with the senator's interpretation or with the allegation or interpretation that he cannot trust the undertaking given to the Senate in committee by the Minister of Justice. I cannot accept that. That is unacceptable.

Hon. Mira Spivak: Honourable senators, Senator Ghitter mentioned that under this legislation museums will be taxed. However, it was pointed out in committee last Thursday that there are no taxes or fees for museums in this legislation. Would the honourable senator be kind enough to direct me to a clause in the proposed legislation where it states that fees will be charged to museums?

Senator Ghitter: I would be happy to find that clause for the honourable senator. Perhaps my friend has not seen the review that was given?

Senator Spivak: I happen to have been there.

Senator Ghitter: We have before us the response of the minister to the amendments. I received it only this morning. In the document prepared by the Department of Justice, it states that they can charge fees. Fees are determined by regulation. It is a matter of whether they will or will not do so.

I would rather see museums exempted than depend on the government to determine whether museums should pay fees.

Senator Spivak: That is exactly my point. There is a series of regulations; under those regulations, fees can be charged. However, I think that there are no fees to museums in this legislation. As a lawyer, I am sure the honourable senator can tell me if I am correct or incorrect in my assessment of the situation.

Senator Ghitter: A former lawyer.

• (1610)

Many members will remember when representatives of museums appeared before the Standing Senate Committee on Legal and Constitutional Affairs. They presented a brief that stated that in their estimation this legislation would mean $4 million in fees would be paid by them. We accepted that number which came from their association. I do not recall how they determined that figure, but it certainly sticks in my mind.

Senator Spivak: Senator Ghitter, what is there in this legislation that determines that fees will be charged to museums? You have not answered my question.

Senator Ghitter: The power is there for the government to do it. A document prepared by the Justice Department states that the fees for museums, if any, have not yet been determined; and, once set, will be submitted in regulation form to Parliament for full review. That does not tell me that there will not be any.

Hon. Herbert O. Sparrow: Honourable senators, I, too, have a question for Senator Ghitter. When they appeared before the committee the attorneys general stated their opposition to the licensing of firearms. They were most adamant about that in their presentation to the committee.

The honourable senator stated today that the attorneys general were prepared to accept an amendment that would extend the period of time for applying the provisions of the bill. Is there any indication that they have backed off from their stand?

Senator Ghitter: Honourable senators, no. I think they are still very opposed to the registration provisions. They would accept this amendment as the fourth best solution, which I think expresses their point of view, Senator Sparrow.

Hon. Leonard J. Gustafson: Honourable senators, I should like to ask a question of the Honourable Senator Ghitter. It concerns the implementation of these regulations.

In the hearings which I attended in Manitoba, Saskatchewan and Whitehorse, people said, over and over again, that they would not obey this legislation if it passes. I heard that from the chiefs of three different Indian bands. I heard it from farmers, hunters, sportsmen and trappers. They all said, "I will defy the law. I have been a good citizen, but I cannot obey this law." Does the honourable senator think that the government can implement this bill in the way it now stands?

Senator Ghitter: There are offences for which a jail sentence is justified. In other instances, we must look at the offence and consider how serious it is. What we must understand is that 99.75 per cent of gun owners in this country respect guns, and they pose no problem. They, for whatever reason, may look upon this registration system with its criminality and say, "What have I done wrong? Why me?" Others may say, "You just have to fill out a little card and send in $10". I cannot answer what is deep in their psyches, but I know how deeply people feel about this legislation.

I do not think it is necessary to impose criminal penalties upon these individuals, Senator Gustafson. I do not for a moment want to suggest that people should break the laws of Canada, nor would any honourable senator suggest that people should do so.

Senator St. Germain: Honourable senators, my question to Senator Ghitter concerns the question of trust, which I think is key to this whole area. The honourable senator pointed out that the Minister of Justice wants Canadians to trust him on this particular issue.

At the same time, however, the same Minister of Justice has had one of his departmental officials write a letter concerning an international police investigation, yet he is not prepared to answer for the actions of that person.

In our hearings we heard representatives of various aboriginal groups state that their names were listed among the groups consulted by the Minister of Justice. They told us emphatically that they had never been consulted. Some of them said that they had received one of these 600 or so letters, but had never been contacted personally. Yet the minister listed their names as people with whom he had consulted.

In the hearings we conducted, is that not what we heard from the numerous aboriginal groups who came before us?

Senator Ghitter: Honourable senators, I am sad to say that that is the case. We received a list of people who had been consulted. The native people who were named on the list said that they had never had such meetings in which they talked to the minister.

On motion of Senator Roux, debate adjourned.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Stewart,
>
> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. Sharon Carstairs: Honourable senators, this motion stands in my name. I ask that it remain in my name. However, I would prefer not to give another speech today. I will speak to this matter tomorrow. If any other senator wishes to speak, I would welcome that.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, November 21, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE MR. JUSTICE EMMETT M. HALL

TRIBUTES

Hon. David Tkachuk: Honourable senators, on Wednesday, November 15, 1995, the people of Canada laid to rest Emmett Hall, former Chief Justice of Saskatchewan and Justice of the Supreme Court of Canada, who passed away peacefully at the age of 97 on Sunday, November 12, in Saskatoon.

Here was a man for the ages. Born in Saint-Colomban, Quebec in 1898, Emmett Hall distinguished himself as a lawyer. He was called to the bar in Saskatchewan in 1922, served as Chief Justice of Saskatchewan from 1961, and as a Justice of the Supreme Court of Canada from 1962 to 1973.

In 1961, he was appointed by then Prime Minister Diefenbaker to head up the Royal Commission on Health Services in Canada, which, because of its impact on Canadian social policy, became known as the Hall Commission. This blueprint became the basis for health care in Canada.

Emmett Hall received honourary degrees from nine universities across this country. He served as Chairman on the Committee on Aims and Objectives for Education in Ontario. He arbitrated labour disputes on behalf of the federal government between terminal operators and grain handlers on the West Coast. He was a school trustee and a member of the board of St. Paul's Hospital in Saskatoon.

He is remembered as a man who constantly worked, who enjoyed controversy and who served the country and our province with distinction, compassion and the kind of values that we in Canada should all emulate.

He is survived by his daughter, Marion Wedge, his son, Dr. John Hall, 12 grandchildren and eight great grandchildren. To all of them, on behalf of all of you, I extend sympathy and condolences.

SENATORS' STATEMENTS

FIREARMS LEGISLATION

Hon. Terry Stratton: Honourable senators, yesterday I asked Senator Ghitter a question concerning the confiscation of firearms. I stated at that time that I would provide the Senate with information regarding individuals who had had firearms confiscated without compensation.

The information is as follows: Tom Ames lost $1,000; Cal Nordham lost $300; Wes Allan lost $25,000 with regard to a firearms collection; Jess Whitcher, a dealer, went bankrupt; Wolverine Supplies lost $2,200; Bruce Tage lost $4,000; Tom Brown lost $900; John Hipwell lost $2,200; Les Dalhun lost $25,000 with regard to a collection; and Larry Thiessen lost an unknown amount.

• (1410)

GREY CUP

CONGRATULATIONS TO ORGANIZERS

Hon. Leonard J. Gustafson: Honourable senators, I should like to take this opportunity to congratulate the Province of Saskatchewan and the city of Regina on hosting an outstanding Grey Cup game.

Hon. Senators: Hear, hear!

Senator Gustafson: Some have said that it was the best Grey Cup weekend ever. The Province of Saskatchewan and the small city of Regina worked together to produce a tremendous display in that city. Some, however, did express concerns about the weather. Honourable senators, the Canadian Football League is not dead — not at all.

I would congratulate the organizers, the coordinators and the volunteers, all of whom did their jobs so well in hosting 55,000 people in Regina. To have met that challenge would have been an accomplishment at any time.

Senator Berntson: That amounts to about one-third of the city's population.

Senator Gustafson: To everyone involved in coordinating the "huddle-up" in Saskatchewan, I can tell them that it was a pretty good day. They showed Canada and the U.S. our great Saskatchewan hospitality. This Grey Cup will go down in history as one of the best ever.

Congratulations to Calgary for a great game; and to Baltimore for a great win.

[*Translation*]

VIOLENCE AGAINST WOMEN

Hon. Rose-Marie Losier-Cool: Honourable senators, I am pleased to speak on an issue about which I am very much concerned.

This year, in October, women's history was celebrated throughout Canada. Women's History Month has been celebrated since 1992 to recognize the past and present contributions of Canadian women.

Keeping in mind the obstacles that these women have overcome in the past, and continue to overcome today, I invite you to promote public awareness during the month of November, which is Violence Against Women Month. As well, on December 6, a day to reflect and promote action to counter violence against women, I urge you to spread the word and to join all those who denounce violence in our communities, particularly violence against women.

[*English*]

Honourable senators, all Canadians are entitled to a reasonable level of safety. By acknowledging that it is primarily women who use public transportation, walk, or use bicycles to get around, municipal authorities should encourage public transportation officials to develop and implement an individual safety policy that meets women's needs.

Ensuring the safety of women in public places is an important step in the process of making our society safer for women. This must, however, be combined with a determination to respond to the most widespread type of violence against women — family violence.

As mentioned in the report by the city of Winnipeg entitled, "A Safer Winnipeg for Women and Children," it is in their own homes that women and children are most in danger; that is, among people they know.

[*Translation*]

According to Statistics Canada, 25 per cent of all women have been victims of violent acts on the part of their current partner or of a former partner. A weapon was used by 44 per cent of violent spouses.

Honourable senators, I invite you to denounce all forms of violence against women. As we near the end of November, we must be aware of the scope of that curse and realize that violence against women is not an individual problem, but a collective one.

Canada continues to take the lead by making the issue of violence against women a priority.

Bill C-68, which we are trying to include in Canadian legislation, seeks to put an end to the use of firearms for criminal purposes by establishing new offences and penalties to prohibit certain types of firearms and putting into place a new registration system.

Thus, Canada continues to ensure that future generations of women will feel safer at home, in the workplace and in their leisure activities.

[*English*]

ROUTINE PROCEEDINGS

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, November 22, 1995, at one thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH (CANADA WEST DISTRICT)—PRESENTATION OF PETITION

Hon. Leonard J. Gustafson: Honourable senators, I have the honour to present a petition from the Missionary Church and the Evangelical Missionary Church, Canada West District of the city of Calgary in the Province of Alberta praying for the passage of an act to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

NORTH ATLANTIC ASSEMBLY—REPORT OF CANADIAN DELEGATION TO ANNUAL SESSION TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the tenth report of the Canadian Delegation of the Canadian NATO Parliamentary Association on the Annual Session of NATO Parliamentarians held in Turin, Italy from October 5 to 9, 1995.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

COUNCIL OF EUROPE COMMITTEE ON ECONOMIC AFFAIRS AND DEVELOPMENT, PARIS AND STRASBOURG, FRANCE—REPORT OF CANADIAN DELEGATION TABLED

Hon. William M. Kelly: Honourable senators, I have the honour to table a report of the Canadian Delegation to the Committee on Economic Affairs and Development of the Council of Europe on the activities of the Organization for Economic Cooperation and Development and the European Bank for Reconstruction Development held in Paris and Strasbourg, France from June 26 to 28, 1995.

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY, STRASBOURG, FRANCE—REPORT OF CANADIAN DELEGATION TABLED

Hon. William M. Kelly: Honourable senators, I have the honour to table the report of the Canadian Delegation to the Enlarged Debate of the Council of Europe Parliamentary Assembly on the activities of the Organization for Economic Cooperation and Development, held in Strasbourg, France on September 27 and 28, 1995.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at three o'clock in the afternoon, today, November 21, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Senator Doody: Explain.

Senator Bonnell: I wish to thank honourable senators for giving me an opportunity to explain the reason for this motion.

• (1420)

For some reason, Air Canada was flying late this morning. Although our witnesses were scheduled to appear at nine o'clock this morning, we had to wait until eleven o'clock before they were able to attend. We heard them in a brief way, but the committee did not feel it should make any decisions in the two or three minutes remaining.

Honourable senators, we are asking permission to sit this afternoon to discuss Bill C-64, the Employment Equity Bill, and the testimony of our witnesses from this morning, and to make a decision as to our report. We do not want to sit tomorrow because there are more important things happening. If a vote is called, we can always return to ensure that committee members' votes are recorded.

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

QUESTION PERIOD

NATIONAL FINANCE

REPORT OF AUDITOR GENERAL—LONG-TERM MANAGEMENT OF DEBT AND DEFICIT—GOVERNMENT POSITION

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate and deals with the national debt. In last year's report, the Auditor General called for better information about the debt. He said the same thing again in an interim report last October. In this morning's report, the Auditor General says this:

> As we pointed out in our October report, we need better information on how short-term deficit forecasts fit into a long-term debt stabilization plan.

He goes on to say:

> Furthermore, we should understand the size and repercussions of the federal and provincial governments' debts.

Does the government intend to give us this information regarding long-term debt management?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I shall make inquiries on that question.

[*Translation*]

Senator Bolduc: Does the government also intend to sit down with provincial representatives, instead of offloading its deficit onto the provinces? Does the government intend to establish a long-term spending plan, so that the short-term debt can fit into a broader framework for the long-term management of Canada's national debt?

[*English*]

Senator Fairbairn: Honourable senators, I will also take that question to my colleagues.

TRANSPORT

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—REPORT OF AUDITOR GENERAL ON DIVERSION OF FUNDS—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question for the Leader of the Government in the Senate is in regards to the report of the Auditor General that was released this morning. In response to concerns raised by our leader, the Honourable Jean Charest, the Auditor General confirmed that there was an apparent abuse of power on the part of those ministers involved in the diversion of $26 million from Highway 104 to the Fleur-de-lis Trail in Nova Scotia. I quote from his report:

> ... a review would have required that a thorough analysis of the priority, cost, benefits and other merits of the proposed project be presented to the Management Committee before amendments to the agreement were implemented. In this case, however, such a review was pre-empted by ministers who presented the matter as a "fait accompli" to officials who, in the circumstances, could only implement the decision.

With this revelation, what procedures have been put in place to ensure that ministers in the future not be able to manipulate the spending of taxpayers' money for their own political gain?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will not associate my remarks with my colleague's final comment. Ministers of the Crown are constantly exhorted to take the utmost care with expenditures involving taxpayers' money.

Senator Berntson: Clean up your act!

Senator Fairbairn: The specific question vis-à-vis that case has received a full airing in this chamber. I will be pleased to look into my friend's question and obtain an answer for him.

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—REPORT OF AUDITOR GENERAL ON DIVERSION OF FUNDS—REQUEST FOR TABLING OF PERTINENT DOCUMENTS

Hon. J. Michael Forrestall: Honourable senators, I wish to tidy up one or two matters that the Auditor General dealt with in his report.

I turn first to the Fleur-de-lis project. The Auditor General has found, in fact, that it was a federal-provincial initiative, contradicting what the Minister of Transport and the Minister of Public Works had to say, and the Prime Minister himself said on May 24 at a press conference. It would appear that the contradiction has no lasting impact. The direction had been to restore the funding to the program.

We must carry this one step further. It places into some degree of jeopardy the integrity of the public service, which is involved on a day-to-day basis with the management of this type of affair.

So that we might lay this matter to rest, could the minister arrange to have tabled the documents relating specifically to this diversion of funds, the $26 million that went from the Highway 104 program to the Fleur-de-lis Trail?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will communicate Senator Forrestall's question to my colleagues to see whether or not it is possible to fulfil his request.

Concerning the honourable senator's earlier remarks, I must confess that I have not yet been able to examine closely the Auditor General's report. I shall do so as the week progresses.

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT— REQUEST FOR APOLOGY TO GOVERNMENT OF SWITZERLAND

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. Now that we have the full text of the request from the Government of Canada to the Government of Switzerland regarding former Prime Minister Mulroney, whereby information communicated to the Swiss government was presented in a totally misleading fashion, will the Government of Canada, in an effort to restore Canada's good name and reputation, apologize to the Government of Switzerland?

Senator Olson: That does not even deserve a reply!

Senator Berntson: Send them a pack of lies!

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I can only respond in line with what I said yesterday. The letter which was transmitted by the Department of Justice to the Swiss authorities was sent on behalf of the RCMP in the process of its investigation. Other events have occurred around this issue. At the moment, that is all I can say.

Senator LeBreton: Honourable senators, is the government condoning the notion that it is proper for one government to misrepresent itself to another?

Senator Fairbairn: Honourable senators, I will simply say to my honourable friend that the ministers of the Government of Canada —

Senator Berntson: Who did not know anything about this!

Senator Fairbairn: — have not been involved in any way in this matter. They have not been involved in any way in the communication which was transmitted in what is the normal course of such inquiries. Therefore, I cannot respond to the comment made about that letter.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—KNOWLEDGE OF MINISTER—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question to the Leader of the Government in the Senate relates to a statement made by the Minister of Justice and his comment yesterday, that he knew nothing about this situation.

• (1430)

Yet, in broadcasts today, he said that, on November 4, Mr. Tassé approached him and wanted to have certain discussions with regard to this particular incident. Yesterday, one of the senators in this house raised the issue of the trust of the Minister of Justice. This is inconsistent in that, if he did not know anything, how could he make that statement yesterday and then turn around and say on November 4 that he had been approached on the same subject?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Minister of Justice said quite categorically that he was unaware of the investigation and unaware of the letter being sent.

Senator Doody: Where does he live?

Senator Fairbairn: He was clear that he received a phone call from a lawyer on behalf of his client, asking if he could meet with him to discuss the issue. This is after the fact of the letter, November 4. The Minister of Justice felt that it was inappropriate for him to do so under the circumstances. It was for that reason he did not respond positively to that request.

Senator Berntson: What were the circumstances?

Senator St. Germain: Honourable senators, the question concerns what he did. He did know about it. He indicated reluctantly on television today that he had spoken to Mr. Tassé. That is a clear indication that he knew something about the scenario long ago. Yesterday, he made a statement on television that he knew nothing about the particular case. I find it very confusing that the man would say that he knows nothing about this, yet, on November 4, he was phoned regarding the very subject.

I can understand that a Minister of Justice does not want to interfere with the due process of law. However, a letter was written from a ministry of this government to a ministry in another country. Apparently, the minister's department wrote to the Minister of Justice in Switzerland. As a former minister, if a former head of state were involved, I would have found it very surprising if my department had not advised me as to what was happening and that the Prime Minister's Office did not know what was happening. I can understand the police department conducting an investigation, but when one department contacts a like department in another country, I find that to be strange. Perhaps the Leader of the Government in the Senate could clarify this situation today.

Senator Fairbairn: Honourable senators, the letter, as I believe my colleague has indicated, was not communicated by the Minister of Justice. It was communicated by the Department of Justice —

Senator Doody: For which the minister is not responsible.

Senator Lynch-Staunton: It is the same letterhead.

Senator Fairbairn: — which, traditionally, is the agency or the courier which transmits to another country the request from the RCMP or other police organizations. That is what it has done.

Senator Carney: Indefensible!

Senator Fairbairn: It is not appropriate for the Minister of Justice, for the Prime Minister or for the Solicitor General, in any way, shape or form, to be involved or knowledgeable about the substance and the internal workings of that type of investigation. There is absolutely no way in which the Minister of Justice should be involved in any kind of intervention process or decision-making process in this kind of circumstance. If the Minister of Justice had been involved, it would be conceded by members of this house to be inappropriate.

Senator Carney: Why did his department leak it?

Senator Fairbairn: That is my answer to the honourable member. I said it yesterday, and again today, and I will continue to say that there should be absolutely no political involvement in this kind of circumstance and this kind of process. The Minister of Justice has been very careful to make that clear in his comments.

Senator St. Germain: Yet, honourable senators, the Minister of Justice assumes full responsibility for what goes on in his department and what has transpired. How can one be responsible if one does not know what is happening? There is an inconsistency here somewhere. There is something wrong in what has transpired. If I am responsible for you, I must know what you are doing, or at least I should know what you are doing. I have the right to know what you are doing.

Senator Graham: The same situation applied to your government.

Senator St. Germain: The minister has clearly stated that he is responsible. There is confusion somewhere because you cannot be responsible for a department and not know what is happening.

Senator Fairbairn: Honourable senators, the Department of Justice has a responsibility to carry out its function in this kind of circumstance which, as was said yesterday, occurs on numerous occasions during a year. It carried out its responsibility. It certainly was not the responsibility of the Minister of Justice to be involved in the substance or have knowledge of this type of transaction. Again, it would be inappropriate, and indeed improper, for him to do so.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, by way of supplementary, how can the minister reconcile that statement — which I interpret as trying to convince us that the Department of Justice is simply a conduit for the RCMP — with the translation of the letter sent on Department of Justice letterhead? The translation is unofficial. Perhaps the minister, if she does not agree, will give us a correction.

Page 1 of the translation, under the word "Demand," reads as follows:

> The Minister of Justice and Attorney General of Canada is most kindly asking the Minister of Justice of Switzerland for judicial assistance for the Canadian government in the investigation of breaches of Canadian law.

Nowhere do the letters "RCMP" appear. The demand is made formally by the Department of Justice on behalf of the Minister of Justice.

To suggest that the RCMP approached the Department of Justice and demanded that they sign the letter and mail it is absolute balderdash.

Senator Olson: You know better!

Senator Lynch-Staunton: I do not know that.

Senator Perrault: You had exactly the same guidelines when you were in government.

Senator Lynch-Staunton: We never made accusations against former prime ministers and leaked them in the way that this was leaked.

Senator Olson: Why do you not want the investigation to go forward?

Senator Lynch-Staunton: We do, and so does Mr. Mulroney.

Senator Fairbairn: Honourable senators, I should stress again that the letter transmitted to the Swiss authorities was a confidential letter. I do not know exactly what my honourable friend is reading from.

Senator Lynch-Staunton: I will send you a copy.

Senator Fairbairn: I suggest to honourable senators that the letter transmitted to the Swiss government was a confidential letter. It was treated as such by the Department of Justice. This process has been employed on many occasions with the Swiss government, which has been exemplary in its response to the recommendation.

• (1440)

With respect to the material which appeared to be in the hands of the media, this document has not been seen by the Department of Justice.

WESTERN ECONOMIC DIVERSIFICATION CANADA

REPORT OF AUDITOR GENERAL— MANDATE OF AGENCY—GOVERNMENT POLICY

Hon. David Tkachuk: Honourable senators, I would return to the mundane topic of the Auditor General's report.

The Leader of the Government in the Senate may know that the Auditor General has levelled some criticism at the Western Economic Diversification agency in Western Canada. The department's response was that the Auditor General failed to take into account the fact that Western Diversification's mandate differs from that of all other regional development agencies in that its primary purpose is to develop and diversify the western economy, while the other regional economic departments must address the question of regional disparity.

I should like to ask the Leader of the Government in the Senate: Which one is it? Is WED's primary mandate to address regional economic disparity, or is it to develop and diversify the western economy?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the very name of the agency indicates that it is to use whatever tools it has to help diversify the economy in Western Canada and, through that diversification, to bring to every region of Western Canada the kind of equal opportunity for economic development which exists everywhere else.

As I understand it, the Auditor General's report is very clear in its concern about regional differences and regional opportunities in this country. The Government of Canada shares that concern and will continue to use all available resources, such as WED, to assist in development and diversification throughout Western Canada. We want balanced opportunities for every province and every part of every province in Western Canada.

Senator Tkachuk: I have a supplementary question. According to an Access to Information Request made public one week ago, it was revealed that the minister responsible for WED made not one but two different promises and commitments to pay Western Diversification dollars to finance a new hockey arena in Winnipeg.

Under what public policy would such a hockey arena fall? Would a hockey arena fall under "regional disparity" because Winnipeg is perceived by the minister as some sort of destitute part of the country, or would it fall into the area of diversification, joining the thousands of other arenas that we happen to have in Western Canada?

Senator Fairbairn: Honourable senators, first, the City of Winnipeg is one of our most vibrant communities not just in Manitoba or Western Canada but in this entire country. When questioning the kinds of improvements that the minister has tried to direct within that province, the answer is that he is attempting to create jobs, to expand opportunity, and to increase the economic base in those communities, including the great city of Winnipeg.

Senator Tkachuk: I agree that Winnipeg is a great city, but now we have a third mandate for WED, which is that of a job creation agency. WED cannot be everything. If its mandate is to diversify the economy, please tell us how the building of an arena in Winnipeg will diversify the economy of Western Canada? If WED is to address regional disparity, how will a hockey arena in Winnipeg address regional disparity?

Senator Fairbairn: The question of economic diversification, wherever it takes place in Canada, carries with it the anticipation that, in the improvement of these economies, groundwork will be laid for greater job opportunities for Canadians. I do not believe there is anything within any of the regional agencies to exclude these kinds of joint responsibilities and joint expectations. The reason for the existence of these regional agencies is to improve the economy, the opportunities, the diversification and the employment opportunities in their areas.

Senator Olson: Does the honourable senator have a clearer understanding of the situation now?

[*Translation*]

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

FILLING OF VACANT POSITIONS WITHOUT COMPETITION—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: Further to the answer the Leader of the Government in the Senate just gave my colleague, remember that last week I asked this question: With all those investments in infrastructures, how did your government manage to lose 56,000 jobs in the construction sector? During the election campaign, this government talked a lot about restoring integrity in the Canadian government's operations.

Could the Leader of the Government give this house the assurance that, in the course of its routine business operations, the Canadian International Development Agency does not award contracts without a competition?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am not intimately knowledgeable about the regulations governing CIDA, but I will certainly take my honourable friend's question to the minister responsible and bring the answer back.

[*Translation*]

Senator Nolin: Honourable senators, when the Leader of the Government makes these inquiries, or asks the minister to make them, could she ask him to find out whether any individuals or businesses with a family connection, in other words, cousins, sons or daughters of parliamentarians in your government, were hired on a contract basis, without competition, by the Canadian International Development Agency?

[*English*]

Senator Fairbairn: I will take that question as notice. If there is any further information which my friend can provide to help the process along, I will be glad to receive it.

[*Translation*]

Senator Nolin: I will provide this information as soon as I receive a reply from the Leader of the Government.

[*English*]

BUSINESS OF THE SENATE

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ON FIREARMS LEGISLATION—VOTES ON AMENDMENTS—REQUEST FOR ADVICE ON PROCEDURE

Hon. Herbert O. Sparrow: Honourable senators, the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-68 contains 14 amendments. The amendments and the bill will be considered, I understand, at 5:30 p.m. on Wednesday.

Is there provision for a vote to be held on each of the amendments in the report, or must the amendments all be voted on in one vote?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, that is a question which should be more properly put to His Honour the Speaker.

The Hon. the Speaker: It is not normal for His Honour to answer, but if it will assist the Senate, I will do so.

Some Hon. Senators: Hear, hear!

Senator Doody: Well returned, sir.

The Hon. the Speaker: The question before the Senate is whether the report of the committee is to be adopted or not. Therefore, the question will be put on the whole report and not on individual clauses within that report.

Senator Sparrow: If additional amendments are made to the report in this chamber, will those amendments be considered individually, or will they be lumped in with all the other amendments in one vote?

Senator Doody: They certainly cannot be put to the committee.

The Hon. the Speaker: Honourable senators, again, do I have leave of the Senate to reply?

Hon. Senators: Agreed.

The Hon. the Speaker: As I understand the procedure, if the vote is at 5:30 p.m., we will be voting on the report of the committee as a whole report. We will then proceed directly to third reading. There will be no interval providing for any other amendments. Sequentially, by the decision of the Senate, I believe that is the procedure.

• (1450)

Senator Sparrow: Honourable senators, I therefore ask His Honour whether it is correct that there is no provision for an individual senator to move an amendment to the report that will be voted on separately; or no provision for an individual senator to move an amendment to the bill itself.

The Hon. the Speaker: Amendments to the report may be proposed. What is before the Senate is the report of the committee.

Senator Sparrow: Your Honour, that was not the question. Due to the fact that Bill C-68 is not before the chamber at this time, is there any provision for a senator to move an amendment to the bill and have that amendment considered and voted on by the Senate as a whole?

The Hon. the Speaker: That can be done by proposing an amendment to the report.

Senator Sparrow: Does Your Honour mean to say, "not to Bill C-68 itself"?

The Hon. the Speaker: Essentially, what is before the Senate is the bill which is being reported from the committee, with amendments. Further amendments can be proposed to that report.

Senator Sparrow: Normally, at the third reading stage of a bill, a senator has the privilege of moving an amendment. Has that right been removed from honourable senators as a result of the original vote in the Senate?

Senator Lynch-Staunton: Yes.

Senator Sparrow: Therefore, we do not have the right to move an amendment to Bill C-68.

The Hon. the Speaker: Honourable senators, the Senate has agreed that the vote will be held at 5:30 p.m. tomorrow, and that all matters would be disposed of then, which means that third reading will follow immediately. However, nothing prevents any senator from proposing an amendment to the report, which will have the same effect as proposing an amendment to the bill.

Senator Sparrow: Your Honour, it is not normal procedure that we have no opportunity to amend Bill C-68. Your Honour is saying that there is provision for amending the report, which does not amend the bill itself.

The Hon. the Speaker: It does because the report amends the bill. Any further amendments will further amend the bill.

However, I do not think that we should proceed to discuss this matter here in the chamber during Question Period. Perhaps the honourable senator and I could have a discussion later.

SOLICITOR GENERAL

EFFICACY OF SECURITY ARRANGEMENTS AT RESIDENCE OF PRIME MINISTER—REQUEST FOR RESULTS OF INVESTIGATION

Hon. Consiglio Di Nino: Honourable senators, I have a question for the Leader of the Government in the Senate. Perhaps I am being a little paranoid here, but the responses received to the inquiries of my colleagues on this dastardly deed dealing with a previous prime minister are merely a pointing of fingers at the RCMP. In effect, the government is saying, "The RCMP is at fault. They are the ones who are to blame if any blame is to be placed."

This brings me to another incident which has been discussed in this chamber, namely, the unfortunate incident of the break-in at the Prime Minister's residence. In regard to that matter, we are being told that the RCMP is at fault and that we will hang them because they have made all kinds of mistakes.

Because of the effect this will have on the morale of the RCMP — and, unfortunately, I think it is happening too often across the country to other police forces as well — could the minister find out for us whether the alarm system was really not functioning or whether it was turned off? If it was turned off, who turned it off? Also, were there other remedies available to the Prime Minister and Mrs. Chrétien to call upon the services of police forces that they may not have used?

I am concerned that so much blame is being placed on the RCMP unnecessarily.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I think everyone in this chamber would agree and applaud when I say that the RCMP is one of the outstanding police forces anywhere in the world.

Hon. Senators: Hear, hear!

Senator Fairbairn: Its activities, both nationally in the provinces where it operates as the provincial police force and internationally, are to be viewed with great pride by Canadians. That is fundamental to my response.

The Solicitor General has received a report on the situation surrounding the events two weeks ago at 24 Sussex Drive, the residence of the Prime Minister. He has indicated that he will try to make the findings of that report as public as he can under the requirements of security. He will, I am sure, do that.

The Senate will know, from public statements that have been made, that any shortcomings that existed at the Prime Minister's residence and the grounds have been addressed already by the RCMP, and there is every confidence that this kind of situation will not arise again.

Senator Di Nino: Honourable senators, could the Leader of the Government attempt to obtain an answer to the question that I asked vis-à-vis the alarm system?

Senator Fairbairn: I cannot make any promises, honourable senators, but I shall try.

JUSTICE

MINISTER'S VIEW ON EFFICACY OF JAILING NON-VIOLENT YOUNG OFFENDERS—APPLICATION OF SAME PRINCIPLE TO TRANSGRESSORS AGAINST FIREARMS LEGISLATION—GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, in today's edition of that great Liberal newspaper, *The Toronto Star*, there is an article under the signature of Tim Harper, Ottawa bureau correspondent. The headline of the article reads: "Jailing youths a waste justice minister says."

The article states, in part:

> Too many young, non-violent offenders are behind bars in this country, costing taxpayers money and doing nothing for victims of their crimes...

The Minister of Justice is quoted as saying in this article:

> The most important thing we can do is restore and rebuild public confidence in the youth justice system....The system will not be effective unless it's credible....There are huge chunks of money being spent locking up kids who are no threat to us...

The article continues:

> He said it costs about $100,000 a year to keep a young offender behind bars — up to $300,000 in the territories — with the tab totalling about $250 million each year for keeping non-violent offenders in custody.

Will the Leader of the Government in the Senate not undertake to try to convince her government and Mr. Rock, the Minister of Justice, that they should show more consistency in their approach to the justice system? There is no need to remind honourable senators that, later, we will be voting on Bill C-68, which contains a provision to jail non-violent people who are convicted of committing a second offence for a minimum of one year, and two years less one day for the third offence. Canadians in New Brunswick said no. Another Liberal government has told us that because the system is so overcrowded and so costly, they made a decision some months ago that, in order to reduce costs, they would hire a U.S. firm to supervise and keep an eye on the youth and other people presently in jail.

• (1500)

Senator Olson: What is the question?

Senator Simard: I am asking the Leader of the Government to undertake to try to convince her government and the Minister of Justice to take their time and reflect on some of these amendments that we are proposing. One such amendment deals with not criminalizing people found in possession of guns, so that they would thus not have a criminal record. Certainly, the options on penalties should be left to the judge, but such penalties should not include a one or two year jail sentence for non-violent people.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, we started yesterday, and will continue today and tomorrow, a debate on Bill C-68 and the report on that bill that has been sent to us by the Standing Senate Committee on Legal and Constitutional Affairs. I certainly would not wish to prejudge any voting that would take place tomorrow. I am sure that these issues, and the one mentioned by my honourable friend, will undoubtedly be raised and discussed during the course of the debate.

I return to the beginning of my friend's question concerning young offenders and the review that is taking place with respect to the provisions in our system to deal with them. I will certainly convey those comments to the Minister of Justice. As with all other parliamentarians, over the next while the Minister of Justice will be trying to find a better way of ensuring that our young people in Canada have the kind of opportunities that will prevent them from becoming entangled in the criminal justice system, as well as having the most protective and fairest way of dealing with those who find themselves in trouble with the law.

Senator Simard: I have a supplementary question: How can the government and the Leader of the Government in the Senate reconcile the philosophy, the spirit and the content of Bill C-68 with the statement of the Minister of Justice that I just read into the record here a few minutes ago? He admits that too many non-violent people are in jail.

Everyone realizes that this bill came into existence and is being pushed through — or rather, railroaded — in the Senate. The government could take another six months to reflect on these amendments if six months is required. No doubt this bill is before us only as a result of something that appeared in the Red Book.

However, Canadians are seeing clearer with every passing day, that not only will this bill be costly, but also it will not, to any extent, end the violence towards women and other people. In other words, by asking us to vote tomorrow on this bill —

An Hon. Senator: This is Question Period!

Senator Simard: — we are being asked to borrow on an empty promise.

Therefore, will the Leader of the Government consider withdrawing her motion that the vote be taken tomorrow, in order that the government might reflect on the bill that is now before us, and perhaps come up with an improved bill?

Senator Fairbairn: Honourable senators, that sounds like the beginning of my honourable friend's speech in the debate. The bill, as he knows, has been before us since mid-June. I would only say to my honourable friend that this is not the time for debating the legislation.

There are varying points of view on this legislation. The Canadian people also have a point of view. A great many of them are holding out hope that this bill will help do what my friend does not believe it can. Others would disagree with them.

We need a sense of security in dealing with criminal activity in this country. That is part of the debate surrounding this bill. Undoubtedly we will be hearing more of it as the day goes on.

FIREARMS LEGISLATION—EFFICACY OF RESEARCH OF MINISTER—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: My supplementary question is along the same lines, triggered by an article in *The Globe and Mail*. That article states, as Justice Minister Allan Rock put it, that time is running out on the bill.

My question is simple: As a member of cabinet, do you feel that the minister conducted proper research with respect to this bill? I have never seen so much confusion across the country on anything as I have seen on this bill. The minister, in this article, is blaming the Senate, and he has not done his research.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, an enormous amount of work, consultation, discussion, research, evaluation and re-evaluation has taken place on this issue over a period of more than one and a half years. I cannot comment on what may or may not happen with the —

Senator Berntson: The research is supposed to be done before a bill is drafted.

Senator Fairbairn: — with the other place. There is an interest in what is happening in this place, and how we are getting on with our responsibilities. Our committee has reported; the debate is in progress. We will be reaching some decisions tomorrow, and we will go on from there. It would be wrong of me to presume to predict what may or may not happen tomorrow.

ORDERS OF THE DAY

CULTURAL PROPERTY EXPORT AND IMPORT ACT INCOME TAX ACT TAX COURT OF CANADA ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-93, to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act.

Motion agreed to and bill read third time and passed.

• (1510)

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—VOTE DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Stewart,
>
> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, 22nd November, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I do not have anything to add on this motion and I will try not to repeat what has already been said on this side as to our feelings about Bill C-69. However, I want to comment on the fact that whenever senators on the other side have been speaking in support of the bill, their main argument has been not so much on the merits of the bill itself but on the assertion that the Senate should butt out of any interest in the electoral distribution process. "Butt out" is a rather crude term to summarize the use — by Mr. Milliken at one time, Minister Gray at another time, Senator Carstairs on more than one occasion, and Senator Fairbairn — of a quotation from Senator Flynn when he was Leader of the Government in the Senate when this chamber was looking at the Representation Bill, 1985. Senator Flynn, in proposing the bill, as quoted by Senator Fairbairn and others, said:

> In any event, I would say this is an area that almost exclusively concerns the House of Commons, and I think that we, as a non-elected chamber and as appointed legislators, are hardly in a position to tell the members of the House of Commons how they should proceed to draw the boundaries of their electoral districts.

We all have great respect for the former Senator Flynn, who held important positions here and in the Government of Canada. After hearing this statement used over and over again, I finally decided to get in touch with Senator Flynn to find out exactly what the sense of that remark was, and still is. His reply was, "Read all I said and read what I said after."

Honourable senators, I went to our Hansard, the *Debates of the Senate*, and here is what he said immediately after this oft-quoted statement.

> Nevertheless, if there were some major questions of principle, the Senate would certainly have a contribution to make.

At the time, the Senate was debating an amendment to the Constitution Act and to the Electoral Boundaries Readjustment Act to slow down the growth of seats in the House of Commons. The proposal was to change the formula so as to limit the number of members to 295 based on the 1981 census. The formula in place at the time would have seen membership in the House of Commons increase to 310, in 1991 to 343, and, based on projections in the year 2001, to 369. This fundamental change was more a technical amendment rather than scrapping a law and replacing it with another.

That was what the debate was all about. What Senator Flynn said at the time is what he said, but what Senator Fairbairn and her colleagues forgot to add is that Senator Flynn went on to confirm the responsibilities of the Senate, that when there is a question of principle, the Senate certainly has a contribution to make.

The principles involved in this bill are numerous. One of them is that the Government of Canada respect its obligation under the Constitution to engage in redistribution as soon as the figures of the previous decennial census are known.

Another principle, among many, is that the independence of the process be respected. Bill C-69 seeks to ensure that the next election is not based on the 1981 census. Certainly, the independence of the process is severely challenged.

Honourable senators, I had many notes to bring in support of my argument, but as I read the debate surrounding the Representation Bill of 1985 — a debate which started in December 1985 and went through to early February 1986 — I was struck by how the arguments used at the time by our friends opposite would serve me just as well. I feel, therefore, that if it is fair for our friends on the other side to quote colleagues on this side to support their cause, I can do the same to support mine. In this case, however, I will not lift the statements out of context. I will give their true meaning.

For instance, honourable senators, Senator Stewart told us in a very erudite and thoughtful presentation on this whole issue, well researched and certainly deserving of much praise, that one of the main functions of the Senate is to protect the interests of the provinces. He also went on to state that if that bill went through, according to him it would be unfair to British Columbia and Alberta as they would not have the additional seats to which they were entitled. To quote him, he said, "That is one reason why I believe that this whole venture is bad."

As I went on and caught up with other speakers, all of them questioning the purpose of the bill and its impact on a fair redistribution, I found the remarks of Senator Corbin, who took great issue with Senator Flynn's statement for four reasons. The first one was:

> ...we, as senators, are involved on four counts: first of all, as individuals, we are voters like any other Canadian who is entitled to vote...
>
> Second, it has been understood ever since the beginning of Confederation that the Senate speaks for the interests of the regions and the provinces...
>
> Third, senators are specifically involved in the adjustment process, as stated in clause 7 of the bill.

It said, as the current act says:

> ...any member of Parliament may make representations...

Of course, senators are members of Parliament.

He added:

> ...we are the chamber of sober second thought and of correction when the bills we get are badly drafted.

Honourable senators, we on this side are doing exactly what our friends felt was their obligations when they were on this side. No doubt the sentiments they felt then are certainly felt as deeply today.

Finally, Senator Corbin said:

> The Senate was established to uphold provincial and regional interests,and to protect the House of Commons against its own excesses.

Now, if any excesses have been created by the House of Commons through self-interest, it is certainly Bill C-69 which is before us.

Senator MacEachen also made a contribution along the same lines. He deplored the fact that capping or limiting the gross number of seats would mean that the Atlantic provinces would be penalized. He went on to add:

> The provinces of Ontario, British Columbia and Alberta, which, under this bill, and under the present law, are entitled to substantial increases in the number of seats, will be denied those increases...

Honourable senators, we are faced with the same problem today. If Bill C-69 is allowed to go through, it will more than likely mean that Ontario and British Columbia, which are entitled to additional seats, will not get them in time for the next federal election.

Last, but certainly not least, Senator Fairbairn, who quoted in part a key statement from Senator Flynn, also objected to the act. This is what she had to say:

> ...I wish to register my very real concern that the process which has produced this bill may aleady have jeopardized the opportunity of the Province of Alberta and its sister Province of British Columbia to finally claim the extra representation which they deserve in the House of Commons because of the growth of their populations over the last two decades.

Honourable senators, today we face the same problem the Senate faced in 1985; namely, to ensure that the redistribution process respect the constitutional requirement that the most recent decennial census be used as quickly and expeditiously as possible to allow for redistribution as much as possible for the full election. That has not always happened, unfortunately, because of the time needed to complete the process before the next election. What was said then is certainly valid today. I simply want to thank my colleagues opposite for allowing me to reinforce my arguments against Bill C-69 with even more convincing arguments which I can find, and have found, in their statements of 1985.

• (1520)

As for Bill C-69 itself, this bill is the result of a compromise reached between the two chambers after the government initially wanted to suspend the process for two years in a not too disguised attempt to ensure that the next federal election would be held on the basis of the 1981 census. We said that that was a bit much, that it was disrespectful of the constitutional obligation and, therefore, the delay should be shortened.

We compromised on June 20 or 21, 1995. Because of mismanagement — and it can only be called that — of the government's legislative program, the bill was not passed in time. The bill was not passed by the deadline. It still has not been passed.

The government now says that, when the deadline for passage of the bill had passed, the old process kicked back in; all that had been suspended when Bill C-69 was not passed has been reinstated. The maps were deposited in front of the House of Commons because they were nearly complete. Now we know where we stand.

We were told repeatedly that, if a deadline were not met, Bill C-69 would die on the Order Paper, and E-3, which is the current act regarding electoral redistribution, would be in place.

Honourable senators, these are not my interpretations; these are the interpretations of spokesmen for the government. For instance, Mr. Milliken moved third reading of Bill C-18 which then included a two-year delay. He stated then that if, at the end of that time, there is no new mechanism put in place by legislation, the redistribution commissions will restart their work.

When he appeared before our committee, Minister Gray, in reply to a question by Senator Jessiman concerning the logic behind the two-year suspension, said:

> We thought that it would be wise to avoid the possibility that, before new legislation updating the process was passed by both the House of Commons and the Senate, the time period of suspension would elapse and automatically the redistribution would start up again under the old rules.

In other words, the government wanted enough time to avoid the predicament that they are in now, which is that Bill C-69 was not passed in time, and the old process has kicked in. After I briefly summarize the original arguments, those arguments which were accepted by both houses, I will turn to their new argument.

Mr. Boudria, the whip of the government — a not insignificant figure in the leadership of the majority on the other side — said in the other place on June 15, seven days before the deadline, that if the bill were not passed by the House of Commons later that day in its final version, the bill might well die, because under one of its provisions a bill must be passed by the other house and receive Royal Assent no later than the 20th day of the current month.

He said the 20th but he obviously meant June 22. He added that if this bill, with all its provisions, were not passed that day at the latest, they would be unable to deal with the matter and the bill would die.

Senator Stanbury, on June 21, as the spokesman for the government in this chamber, said that our time was very limited and that both sides had understood those time limitations. He said that if the bill were to become legislation before the end of the suspension to June 22 provided by Bill C-18, it needed to be given Royal Assent that evening.

Senator Stanbury: That is the key: "before the end of the suspension."

Senator Lynch-Staunton: Government spokesmen were unanimous on the significance of the deadline: if the bill were not passed by that deadline, it would be a dead issue. But what happened on the morning of June 22?

Senator Beaudoin: The resurrection.

Senator Lynch-Staunton: The original process started up again, with the government saying that the bill was still on the Order Paper. We agree. Physically, the bill is on the Order Paper.

The government insists that, once it is passed, the current process will come to a stop again and the new process will kick in. This is in absolute contradiction to what was said during the entire debate in both chambers and in front of our committee regarding the significance of the deadline.

It is an interpretation of the deadline which we share. As far as we are concerned, Bill C-69 is a dead issue which should no longer be before us. But here it is, and we must decide this afternoon what to do with it.

What are we faced with? The House of Commons, within the next 10 days, will be reporting to the electoral commissions their recommendations on the maps which have been before the House for some time. This is the last step in a long process.

The electoral commissions will then make their own reports based on that advice and, by early June 1996, if the current process is allowed to be completed, the new maps will be confirmed and will come into force one year later, which is January 1997.

That means, based on the usual frequency of elections in this country, that it is more than likely that the next federal election — probably sometime in 1997 — will be held on the basis of redistribution which uses the 1991 census. It would mean that Ontario would get its four additional seats and B.C. would get its two additional seats.

What are the origins of Bill C-69? This bill was not a priority for the Government of Canada. It is not referred to anywhere in the Red Book. This bill came out of a sentiment of a number of malcontents new to the Liberal caucus, most of them from Ontario, who, by their own admission, on having seen the preliminary maps, suddenly realized that, if these were to be confirmed, their chances of re-election would be severely jeopardized because, in effect, they would have to start all over again.

One member, as matter of fact — and I paraphrase him because I did not bring his actual quote — said that he had worked for years to get to where he was, and that it was all being taken away from him.

We are being asked to endorse this proprietary attitude towards ridings: Once you are elected, it belongs to the member; forget about equal distribution, as extraordinarily difficult as it is to apply across this country; and keep in mind only the interests of the sitting members.

As a matter of fact, Bill C-69 would have played into the hands of these malcontents, despite the fact that they would have denied, at the same time, additional seats to Ontario and British Columbia.

To restart the process, which has already cost $6 million, would certainly cost another $6 million. We are now just a few weeks away from the end of a process which has not been criticized, except by those who find that their seats are being affected.

What is wrong with that? Why have a redistribution process if seats are not adjusted? Seats are not being adjusted to curry favour with sitting members; seats are being adjusted in order to ensure, as much as possible, that a vote, no matter where it is cast in this country, is as equal as any other vote. It is impossible to do so because of certain constitutional requirements, but the purpose of the electoral commission is to strive for that goal as much as possible.

If Bill C-69 is passed, the redistribution process will be delayed by one year. The calendar has already been fixed by Mr. Kingsley. It is public knowledge that if redistribution based on the 1991 census started immediately, it would not be confirmed and applicable until January 1998. Consequently, in all likelihood, the next election, in 1997, will be based, on population figures dating back to 1981, and neither British Columbia nor Ontario will have the benefit of additional seats according to its population.

• (1530)

Finally, Bill C-69 jeopardizes the impartiality of the process. At the moment, each province is entitled to three electoral commissioners: The chairman is named by the chief justice of the highest court of the province, and the two commissioners are named by the Speaker of the House of Commons. The Speaker has absolute autonomy and independence in selecting the two commissioners. There is no question that he or she, as the case may be, consults with the most interested parties and others. The selections must be pretty good under that system, because of all the criticisms that one hears about the process, never has there been one criticism about those three members in each province who contribute to improving the redistribution layout of this land.

Under Bill C-69, that changes drastically. The chairmen are still named by the chief justice in each province and the two members are each named by the Speaker of the House of Commons, except that Bill C-69 adds two words, namely, "after consultation". It does not say "after consultation with whom," but it does not have to say that because, as you go down the bill a little bit, it also says that, if 20 members of the House of Commons are dissatisfied with the Speaker's choices, they can move a motion in the House of Commons and call for a vote. In other words, members of the House are introducing two things: the possibility of a vote of non-confidence in the Speaker of the House of Commons; and, obviously, a key role in determining the majority membership of each commission. There is no question that if 20 members of the majority — or, combined with members of the minority — are unhappy with the selections, they can easily overrule the Speaker's decision.

The decision of the Speaker of the House of Commons, the final authority of our highest elected House, cannot be challenged. Unlike decisions made by our Speaker here, in the other place there is so much respect for his authority that none of his decisions can be overruled. Suddenly, the government introduces in an act the possibility, by resolution of the House, of overruling membership in a body which is to be as impartial as possible.

With Bill C-69, the government is trying to allow sitting members' input in the redistribution process right from the beginning by having a veto over the majority membership of each commission. That is also another question of principle. That, alone, is enough to reject this proposed act. That argument and all the other arguments, to which I have added those of our friends opposite to reinforce them, have convinced me and my colleagues that this country will be better off by allowing the present process to be completed and by having the maps, which will be confirmed and go into place in January, 1997. In so doing, there is a good possibility that the next election will be based on what is being completed now to confirm that British Columbia and Ontario will have their additional seats. Otherwise, Bill C-69 will, in all likelihood, see the next election fought on the basis of the present distribution.

That, alone, is enough reason for us to confirm that this bill is not in the public interest. It is in the interest of a small number of people who has its own selfish gains at heart more than those of the Canadian public and the regions of this country. That is what we are here for, and that is reason enough to vote against the motion.

Hon. Sharon Carstairs: Honourable senators, earlier the Leader of the Opposition suggested — and I will put it in that framework — that both myself and Senator Fairbairn said that there was no role for the Senate to play in this particular piece of legislation. That is the opposite to what Senator Fairbairn and I have said repeatedly. We have stated that there is a very clear role for the Senate, but the Senate in its entirety and not the Senate in committee. However, it has been the choice of those opposite to bury Bill C-69 in committee and not allow it to come to a vote on the floor of this chamber.

If all senators are to do their duty appropriately and to fulfil their mandate constitutionally, then one of the most fundamental parliamentary acts that they must participate in is a vote. That does not mean the few senators on the Legal and Constitutional Affairs Committee; it means all the senators. That is what we have urged over and over again, namely, that all senators vote on Bill C-69. That is why I urge you this evening to vote at 5:30 for that process to take place, so that all senators can stand up and be counted on Bill C-69.

My primary reason for speaking today is to address the remarks made earlier by Senator Beaudoin. Senator Beaudoin, in quoting from the entirety of Senator Flynn's speech — and in so doing, I think he made an important contribution — mentioned the same phrase that Senator Lynch-Staunton has just mentioned, namely, that the Senate had a real role to play in a matter of principle.

Senator Beaudoin then went on to address his remarks to the 25-per-cent rule, the rule upon which populations of constituencies should be based, except in extraordinary circumstances. It is that particular point that I wish to address today.

Honourable senators he believes that a 15-per-cent rule would be more equitable, and more representative of one citizen, one vote. However, honourable senators, the reality in Canada is that there is not a system of one citizen, one vote. We have, as a result of constitutional limitations and geographic disparity, tremendous differences in the number of votes per constituency that are eligible to be cast in any given election.

For example, we do not have a national quotient. We have provincial quotients. By their very nature, provincial quotients are extremely uneven. According to the 1981 census, upon which the present boundaries are based, the provincial quotient for P.E.I., for example, is 30,627 people. The provincial quotient for Ontario is 90,116 people. In other words, if you are a voter in Ontario, your vote is only worth one-third of a Prince Edward Islander's vote — perhaps that is appropriate — or, to put it another way, if you are an Islander, your vote is worth three times the vote of an Ontarian. Is that fair? Is it equitable? Of course it is not, but it is reality. It is reality because Prince Edward Island has a constitutional guarantee of four seats.

Honourable senators, that is not the only distortion.

• (1540)

What if we were to apply the 15-per-cent rule based on the 1981 census? I went back and looked at all of the constituencies in 1981 to see how many would be out of sync as the result of a 15-per-cent rule at the national level. The national quotient would be 90,000 minus 15, which would be 77,000; plus 15 would be 104,000.

I looked at the constituency boundaries and I discovered that, clearly, all four in P.E.I. would be in violation; two in Newfoundland; five in Nova Scotia; seven in New Brunswick; 12 in Quebec; eight in Ontario; eight in Manitoba; 10 in Saskatchewan; four in Alberta; two in British Columbia; one in the Yukon and both ridings of the Northwest Territories.

I decided I must look at those constituencies to find out what it was they had in common. All those ridings are in smaller provinces or in rural areas — and I include the north — or they are in both.

Honourable senators, this is the geographic reality of Canada. Surely these Canadians are entitled to some equality not just in their voting but in their representation. Surely their members of Parliament should be able to get to see them every now and then.

Madam Justice McLachlin, in the Supreme Court ruling in the so-called "Carters" case, which involved Saskatchewan boundaries, allowed the 25-per-cent rule in that province. Incidentally, we also have a similar 25-per-cent rule for communities outside of Winnipeg in Manitoba. This very important ruling states:

> It is my conclusion that the purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power *per se*, but the right to "effective representation"...
>
> What are the conditions of effective representation? The first is relative parity of voting power...
>
> But parity of voting power, though of prime importance, is not the only factor to be taken into account...
>
> First, absolute parity is impossible...
>
> Secondly, such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic... The concept of absolute voter parity does not accord with the development of the right to vote in the Canadian context and does not permit of sufficient flexibility to meet the practical difficulties inherent in representative government in a country such as Canada.

With those words, she upheld the 25-per-cent variation.

Let us be practical for a moment. The last time I spoke, I talked about the Churchill riding in northern Manitoba. Because I think it important that you learn a little more about Manitoba every time I speak, I will speak today about the Dauphin-Swan River riding.

The Dauphin-Swan River riding meets the 25-per-cent test but it does not meet the 15-per-cent test. It runs about 17.8 per cent over its provincial variance. This is a very large riding, 300 kilometres long, 180 kilometres wide, with a square kilometerage of 47,260.

That means you could take nine P.E.I.s and put them in the constituency of Dauphin-Swan River. If you took all of Nova Scotia, it would fit into Dauphin-Swan River. It takes a member of Parliament — and I have done it many times, let me assure you — six hours to get from one end of her constituency to the other because of geographical barriers, such as Rocky Mountain Park, that one must go through. That riding is four-and-a-half hours by car from Winnipeg. Flights are only available to the town of Dauphin, and occasionally to the town of Swan River at the opposite end of the constituency, but to nowhere in between. That is very typical of a Manitoba or Saskatchewan rural constituency.

In the last redistribution, honourable senators, only five ridings in all of Canada failed to meet the 25-per-cent rule. It is used very sparingly, using provincial and not national quotients.

If you use the 15-per-cent rule, you would still only have 51 ridings that violated the principle. All of those 51 ridings were in remote areas.

In my view, that is why, despite the fact that the Lortie Commission recommended a move to 15 per cent of provincial quotient, it was rejected by the House of Commons committee which studied this report. Geography, I would suggest, got in the way. The reality of Canada got in the way. Practicality got in the way.

While I agree that it is a very laudable goal to get as close to 15 per cent as possible, it would simply put far too great a hardship on some Canadians to get appropriate representation. It would also put far too great a burden on some members of Parliament.

Personally, I believe that if we were truly interested in real representation in Canada, we would be concerned less with percentage factors and more with real representation.

In the last election, the Progressive Conservatives received about 18 per cent of the popular vote, and yet they won only two seats. I confirmed that recollection with Senator Nolin today; he and I agreed on that number. Frankly, that was a miscarriage of justice. If we had had a proportional representation system in Canada, at the purest level, the Progressive Conservatives would have 43 seats. That is a situation, as I have said to Senator Comeau before, which would be preferable over the present makeup of the House of Commons.

Even with a modified form of proportional representation, the Conservative Party in the last election would likely have had at least official party status, which, again in my view, would have been an improvement over the present "state of the nation" in the other place.

Yet, proportional representation, or PR, in any form was rejected by the Lortie Commission.

I have addressed many of the other aspects of this legislation which Senator Lynch-Staunton has addressed today. Clearly, I disagree with the points he has raised. However, as I have urged senators before, I urge senators again today to give themselves the opportunity to vote and fulfil their democratic duty.

The chamber decided not to vote on this bill in July, preferring to send it back to committee. The bill has remained in committee but, until this morning, we did not hold a single meeting on this bill through July, August, September, October and three-quarters of November.

This is not democracy. We would all agree that we are supposedly the chamber of sober second thought. Surely we are not the chamber of no thought.

If senators are opposed to this bill, then they must exercise their conscience and vote against it. It is neither appropriate nor parliamentary to hide behind a committee and refuse to allow the ultimate in parliamentary procedure — the vote of the whole Senate chamber — to take place. I urge honourable senators to support this motion, which does not have the effect of passing the bill. However, it will force the committee to report to this chamber, and honourable senators can then vote on the bill as conscience dictates.

• (1550)

Honourable senators should remember that this bill is a House of Commons bill, as are most of the bills we receive. However, this one is special because it does not affect us. It affects Members of Parliament. It is the first time since 1963 that the process has been overhauled. It was not a government process but a committee process.

If we act quickly, as we were informed this morning, it is likely that the next election will be fought on new boundaries. If we continue to delay, I suggest that so too, perhaps, will the House of Commons, and new boundaries will not be put into place. An all-party committee of the House of Commons has urged us to get on with it. I do not suggest we get on with it, I simply suggest we vote on it.

Hon. Consiglio Di Nino: Honourable senators, I should like to take this opportunity to make a brief intervention on this subject.

For those in this chamber who do not know who Elbridge Gerry was, please allow me to put on the record the reason why his place in history is assured. Mr. Gerry was a signatory to the Declaration of Independence and he was Governor of Massachusetts in the early nineteenth century. He was not above being party to a little questionable manipulation to achieve his goals. Mr. Gerry was a rabid Jeffersonian, and in the election of 1812, the Massachusetts electoral map was redrawn to favour Jeffersonian candidates. I would like to believe this is why Canadians and Americans fought the war of 1812, but obviously that is not the case. After Mr. Gerry's changes, the map was so contorted that it looked like a salamander. As I understand it, that is how the term "gerrymandering" came about.

Honourable senators, we have all heard the comments of Mr. Sarkis Assadourian, MP for the Ontario riding of Don Valley North, the gentleman to whom Senator Lynch-Staunton referred a few moments ago. If we succumb to the Chrétien government's pressure to pass this bill, we can then immortalize Mr. Assadourian, and Canada will have its own term when referring to future manipulations of electoral boundaries. The term will be "sarkising."

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Honourable senators, pursuant to the order of your honourable house, this vote will be deferred until five thirty o'clock this afternoon.

NATIONAL DEFENCE

SPECIAL COMMISSION ON RESTRUCTURING OF THE RESERVES—REPORT REFERRED TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

Hon. B. Alasdair Graham (Deputy Leader of the Government), pursuant to notice of November 20, 1995, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the Report of the Special Commission on the Restructuring of the Reserves, tabled in the Senate on November 7, 1995;

That the committee present its final report no later than January 15, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

FIREARMS BILL

CONSIDERATION OF REPORT OF COMMITTEE—DEBATE SUSPENDED

On the Order:

Resuming the debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, for the adoption of the sixteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-68, an Act respecting firearms and other weapons, with amendments), presented in the Senate on Monday, November 20, 1995.

Hon. Jean-Louis Roux: Honourable senators, as a newcomer in the Upper House, I must admit that Bill C-68 is a real enigma to me. This bill was carefully drafted by senior officials of the Department of Justice and carefully reviewed by a committee of the other place, which heard from 64 organizations and six aboriginal associations, and whose report included over 11 amendments. This is a bill whose objectives are unquestionably commendable, since it seeks to protect the lives of innocent people and the right of every Canadian to enjoy a free, safe and peaceful life, and also to prevent the use of firearms for criminal purposes. It is a bill which, according to recent polls, enjoys the support of a large majority of Canadians across the country. Indeed, a recent Angus Reid poll shows that 64 per cent of Canadians support that initiative, while only 32 per cent are opposed to it. As for registration, 71 per cent of Canadians are in favour of such a measure, while only 26 per cent are opposed. Another poll conducted by Insight Canada Research shows that 61 per cent of Ontarians feel that firearms legislation should be more strict. This is a bill which has generated a very large number of letters addressed to our respective offices.

It is true that many who wrote, and most of them being from Western Canada, were opposed to Bill C-68. Personally, I made a point of answering each and every one of those letters and I sincerely hope that I helped change the opinion of their authors. However, just as many, if not more, letters came from people who expressed their concern at the large number of suicides, homicides and accidents resulting in death or injuries, which occur in Canada and which are due to firearms being stolen or not properly stored. Many of these testimonies came from young students at the elementary, secondary or college level. These letters had a profound effect on me because they came from those who represent the future of our country. This, then. is a bill which has all the basic elements for success.

• (1600)

Yet, the Senate deemed it advisable to have it studied again by its Standing Committee on Legal and Constitutional Affairs; something that is perfectly legitimate. During that committee's hearings, a large number of witnesses, including many who already had been heard by the House Committee, appeared to repeat their presentations for or against Bill C-68. Many were heard once again when some of the committee members held rogatory hearings, particularly in the West and in the Yukon, the two areas in which there is a heavy concentration of opponents to the bill. Many honourable senators still have serious reservations about the bill, so much so that the committee's report recommends sizeable amendments. These, in my opinion, diminish the bill to such an extent that, in several areas, it is only an empty shell.

Why is there such persistent opposition? I do not doubt the sincerity of the senators, the individuals or the associations still in opposition to Bill C-68 as it now stands, so the only conclusion I can reach is that this attitude is the result of a misperception and misinformation, as well as the intervention — ill-timed, under the circumstances — of such bodies as the all-powerful National Firearms Association, which went to considerable expense to make its point of view known. Among other things, it made the far-fetched suggestion that women should be given weapons so that they could protect themselves against potential criminal assaults. This was included in the Montreal Assault Prevention Centre's brief to the Senate committee. One could die laughing at such a suggestion if it were not so sad. An attitude such as this ought to be enough to discredit all groups that associate themselves with it.

In my opinion, this misconception and misinformation is what lies behind nearly all of the proposed amendments, whether they relate to collectors' weapons, museums, regulatory powers, penalties for non-compliance with the legislation, permission for the provinces to adopt the regime established by Bill C-68, or the aboriginal nations. In this address, I shall restrict myself to a brief discussion of the latter, the aboriginal nations, focussing more on the penalties provided for non-compliance with the legislation.

As I said before in my first speech on the subject, when the bill was introduced for second reading, I have the greatest respect, admiration and esteem for aboriginal peoples, and I deplore the fact that I know so little about the way they live, think and work.

However, I hope to remedy that very shortly by visiting a number of aboriginal communities, and I will ask my colleague Senator St. Germain who is unfortunately absent right now, to help me organize this trip. In return, I will set up some trips in Quebec through all the regions and to several urban centres, where we will meet brothers and sisters, fathers and mothers of the victims of the Polytechnique massacre. Maybe then, as a former police officer, he will better understand why Quebecers so wholeheartedly support Bill C-68.

I think aboriginal people, with their concern for protecting the rights they have under the Charter, are acting well within the law. However, although I am not in a position to establish the impact of Bill C-68 on aboriginal rights, I believe that many of the problems that were raised are connected more with the implementation and administration of the bill than the bill itself.

The current constitutional agreement provides that the federal government is responsible for penal justice. The legitimate exercise of this power extends to measures to control the use and possession of firearms. Aboriginal people would probably be the first to admit that their communities are not immune to crime, violence and accidental injuries caused by the use of firearms. Considering the ease with which guns circulate in Canada and the obvious ineffectiveness of the fragmented legislation that exists in the United States, uniform controls are essential to public safety. Bill C-68 will bring about a definite improvement in the well-being of every person in this country, and in my opinion, it provides for satisfactory mechanisms that also guarantee the rights of aboriginal people. Other honourable senators have discussed or will discuss this aspect in greater detail.

As for the amendment with respect to penalties for violation of the act, in my opinion it is more likely to protect criminals than honest citizens — farmers or hunters — who own long guns and fail to register them.

To violate the clauses relating to licencing and registration in Bill C-68 is considered a criminal offence, which was already the case for any violation of the requirements for restricted firearms in the legislation currently in effect. Considering the very real problem of gun smuggling and the wrongful use of unlawfully acquired firearms; the fact that some people have already stated they intend to ignore the act; and taking into account the discretionary powers already available to the police, governments and the courts to exercise leniency, it seems to us that the penalties provided in Bill C-68 are entirely appropriate. There are, of course, other solutions such as confiscating firearms, but we believe it is important to maintain the option of criminal proceedings.

Bill C-68 does not constitute an undue burden for gun owners, and it protects their legitimate activities while ensuring that public safety is not at risk. Although certain weapons associations advocate breaking the law, as evidenced by the *Firearms Digest*, we should not give in to this sort of threat any more than we would to tax fraud or the contravention of laws on drunk driving.

Clearly, when the law is inadvertently broken, there must be room for leniency. The police already have discretion in such circumstances. Thus, in the context of the present legislation, we have to admit that we do not often hear about seniors being arrested and charged for having failed to register their handguns. The police would ask them instead to register them, or to turn them in for destruction.

There are, nevertheless, a million restricted firearms in Canada, and the Criminal Code provides penalties for those who have failed to register such weapons. I defy anyone, however, to give me examples of honest citizens being subject to severe penalties for having broken this law. Accusations may certainly be made in particular circumstances, for example, in the case of a weapon that is improperly used or unsafely stored. We should point out that legal action for possession of unregistered handguns is for the most part accompanied by other charges, such as armed robbery. Similarly, criminal proceedings relating to matters of storage are rare, except where death or injury is involved. Generally speaking, the police will simply ask the owner to correct the situation. There is nothing to indicate that they will behave differently once the provisions in Bill C-68 on registration and licencing apply.

This is why I continue to believe that, thanks to the discretionary powers of the police, the administration and the courts, honest citizens run little risk of being accused of committing a criminal act in failing to register their long gun. Furthermore, since clause 112 provides for a lesser charge in the case of a first offence, it therefore gives another option to police still wanting to lay a charge in a case that is not serious.

On the other hand, failure to obtain a licence is, in my opinion, a more serious offence, for which adequate provision is made in sections 91 and 92 of the Criminal Code. It is essential to be able to lay criminal charges if a person fails to comply with these provisions, even if it is a first offence.

When it is clearly established that a person deliberately tries to get around the law, either because he does not approve of the legislation or is involved in criminal activities, more stringent sanctions are provided. Clause 92 provides for penalties when a person knowingly fails to register a weapon or obtain a licence; these penalties may be imposed if there is clear evidence of civil disobedience or concealment of possession of a weapon. However, the mandatory penalty under clause 92 applies only in the case of a second conviction. Considering the serious nature of trafficking in prohibited weapons, this is entirely justified.

Make no mistake: So-called honest citizens who do not pay their taxes can become criminals, just like those who receive welfare or unemployment insurance benefits and fail to declare their income. Why should it be otherwise for so-called honest citizens who own firearms? If they do not want to become criminals, all they have to do is obey the law, like any other Canadian.

The legislation must have enough teeth to have an impact on the worst offenders, while allowing for sufficient flexibility in dealing with those who break the law through ignorance or pure negligence.

The proposed amendment goes well beyond that. It not only abolishes the offence of failing to register a long gun, it also abolishes the mandatory penalty for failing to register prohibited or restricted weapons. The majority of prohibited or restricted weapons are handguns or automatic weapons, so why get rid of minimum sentences for possession of non-registered handguns or automatic weapons when such weapons are largely used to commit crimes?

Honourable senators, it is our duty to make improvements in the bills entrusted to us after they are passed by the House of Commons. In the case of concern to us here, this last amendment, like all the others recommended by the majority report from the Senate Standing Committee on Legal and Constitutional Affairs, does nothing to improve Bill C-68, calling for more severe controls over firearm possession and use. When the time comes for us to vote to adopt or reject this report, when we have to endorse or reject the proposed amendments, I implore you, honourable senators, to leave aside any partisan spirit, to think of making this a final tribute to the fourteen women who fell victim to a mad killer at the École polytechnique de Montréal on December 6, 1989, and to the 1,400 other victims who are shot to death each year in Canada. I implore you to think of their right to live in peace and happiness. I implore you to pass Bill C-68 without further delay, as it stands, and to reject the proposed amendments. We owe as much to Canada, which is still one of the best countries of the world in which to live.

[*English*]

• (1610)

Hon. Donald H. Oliver: Honourable senators, I rise today to speak to Bill C-68 and the amendments proposed to this bill by my colleagues. Before I deal with the merits of the legislation before us, I want to make it clear that I support controls on the use of firearms. As with all of us in this chamber, I oppose the use of firearms by criminals, and support measures which effectively keep guns out of the hands of criminals.

As with all law-abiding Canadians, I deplore the acts of violence perpetrated by Valery Fabrikant at Concordia University, and by Marc Lépine at École polytechnique. Those who had contributed so much to society, those who had so much hope for the future, had their lives ended prematurely. I grieve for them and for their survivors.

Honourable senators, I am also acutely aware of the violence perpetrated against both women and children by those who come into possession of deadly weapons. As a former member of the Board of Directors, and indeed as the President of the Halifax Children's Aid Society, I experienced the pain and suffering brought to families through abuse.

I support those parts of this bill which are designed to counteract smuggling of firearms, and perhaps the government could give thought to making them even tougher. As well, I endorse those clauses which increase the punishment for crimes committed with firearms. However, I cannot support the other main thrust of the bill, and that is to impose on Canadians a completely unnecessary gun registration system.

Why is such a system unnecessary? Canada already has firearms laws that are among the toughest in the world. This is what you have to do now in order to own a firearm in Canada: take an optional federal course and a mandatory test to qualify for a firearms acquisition certificate, or FAC; submit to a thorough police examination of your social, employment and psychological history when you apply for the FAC; go through an interview process with police and provide solid references; wait a mandatory 28 days before your FAC is approved and issued with a photograph.

If you want to hunt, you must: take a separate mandatory hunting course, which also covers firearms handling and safety; submit to another provincial written and practical test on firearms handling; abide by strict federal laws that govern dozens of firearms handling and safety situations. They include: storing firearms and ammunition separately under lock and key; rigid transportation standards, and tough guidelines for using firearms.

By adding to these criteria, the bill will not accomplish the goals set for it by the Minister of Justice.

Honourable senators, Minister Rock says:

> ...such a registration system can contribute to greater public welfare without imposing excessive constraints on hunters, farmers and target shooters.

I say, nonsense! The lowest cost estimate that I have seen anywhere for this registration system is $100 million. Many people say it is higher. All farmers, hunters and target shooters who own guns must register them under the proposed law. You and I know that these are not guns used by criminals, and we are not likely to run into many criminals in the local gun registration line.

Mr. Rock says:

> ...registration will encourage compliance with safe storage requirements.

Honourable senators, my further question to that is: how? We are required already by law to safely store them. Minister Rock claims that it will better prepare police who are answering a distress call, since they will know if a gun is in that particular house. Does this mean that police answering these calls will come with their guns drawn? I hope not. This could lead to more violence.

Honourable senators, the minister cites statistics which gun registration in no way will address:

> One woman every six days is shot to death... 1,100 Canadians commit suicide with a firearm each year.

• (1620)

As deplorable as these statistics may be, Mr. Rock's registration system will not save any of these people.

I received a fax this morning from the Nova Scotia Wildlife Federation dated November 21 and signed by a Mr. Tony Rodgers, Executive Director. He says, among other things:

> Our debate is at an end, the ball is now in your court. After all the personal examination you have given this bill, I'm sure you understand what a poor piece of legislation it is. This bill is riddled with excessive powers for any Minister of Justice, spiked with reverse onus provisions, illegal search and seizure and it will bring negative actions against law abiding citizens in a manner that could be paralleled to the illegal imprisonment of Japanese Canadians during the Second World War. It will do nothing to reduce crime. This proposed law is nothing more than smoke and mirrors.

There are many other main arguments against the bill, and some of them can be enumerated as follows:

First, the registration system envisaged is expensive. Some estimates for implementation range up to $500 million.

Second, the system will divert scarce manpower and money away from crime prevention and crime solving. Policemen will be behind desks, not on the streets.

Third, the system will be run by the cash-strapped provinces which will be forced to cut other programs in order to install a registration system.

Fourth, the system is virtually unenforceable. It would require a nationwide house-to-house search to see if it was being obeyed.

Fifth, the registration system per se will do nothing to keep guns out of the hands of criminals or to reduce domestic violence.

Sixth, gun registration is not like vehicle registration, because if a gun is not registered, criminal penalties result.

Seventh, the parts of the registration system affecting Canada's aboriginal people may violate their constitutionally guaranteed treaty rights to hunt for food. It has been argued that any interference with this right makes certain aspects of the bill unconstitutional, if not the whole bill.

Eighth, the bill purports to regulate shooting clubs, firearms ranges, and gun shows. These are clearly matters which should fall within provincial jurisdiction and therefore beyond the jurisdiction of the federal parliament.

Ninth, section 103 of the Criminal Code proposed by Bill C-68 would permit the federal government to initiate and conduct prosecutions for a Criminal Code offence. Traditionally, the federal government's power to prosecute offences has been placed in statutes separate from the Criminal Code. In this instance, since we are dealing with import/export offences, such offences should be part of the Customs and Excise Act, otherwise there could be a federal invasion of the provinces' administration of justice powers.

These are the reasons I oppose this bill and support the amendments introduced by the Honourable Senator Ghitter.

I endorse the motion passed by the Standing Senate Committee on Legal and Constitutional Affairs requesting the Minister of Justice to consult with the aboriginal communities of Canada. Such consultation should focus on whether the constitutional requirements, as set out in various agreements with the Yukon First Nations and the Cree people, are affected by the provisions of the bill.

I support the amendment that would allow provinces and territories, which are responsible for the administration of this bill, to delay implementation. This will allow them time to examine the costs, workability, and efficiency of the legislation.

Regulations made pursuant to this act should follow the same procedure as most other regulations. They should be laid before each house of Parliament for at least 30 sitting days before the implementation date. This will allow public inquiries to be held when appropriate.

I endorse the amendment which would decriminalize the offence of failure to register a firearm. It is unreasonable to threaten law-abiding citizens with criminal sanctions over the mere failure to register a firearm.

Along the same lines, the amendments proposed to clause 92(3) should be supported. This provision would punish a person who knowingly possesses an unlicensed, prohibited, or restricted weapon for a minimum sentence of one year on the second offence, and two years less a day for a third offence. These sentences take away from the discretion which a court should have to impose an appropriate sentence.

Finally, the Canadian Museum Association expressed strong concerns about the costs that the statute would impose on museums. It is estimated that over $4 million will be required from museums to meet the registration aspects of this bill. I support the amendment to exempt museums from licensing changes under the bill.

Honourable senators, I support the amendments proposed, and I urge all honourable senators to support them, as they will make Bill C-68 a more acceptable piece of legislation.

Hon. Eymard G. Corbin: If the honourable senator would allow me, I should like to put a question to him.

The honourable senator raised the matter of a letter he received from, I would not say a constituent, but somebody from his own bailiwick.

In my view, the letter appears to contain some excessive and unfounded language. Has the honourable senator contacted this person to lay out the facts as the bill recounts them? Does he intend to do so? Is he accepting at face value everything in that letter?

Senator Oliver: I thank the honourable senator for his question. I received this letter by fax this morning. It is from the Executive Director of the Nova Scotia Wildlife Federation, a well-known federation in the province of Nova Scotia. It was sent by Mr. Tony Rodgers, who is known to me. He has written to me on several other occasions about this particular piece of legislation, and I have responded. He must have read in the newspapers that this bill would be voted on some time soon, and he wanted to make sure that I knew his position.

I have not responded to this particular fax that I received this morning.

Hon. Paul Lucier: Honourable senators, when I spoke on second reading of Bill C-68 in this chamber on June 20, 1995, my first comment was that I would not support or vote in favour of Bill C-68 as presently written.

My main, stated objection to Bill C-68 was, and continues to be, registration of rifles and shotguns, and the negative effect such legislation would have on Canadians in general and northerners in particular.

Let me be clear, honourable senators: I understand and respect people who support Bill C-68. As previously stated, I support a great majority of the proposed legislation contained in Bill C-68. Responsible gun owners everywhere support the provisions of Bill C-68 which deal harshly with criminals who commit serious offences with guns, and they demand enforcement of mandatory prison terms for offenders who commit serious crimes with guns.

They also demand that law-abiding citizens who do not commit crimes with guns and who obey the law not be treated as criminals and not have their rights and freedoms trampled by a clause in Bill C-68 that is virtually unenforceable, unworkable, very expensive and, unfortunately, will not accomplish any of the goals claimed by those who support the legislation.

Suggestions that those who oppose Bill C-68 are in any way less compassionate of the need to protect abused women and children than anyone else are false, and, quite frankly, they do not constitute an honest argument.

Honourable senators, we, as members of Parliament, must continue to do whatever is necessary to prevent future abuse of women and children. Registration of shotguns and rifles will not accomplish this goal, but it will make life extremely difficult for a very large number of Canadians, particularly aboriginal people.

I wish to quote from a letter dated November 8, 1995 from Mr. Phil Fontaine, the Grand Chief of the Assembly of Manitoba Chiefs, as follows:

> There is no justification for imposing gun controls on our people. The regulatory scheme to be put into effect impacts disproportionately heavily on us. Whatever may be its effect on other Canadians, for us it is the death knell of our traditional rights and our current economic practices. And all of that is happening without there having been any, let alone adequate, consultation with our people.
>
> We urge you to stop this travesty in its tracks.

During the Whitehorse hearings, the Senate panel heard from Kaska Elder Charlie Dick, who has been providing food for his family and himself since he was a child. When this legislation is put into effect, that will be very difficult, if not impossible, to comply with for people like Mr. Dick, then their fears become very real. As stated very clearly by Mr. Dick, his gun is used to provide food for the family, not to harm anyone. Why the sudden urge to register his firearm?

• (1630)

Honourable senators, the amendments proposed by the Legal and Constitutional Affairs Committee have come as a shock to me. We have been dealing with registration of rifles and shotguns for quite some time now, and never once have I spoken to, or heard from, a gun owner who said, "I am opposed to registration but will accept it if the implementation date is 10 years instead of eight." In my opinion that amendment is a complete abandonment of those who opposed registration of long guns.

Honourable senators opposite have heard me state publicly in Whitehorse that I would support an amendment that would remove registration of long guns from Bill C-68. This amendment does no such thing. Therefore, I will not be able to support the motion for acceptance of this report. Yukoners and other Canadians who were hoping to see a removal of registration from Bill C-68 will be bitterly disappointed with the proposed amendment.

Senator Ghitter, in reply to my question yesterday, said Yukon Minister of Justice Doug Phillips agreed with the amendment. I accept what Senator Ghitter has said, although I was very surprised to hear that my friend Mr. Phillips had changed his position. I will not change mine.

In concluding my remarks, may I once again thank senators who took the time to visit the Yukon to allow people to express their views. Some people were for Bill C-68; many were opposed. However, as I have said in this chamber for the past 20 years, Canadians not living in this area should be heard by members of the Senate. I attended meetings in Vancouver and Whitehorse and have heard from people in Alberta. They were very grateful for the opportunity to be heard. I know it is not easy or cheap to hold hearings away from Ottawa, but it is the proper thing to do. I thank Senator Ghitter and all the senators who participated. I encourage the Senate to hold more hearings away from Ottawa.

Hon. Gerry St. Germain: Honourable senators, I have a question for the honourable senator. I agree that there should be an amendment to this legislation excluding long guns by way of hunting rifles and shotguns commonly used for the purpose of hunting and sporting practices. However, if the honourable senator feels that way, why then does he not move an amendment in this house? I am prepared to stand and support the honourable senator, because I honestly think that this bill will adversely affect the people in the region that he represents. Anything we can do to help the aboriginal peoples, which the honourable senator could support, should be done.

I am appreciative of the fact that the honourable senator took time to be with us. I am sure that if I had not conducted the hearings, he would have done so. I feel that it is so important that the honourable senator deal with this matter that I should like to see him introduce an amendment that would resolve the situation in the way in which he feels it should be resolved. Could I hear the honourable senator's comments on that suggestion, please?

Senator Lucier: Honourable senators, I thank Senator St. Germain, as I appreciated his input in the Yukon.

I was very surprised to hear Senator Oliver, for whom I have great respect, speak so clearly and so strongly against registration and then end by saying that he will support the amendments that will bring registration into law. You do it two years later, but you are doing it. That is the part that I find totally unacceptable. In answer to Senator St. Germain's question, his suggestion is exactly what we plan to do tomorrow.

Hon. Mira Spivak: Honourable senators, for approximately 60 years, I believe, Canadians have been required by law to register handguns. Since 1932, they have complied. There are one million handguns in Canada now registered to police, target shooters and gun collectors. Occasionally, handguns also find their way into the wrong hands. Still, they account for only 21 per cent of all criminal use of firearms. Rifles and shotguns, on the other hand, account for almost half of all criminally used firearms in this nation. After 60 years of politically acceptable and widely accepted registration of one type of firearm, we are now engaged in a debate on whether several million more long guns should also be registered. That is the fundamental question which has sparked most of the opposition, as Senator Lucier has so aptly put it.

Where you stand on this question depends upon where you sit. Approximately four years ago, I sat on the Senate committee that examined Bill C-17, the gun control legislation which the government of the Right Honourable Brian Mulroney and his justice minister, the Right Honourable Kim Campbell, presented to Parliament in 1991. At that time, Parliament listened to the majority of Canadians who called for strong gun control. The Senate quickly passed Bill C-17, which spent only three days in committee.

Bill C-68 is in keeping with the fundamental principles found in the law enacted by the Mulroney government. In fact, some of the critics of Bill C-68 are perhaps unknowingly attacking provisions that were implemented by that and previous legislation, for example, firearms acquisition safety courses and order-in-council powers. Furthermore, Bill C-68 does precisely what the standing Senate committee urged the government to do in 1991 in addressing the deficiencies contained in Bill C-17. Approximately four years ago, the committee listened to witnesses but did not propose amendments or delay the bill's passage, maybe because the majority in the House of Commons and the Senate was of the same political stripe. Instead, it wrote a letter to Justice Minister Campbell on December 12, 1991, urging her:

> ...to take the following steps towards ensuring that the use of firearms in Canada is as safe as possible, and that no further lives are unnecessarily lost.

Specifically, the letter asked for universal firearms registration, for better control over safe storage of guns and for better training procedures. In short, Bill C-68 does exactly those things that the Senate committee urged the government to do.

I have not changed my mind on this issue since the drafting of that letter. As Margaret Thatcher put it, "Some ladies are not for turning. Some gentlemen are very wet." I believe that the intent of the policy of that government was right then, and that the logical extension, Bill C-68, is right now. Of course, some senators will say that it is not the principle of the bill that is at stake but that the legislation is flawed.

The issue before us, then, is the amendments presented by the Standing Senate Committee on Legal and Constitutional Affairs. I cannot support these amendments, simply because I do not believe they improve the bill.

I want to outline the reasons why I do not think those amendments improve the legislation we have before us. First, I want to deal with the amendment that attempts to address a most important issue for all of us: The concerns expressed by aboriginal groups who fear that their treaty and aboriginal rights, guaranteed under section 35 of the Constitution, would be affected.

The amendment would require "full and considered consultations" with aboriginal peoples before the government could proclaim any section of the act or regulations that would "abrogate or derogate." Leaving aside the issue of whether the minister has or has not fully consulted with aboriginal communities; leaving aside the non-derogation clause in the bill reaffirming section 35 of the Constitution, making it clear that there is no government intention to breach any rights under section 35; paying attention to what Professor Hutchinson has stated before the Legal and Constitutional Affairs Committee — namely, that it is the courts who must decide whether aboriginal rights have been infringed upon, and, in so doing, they will not have recourse to any derogation clauses but will look for evidence of what has actually been done — does this amendment protect aboriginal rights more strongly than would the bill left unamended? The answer is clearly in the negative.

• (1640)

If you imagine that the amendment has passed and the bill has passed, what then? The amendment attempts to put a pre-condition on the exercise of power by the Governor in Council to bring the bill into force. If the minister or the Governor in Council feels that the pre-condition has been satisfied, they would presumably simply bring the bill into force. The question of whether the pre-condition had been satisfied would end up before the court. Therefore, this amendment is empty and powerless to protect aboriginal rights any better or any more strongly than they are already protected under section 35 of the Constitution and the provisions in the act to give that effect.

The charge that the bill itself is unconstitutional has certainly been laid in many quarters. I believe Senator Ghitter mentioned it quite categorically several times in his speech. Yet, Professor Hutchinson, the Associate Dean of Osgoode Hall, whom he did not quote, believes that it is not quite as simple as that since there is little Supreme Court guidance on the matter, and there are different views about the effect of the Constitution on aboriginal rights. However, he believes that, given the provisions in clause 117(*u*) of the bill, which gives the power to introduce special regulations in dealing with aboriginal people in Canada, and given the existing regulations in place, such as the requirement of firearms acquisition certificates which has been in place for 20 years without court challenge, the court would not find this legislation unconstitutional.

Professor Hogg, the eminent constitutional scholar, testified that the solution lies in the direction of relieving aboriginal people from paying fees and providing for the appointment of an aboriginal officer. In other words, it should be done in the regulations. Professor Hutchinson reiterated this point when he said:

> On the face of the legislation, it would seem to be on the limits of acceptability — the manner of administration will decide which way it goes.

Professor Quigley of the University of Saskatchewan states unequivocally:

> Regulations have the force of law in just the same way as statute.

He went on to state:

> In my legal opinion, aboriginal rights are not infringed by the gun registration scheme.

He states that, if we consider the *Sparrow* case:

> Before you breach an aboriginal right you must find that the provision in question is unreasonable, imposes undue hardship or denies the aboriginal people the preferred means of exercising their right. If you test the gun registration scheme against that in my opinion there is not violation.

Professor Quigley goes on to make another telling point on the issue of constitutionality. He reminds us that when statutes or regulations are attacked under the legislation, the court typically endeavours to save as much of the legislation as it can, and to strike down only the offending parts. Therefore, to strike down the fee, for example, would not necessarily jeopardize the entire registration scheme.

As I understand it, the testimony given before the committee seemed to focus the constitutional argument along these lines: Aboriginal peoples have a constitutional right to own and use guns, which non-aboriginal peoples do not. The government can regulate in this area, but it must do so according to the high standards set in *Sparrow*. Aboriginal rights are taken to be protected unless the government can show that they have acted with considerable trust, that they have consulted, and that the reason for regulation is a substantial and compelling good.

To summarize this very important issue, this amendment on the aboriginal rights question has no substantive impact on their protection. It will not satisfy the legitimate concerns of the aboriginal peoples, nor can the Senate be justified, based on expert testimony, in amending Bill C-68 on constitutional grounds.

A second key amendment concerns delayed implementation of the registration scheme by provinces and territories who oppose it. To begin with, the Legal and Constitutional Affairs Committee was given an opinion that an opting-out scheme would be unconstitutional. This variation on implementation in some provinces and territories which are opposed would make a national program unworkable. Those intent on criminal activity will certainly seek out guns in regions where guns are not registered. Further, it would not be possible to assess the true costs and effectiveness of the legislation, as the attorneys general of the provinces would like, if registration is not in place, say, between British Columbia and Quebec.

If registration is not universal, then law-abiding gun owners will be penalized in other ways. A gun owner in Manitoba, for example, could not take his unregistered gun across the border to hunt in the U.S. or to take part in a target shooting event. A gun collector in Alberta could not sell his long gun to a collector in British Columbia. Gun manufacturers in Scarborough and Peterborough could not continue to export their products.

It has also been suggested that businesses in provinces where registration is not in effect could not continue to import guns from the U.S. or elsewhere. These are not measures for law-abiding gun owners. All this, as has been pointed out, is to postpone the legislation from 2003 to 2005.

That brings me to a matter that has been called "decriminalization." In this regard, one amendment would remove from the Criminal Code the offence of possessing an unregistered firearm. The other would eliminate minimum sentences imposed for a second or third conviction.

Without amendment, the bill allows police and Crown prosecutors to use their judgment and distinguish law-abiding gun owners from others clearly engaged in crime. Police will charge some legitimate gun owners who fail to register their guns, perhaps after giving them a warning and time to comply with the law. They will charge them with the summary offence under the proposed Firearms Act that this bill allows. Despite what gun owners in the west have been told, on conviction, he or she will not have a criminal record.

Police also need the power to charge members of organized crime, gun smugglers caught with a large number of unregistered guns, or someone about to commit a robbery, with a criminal offence. If we remove sections 91 and 92 from the Criminal Code, as the amendments suggest, we rob them of that power. In the guise of decriminalizing the bill for ordinary citizens, we decriminalize criminals.

The one-year minimum sentence for a second conviction under section 92 of the Criminal Code also clearly applies to criminals, not to ordinary citizens who fail to register their guns. It would not cause to be jailed a gun owner who had failed to register and had been found guilty of a summary offence under the proposed Firearms Act. It would not apply to a gun owner who had defied the law and was charged again under section 91 of the code. It would apply only to criminals already convicted of a serious offence under section 92.

For criminals, a much stiffer, four-year minimum sentence for using a gun in 10 serious crimes is provided for in this bill. The amendment would not change that. However, it takes away the minimum sentence for criminals who acquire and supply unregistered guns, and who have been convicted at least once. The minimum sentence tells the courts that Parliament believes gun possession for underground trafficking, or motorcycle gang wars, or organized crime is a serious matter. That message should stand.

I want to make a couple of comments before concluding. First, on the issue of regional representation, it is not accurate to characterize the West as a region entirely opposed to this legislation. Let me name just a few of the groups in Manitoba, which fully endorse Bill C-68. They are the Brandon Police Service; the Children's Home of Winnipeg; the John Howard Society of Manitoba; the Manitoba Action Committee on the Status of Women; the Manitoba Child Care Association; the Manitoba Teacher's Society; the Manitoba Police Association; the Portage Women's Shelter; the Winnipeg Health Department; the Winnipeg Municipal Council; and the Winnipeg Police Service.

The Manitoba Action Committee on the Status of Women cites statistics that show Manitoba has the highest annual average number and rate of hospitalization from firearm injuries of any province. The same organization has called attention to the role firearms play in domestic violence and violence against women. In Winnipeg, in a six-month period, 150 firearms were stolen in 90 break-ins, mostly by young offenders. All across the country, thousands of organizations and virtually every police association, except Saskatchewan's, support the legislation.

The Chair of the Law and Amendments Committee of the Canadian Police Association, who testified before the committee in the Senate, had this to say:

> It is the view of the Canadian Association of Chiefs of Police that gun control generally, and Bill C-68 in particular, is a positive, preventive, and powerful piece of legislation which will reduce crime, save lives, and significantly assist in the work of police officers.

In a letter of November 17 to the Leader of the Opposition, the Canadian Association of Police categorically stated that they support Bill C-68 without amendment.

Your Honour, may I have just a few more minutes?

• (1650)

The Hon. the Speaker *pro tempore*: The rules require that I point out that the honourable senator's time has expired.

Is there leave for her to continue?

Hon. Senators: Agreed.

Senator Spivak: Thank you, honourable senators.

The police association stated in its testimony that it had canvassed its members extensively. Many people say their view does not apply to the ordinary cop on the beat. Not a single member among the rank and file of police officers called me to suggest opposition to the bill. I am sure my friends here would have received such calls had that sentiment existed.

That brings me to the subject of national unity, a subject on which Senator Ghitter waxed eloquent yesterday. I fully agree with Senator Ghitter that that should be our primary preoccupation in these parlous times, but with regard to this bill, it is no surprise that I view the matter slightly differently. It seems to me that national unity would be well served if we were to concentrate on the problems which this bill is attempting to address: issues of public health, safety, security in our cities, towns and rural areas, crime prevention and violence.

We need to recognize that the provisions of this bill with regard to registration constitute a difference of degree, not of kind, since we have had licensing and registration in Canada for many years. This should not be used as a bargaining tool in the debate on national unity, nor should the criminal law power be involved in the demands for devolution on the part of the provinces — an insatiable demand, I might add. The enthusiasm of provincial premiers to vest more power in themselves is universal and profound.

Andrew Coyne coined a new term over the weekend, "unapologetic federalism," which carries with it the notion that the federal government should perform a vital, integrative role in the nation's affairs while allowing the provinces to exercise their traditional powers.

The Senate's role is to assess legislation and also to pass good legislation. That is the target here. The role of the Senate is not simply to bounce the bill back to the House so that they can simply return it to us unchanged, or not at all. In the immortal words of Izzy Asper, the Senate is not "chopped liver." The Senate has a role and a responsibility in Parliament.

[*Translation*]

Honourable senators, as the tragic date of December 6 approaches, we must remember the 14 innocent young women who left us on that day. Their legacy should be a nation that has taken itself in hand.

[*English*]

Hon. Terry Stratton: Honourable senators, I have a question on behalf of the Swampy Cree Tribal Council from in and around The Pas. They represent 10,000 folks up there. They have stated quite clearly that they oppose Bill C-68 and any regulations that are to be defined under that act at a later time. They say this is just another example of the Government of Canada doing something to native people instead of doing what the First Nations governments want. It is now time to change all that.

How does the honourable senator respond to that comment? These people are clearly against the bill because they have not been consulted.

Senator Spivak: From what I have read of the testimony — I did not go everywhere that other senators went; I was at only one meeting in Winnipeg — it seems to me that what the aboriginal peoples want is to be exempt from this legislation.

Senator Stratton: They want to be consulted.

Senator Spivak: Perhaps some of them wish to be exempted. I am sure all of them wish to be consulted. If the minister has not consulted — and apparently, from what I gathered in committee, he has time to consult — the regulations will not be finally established until 2003. He said in his appearance before us that no rights —

Senator Watt: But that is after the fact.

Senator Spivak: Apparently, regulations in law are the same in terms of constitutional and legal value. That is what we have been told. I am not a lawyer. You are the lawyer, and I value your opinion.

However, if they are not suspended — and I asked the minister that question deliberately for that reason — then does the minister not have from now until 2003 to get it right? If he does not get it right, since there is not all that much jurisprudence on *Sparrow*, is it not up to the courts? *Sparrow* is a court decision.

I see Senator Andreychuk wincing. Put me right, please. That is my answer to you.

Hon. Lorna Milne: Honourable senators, the honourable senator is a pretty hard act to follow.

I must admit that I am a bit over-awed and a bit nervous, for I had really intended to postpone speaking in this historic house until I knew something more about its traditions and the opportunities that it can offer for bettering life for Canadians. However, I really cannot let pass this report from the Standing Senate Committee on Legal and Constitutional Affairs without imploring my honourable colleagues to defeat these amendments and to pass Bill C-68 as it was sent to us.

Senator St. Germain: On a point of order, is the debate continuing? I have a question for Senator Spivak.

The Hon. the Speaker *pro tempore*: I must recognize the honourable senator.

Senator St. Germain: I am being denied my question.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker *pro tempore*: Order, please.

I have recognized Honourable Senator Milne.

Senator St. Germain: I yield to the honourable senator.

The Hon. the Speaker *pro tempore*: I recognized the Honourable Senator Milne to make a speech. I did not hear the Honourable Senator St. Germain say he wished to ask a question. I saw him stand up. I interpreted that as his wish to participate in the debate. The traditional custom is that one goes from right to left, alternating. For that reason, I recognized the Honourable Senator Milne, thinking that the Honourable Senator St. Germain wished to speak in the debate, and not being aware that he wished to ask a question.

Senator Milne?

Senator Milne: Thank you, honourable senators.

I freely admit that my original reasons for supporting gun control were very emotional reasons. It is now 20 years and six months almost to the very day since my husband reported in the other place on May 28, 1975, that there had been a horrific incident in the Brampton Centennial High School. He reported, and I will quote from Hansard of that day:

> Mr. Speaker, it is with a great deal of grief and shock that I rise to advise the House that about an hour ago there was a major shooting in the town of Brampton —

I still cannot talk about it. I apologize.

> — as a result of which a high school teacher and a student were murdered and possibly as many as —

thirteen

> — other students injured by the same gunfire. I should like to ask the Solicitor General if he would pledge his efforts to have the —

RCMP

> — cooperate in any way they can with the local police relative to the gun issue and perhaps even question whether the government will seriously review gun legislation in Canada?

John Slinger, the 17-year-old who was murdered that day, was one of our son's best friends. As they were walking down the hall to go to their next class of "phys.ed.," John decided to use a washroom in the hallway while our son went on to the change rooms. Because of that innocent choice, one young man died and one young man lived.

Honourable senators, some of you will remember that day, for the sheer horror and shock that swept across Canada led directly to the passage of Bill C-51 in 1978. Many of the honourable senators opposite were deeply involved, as Senator Spivak was, with the passage of Bill C-17 by the last government in 1991.

Although that day in May 20 years ago was so personally traumatic, as you can tell by the tremor in my voice, I do not want to leave the members of this house with the impression that my emotions are still running away with my reason.

My friends, those two bills only began the process of giving our police forces the tools that they need to reduce street crime; to deal with the domestic violence and to increase community safety — goals to which I know we are all committed.

• (1700)

Although I have strong reservations about many of the proposed amendments to this bill that are included in the committee's report, I will confine my remarks to two specific features of these amendments. The first is the decriminalization of the bill which is dealt with in proposed amendments numbers one, two, six, seven, nine and ten, which remove all long gun possession offences from the Criminal Code.

As it stands, honourable senators, Bill C-68 provides for a first-time summary conviction offence which is aimed at first-time offenders who may have failed to register their long guns for some reason or another, including ignorance of the law. This was developed with input from many groups to address truly inadvertent factual situations. However, the bill also ensures that more serious second and repeat offences would be indictable under the Criminal Code. This provision was very carefully tailored so as not to trivialize the conduct of people who act in deliberate and repeated defiance of the law — in other words, deliberate criminals. Removing this provision eliminates any deterrent factor for not obeying the law; in fact, it trivializes the entire bill.

What effect would this amendment have on the following situations? For example, let us assume that a stash of long guns is discovered on the premises of one of these infamous motorcycle gangs whose members are suspected of selling sawed-off shotguns. The amendments would mean that these people could only be charged with a minor summary Firearms Act offence.

What if the police stopped someone with a long gun who appeared to be on their way to commit a convenience store robbery? Again, this would lead only to a tap on the wrist for the potential robber.

The bill as it stands — the unamended bill — seems to strike a good balance between protecting those who inadvertently fail or forget to register their long guns, and those who fail to register because of a serious criminal intent.

Honourable senators, one should consider that the justice system is not a cold, calculating computer. As my friend Senator Roux pointed out, police and prosecutors have discretion. It seems that critics of the bill have no faith in our system. I differ with that assessment. I believe that we can place our trust in the hands of the police and Crown prosecutors not to prosecute when there is a clear case of inadvertent omission. The objective of our justice system is to foster compliance, not to look for opportunities to fill our jails.

A person who reaches the stage where minimum sentences will apply is a person who has ignored numerous warnings from authorities and has been charged and convicted summarily of refusing to register a firearm. If such a person still refused to comply, he or she would merely be showing wilful disregard for the law. Such contempt for our system of justice should be treated harshly.

Honourable senators, I recall in committee the point was made several times that other jurisdictions with universal registration have seen only about a 60-per-cent compliance. This point was made to suggest that no system can gather sufficient data to make a registry useful to the police. Clearly, that fact really demonstrates the need for the option of resorting to criminal sanction in order to correct this non-compliance, and give the system some teeth.

As well, honourable senators, the amendment to the transitional provisions of the bill is structured in such a way, by deeming people to have licences and registration certificates by at least January 1, 2001 and January 1, 2003 respectively or such other later date as is prescribed, that licensing and registration of long guns need never come into force. Passing these amendments would completely gut the registration aspects of this bill, and for this reason I strongly oppose these amendments. I urge honourable senators to oppose them as well.

I also wish to touch on the powers of the Governor in Council because there was some reference in committee to secret proceedings by government which would somehow make people criminals without their knowledge. Although regulatory powers are not common in the Criminal Code, they do exist. In fact, the current Criminal Code provides that the Governor in Council may designate a type of firearm as a restricted or prohibited firearm by way of regulation. What happens is that these regulations come into force. Parliament may then examine them

if it wishes. This regime was created in 1968 and confirmed and expanded by Justice Minister Campbell's Bill C-17. If a weapon were designated "restricted" or "prohibited" under the existing legislation and a person failed to register it, surrender it or grandfather it, under our present law, they would already be guilty of a criminal offence. This is the normal regulatory process and it is already law.

For everything except the definition of restricted and prohibited weapons, the bill as proposed by the minister would delay implementation of any regulation relating to gun control by at least 30 sitting days or, as you know, a number of months. I believe the minister really deserves to be applauded for advancing such a new and open process. What is new in this proposed legislation is that Parliament will have to give a full airing of all these regulatory aspects of the gun control system before the regulations can be enacted, with the exception of the designation of restricted and prohibited weapons. These restriction and prohibition orders currently fall into the category of regulations that do not require advance parliamentary review before coming into force. Their status is not changed by the bill.

The amendments proposed by the committee seek to place these prohibition and restriction orders also in the class of regulation that requires 30 sitting days of review before implementation is possible. Creating such a delay would be inappropriate in this instance as the minister really needs to be able to continue to deal swiftly with any sudden developments in the weapons market to keep Canada free of these new and more lethal weapons.

Honourable senators, just so no one thinks this whole approach to regulation is new, I can provide other examples of this kind of regulation. The Narcotics Control Act allows the Governor in Council to designate certain substances as "controlled" substances for the purposes of the act. The act empowers the government to control dangerous drugs, in a general sense, but it is up to the Governor in Council to decide what specific substances constitute dangerous drugs. Other examples of such federal acts are the Hazardous Products Act, the Food and Drugs Act and the Explosives Act. This is nothing new.

Second, I should like to speak to amendment number 14, which would allow provinces and territories to delay implementation of this act — in effect, to opt out for up to 10 years. I want to reinforce what Senator Spivak said because, in my opinion, this is potentially one of the most dangerous provisions of all the proposed amendments. I believe it is illegal as well as unconstitutional, for it would create two different Criminal Code regimes in Canada which would be operating at the same time, an almost impossible administrative nightmare, not only for the police forces but also for Customs Canada.

Implementation of licensing and registration is already in this bill. It is to be phased in over a long period of time, six and eight years respectively. The longer we wait, the worse the problem becomes.

I also want to assure Senator Ghitter that I did not hide away here in Ottawa or in this room. I consulted with Calgary city aldermen, among others who assured me — some of them were quite heated about it — that we should, "Get on with the job, stop talking about it and, for Pete's sake pass Bill C-68."

Calgary City Council was one of the groups approached by senators as they wended their way through the West during the last few weeks. I understand that they turned down the opportunity to appear before the senators. They repeated their continued support for the Canadian Federation of Municipalities and their strong support for this bill.

This opting-in amendment has not been given enough serious consideration in view of the damaging consequences it would have on the appropriate and equal operation of the law. For example, by having two different Criminal Codes operating within different jurisdictions, a long gun owned by someone in an opt-in province — for example, Quebec — could not be sold to someone living in an opt-out province — like, perhaps, Ontario — because a licence would be required for that sale.

• (1710)

The Hon. the Speaker *pro tempore*: The honourable senator's time has expired. Is there leave for her to continue?

Hon. Senators: Agreed.

Senator Milne: Thank you, honourable senators.

I believe that this amendment would lead to, and even promote, interprovincial smuggling. All provincial and territorial governments have stressed to the Senate committee the need to have national standards.

This amendment also raises issues under the Canadian Charter of Rights and Freedoms. Under the old Part III of the Criminal Code, the transfer of a long gun to someone without an FAC is punishable by up to two years' imprisonment. Under the new Part III, the same action is punishable by up to five years' imprisonment. This raises questions about the equality guarantee within the Charter and the right not to be deprived of liberty except in accordance with the principles of fundamental justice in the Charter.

I echo what Senator Carstairs said yesterday: By the division of powers in the Constitution Act of 1867, the provinces do not have the authority to legislate criminal law. By requiring them to pass a provincial statute to opt in, this amendment, in effect, gives them that power. It seems to me that this is unconstitutional.

Another point to consider is the difficulty that such uneven application of this law would cause Canada Customs. Importation and exportation are clearly and exclusively areas of federal law-making power. Under Bill C-68, a licence and a registration certificate is required to bring guns into the country, or to take them out. How could authorities possibly enforce different export rules among different provinces? What about foreign visitors or groups of hunters coming in? Would a licence certificate be issued for someone, for example, who arrives at the borders of an opt-in province but who intends to travel to an opt-out province? Should customs officers be trained differently according to where they will be stationed? How will the public perceive these differences? We cannot pass a bill that provides for differences in the application of the law according to province and territory. It seems to me that this is clearly bad law.

I might add that there are immense cost implications as well. Application of the bill as it stands was intended to be a cost neutral system, but this was predicated upon revenues received from registration across Canada, of gun owners who become licensed across Canada; not on some unknown fraction of that amount.

To sum up, the opting-in amendment would make this legislation so confusing, not to mention vague, that it would become unenforceable and unworkable. As I said before, it is simply bad law.

The bill will not prevent every crime under every circumstance, and I do not think anyone has ever claimed that it will. One can argue for or against any specific amendment, but I urge my colleagues not to lose sight of the forest through gazing at the trees. This bill will help in the continuing struggle to prevent Canada from becoming another gun culture.

A group of people was here from Montreal whose relatives had been slaughtered six years ago, and I wish to quote from one of them. Catherine Bergeron, whose sister was slain by Marc Lépine, urged this house, if I may paraphrase her, to go beyond partisanship; to go deep within ourselves to adopt the bill just as it is.

I urge honourable senators to join with me in defeating the amendments contained in this committee report, and sending Bill C-68 back to the other place in unamended form so that the process may begin.

Honourable senators, if I could ask your indulgence, this has been sort of an unusual maiden speech. Perhaps I will have the opportunity at some future time to give a more proper kind of maiden speech. This has been a little bedraggled, perhaps, and belated, but I should like to extol the many virtues of the place where I live. It is a wonderful place, a cosmopolitan place, and I should like to leave you with that thought rather than remind you of the traumatic and tragic incident that took place there 20 years ago.

The Hon. the Speaker *pro tempore*: Honourable senators, it being 5:15 p.m., and a vote having been ordered by the Senate for 5:30 p.m., pursuant to rule 67(3), I must interrupt the proceedings so that the Senate may proceed to the deferred division on the motion respecting the committee report on Bill C-69.

Hon. Herbert O. Sparrow: Your Honour, considering the lateness of the day, would it still be possible to make an amendment tomorrow, or is there a time restraint of a day's notice before an amendment can be made? I have been waiting to speak.

The Hon. the Speaker *pro tempore*: There is no requirement for a day's notice to make an amendment.

Senator Sparrow: Then it can be made tomorrow. Thank you.

Debate suspended.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT NEGATIVED ON DIVISION

On the Order:

> On the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Stewart,
>
> > That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishement of electoral boundaries commissions and the readjustment of electoral boundaries.

The Hon. the Speaker *pro tempore*: Honourable senators, the practice would be to ring the bells. Strictly speaking, the bells are supposed to ring for 15 minutes.

• (1730)

Call in the senators.

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Lewis
Anderson	Losier-Cool
Austin	Lucier
Bacon	MacEachen
Bonnell	Marchand
Bosa	Milne
Bryden	Olson
Carstairs	Pearson
Cools	Perrault
Corbin	Petten
Davey	Pitfield
De Bané	Poulin
Fairbairn	Riel
Gauthier	Rizzuto
Gigantès	Robichaud
Grafstein	Rompkey
Graham	Roux
Haidasz	Stanbury
Hays	Stewart
Hébert	Stollery
Kenny	Thériault
Kirby	Thompson
Kolber	Watt
Lawson	Wood—48.

NAYS

THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
Balfour	Lavoie-Roux
Beaudoin	LeBreton
Berntson	Lynch-Staunton
Bolduc	MacDonald (*Halifax*)
Buchanan	Meighen
Carney	Murray
Cochrane	Nolin
Cogger	Oliver
Cohen	Ottenheimer
Comeau	Phillips
DeWare	Prud'homme
Di Nino	Rivest
Doody	Roberge
Doyle	Robertson
Eyton	Rossiter
Forrestall	Simard
Ghitter	Spivak
Grimard	St. Germain
Gustafson	Stratton
Jessiman	Sylvain
Johnson	Tkachuk
Kelleher	Twinn—50.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, before we proceed to the next order of business, which will be Bill C-68, I wish to advise you that, as there is a probability that we may be sitting later this day, the cafeteria will be open until 2030 hours and the Parliamentary Restaurant will be open until 2100 hours.

We will now proceed with Bill C-68.

FIREARMS BILL

CONSIDERATION OF REPORT OF COMMITTEE—
DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, for the adoption of the Sixteenth Report of the Standing Senate Committee on Legal and Constitutional Affairs, (Bill C-68, respecting firearms and other weapons, with amendments), presented in the Senate on Monday, 20th November, 1995.

[*Translation*]

POINT OF ORDER

Hon. Marcel Prud'homme: Honourable senators, I rise on a point of order. Last week we said we would vote on Bill C-68. There was talk of the possibility of a somewhat earlier vote, but no time was specified.

You know that, tomorrow, the Secretary General of the United Nations will be visiting. A number of people are involved. We want to be here to vote. We should know the time of the vote, so we will not be taken by surprise. Could we know exactly what was agreed on regarding the vote and the exact time it will be held tomorrow?

The Hon. the Speaker *pro tempore*: It is the decision of this house that the vote will take place at 5:30 p.m. tomorrow, and that the bells will sound at 5:15 p.m.

I have received no other notice, unless the senators have reached agreement among themselves.

[*English*]

• (1740)

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, it is true that when we discussed the house order for a vote at 5:30, the possibility was raised that, with unanimous consent, the vote might be advanced. Indeed, the proposition was put forward by Senator Prud'homme at that time. I do not foresee at the present time that that vote would be advanced to earlier than 5:30 because of the number of honourable senators on both sides of the house who have indicated that they would like to speak to this very important piece of legislation. I would anticipate, at least from this side — and I would await comments from the Deputy Leader of the Opposition — that we will be debating Bill C-68 almost up to the time of the vote tomorrow afternoon.

Senator Berntson: Honourable senators, I think we have more interest in this debate than we have time for the debate. I agree with my colleague opposite, and I suggest that we put all musings aside and decide now that we will have the vote as previously indicated.

Hon. Consiglio Di Nino: Honourable senators, Canadians from across the country have passionately presented their views on both sides of this issue. I have attempted to listen to all, and have tried to keep an open mind.

The Hon. the Speaker: Honourable senators, could I please ask for some silence so that the honourable senator may continue?

Senator Di Nino: Thank you, Your Honour.

Honourable senators, before I go any further, let me confess that my personal opinion on gun ownership is both extreme and unreasonable. I do not own nor do I intend to own a gun. If I could, I would ban all guns. But, alas, my Pollyanna stance ignores the Canadian reality.

Over the past several months, I have heard supporters of this legislation, an impressive list of respected Canadians and Canadian organizations, put forth positions with which I can identify. I must admit that, at the outset, I generally supported their arguments.

The Hon. the Speaker: Honourable senators, could I please ask honourable senators who need to have conversations to please have them outside of the chamber, so that the honourable senator may be heard.

Senator Di Nino: I appreciate your direction once again, Your Honour.

I generally supported their arguments as I did during the debates on the previous gun legislation, Bill C-17. However, unlike 1991, this time I decided to listen to arguments of Canadians with opposing views. I have tried to read all that has come across my desk. I do not think that I have succeeded, but I tried. I have talked to Canadians from Whitehorse to Port Perry; from Toronto to Iqaluit; and from Saint John to Regina. I was surprised to discover that millions of Canadians oppose this bill.

Rosemary Kuptana, President of the Inuit Tapirisat, eloquently expressed the concerns of Canadians living in remote, isolated communities and, in particular, the effect that this legislation, if passed, would have on the lifestyle and, in many cases, the survival of natives in the Northwest Territories. John Williams of Port Perry, Ontario, was as eloquent in his representation of millions of Canadians who are law-abiding, contributing members of society who strongly and honestly believe that this bill is an unnecessary and serious infringement on their civil rights. Doctor Judith Ross who, when asked if this bill would marginalize gun owners the way smokers have been and make them second class citizens in the eyes of many, replied that Bill C-68 will not only marginalize gun owners but also criminalize them.

An organization which carries a lot of weight that would influence my opinion is the Canadian Association of Chiefs of Police. I support, and I want to continue supporting our police forces. Too often in the past, we have not backed legitimate police concerns, especially in Metro Toronto. When speaking to rank and file officers, I discovered that many, if not most, oppose this bill. One officer with whom I spoke told me that the 40 officers in the unit for which he is responsible unanimously oppose Bill C-68. We know that the Ontario Police Association also opposes this bill, as do other police forces across Canada.

We have heard numerous arguments with supporting statistics which do not appear to stand up to scrutiny. I am tabling a copy of an article entitled: "Off the Mark," written by Karen Selick for the magazine *The Next City*. Among other things, it raises some interesting questions and challenges a number of assumptions put forth by Mr. Rock.

Because of time constraints — and I do not think the time allowed would permit me to quote fairly from this article in a balanced and just manner — instead of cherry-picking from the article, I would rather just table it. I hope that you will all read it. I do not necessarily agree with all she writes, but the article is thought provoking, and I recommend that you look at it before deciding how to vote tomorrow.

Honourable colleagues, the committee and Canadians have heard from four provincial governments and both territorial governments, including my own province of Ontario. They all oppose the passage of Bill C-68. Their arguments are well founded and thoughtful, and deserve our attention.

Mr. Rock dismisses their arguments unceremoniously. Mr. Rock has also turned a deaf ear to the millions of Canadians who disagree with Bill C-68. They believe that he has treated them disrespectfully and contemptuously, even though these millions of Canadians share the same concerns as Mr. Rock and ourselves about crime and criminals, but disagree with Mr. Rock as to whether this legislation will solve any of the problems created by those who misuse guns.

My personal opinion is that this bill does not deal severely enough with the criminals who carry or use guns. Bill C-68 does not contain harsh enough penalties for those who misuse weapons. We must send the strongest possible message to those who use firearms in the commission of crimes, those who smuggle firearms into Canada, and those who possess illegal weapons. We must let them know that law-abiding Canadians will not tolerate their actions, and that they will pay a heavy price. Those who believe that "packing a piece" is a status symbol must be taught a lesson they will not easily forget.

Honourable senators, Bill C-68 does not do this. This bill will do nothing to stop illegally owned weapons from getting on to our streets. If this legislation is passed, I am afraid that the streets will not be safer and neither will our schools.

It seems to me that Mr. Rock is playing political games with window-dressing and is not addressing the real problem of the criminals who threaten and shoot people. Bill C-68 may very well help criminals by expanding the illegal underground market for restricted and banned weapons.

For the past several months, Canadians have engaged in this passionate debate and, as anticipated, the debate has flushed out weaknesses in this bill. Some of the weaknesses are reflected in the proposed amendments.

What the amendments do not truly reflect is the frustration and anger felt by so many Canadians whose voices are being ignored. These men and women are not hoodlums or criminals, although Bill C-68 may criminalize some of them. They care as passionately as all of us about the painful and atrocious tragedies which result from criminal acts involving guns. They are farmers and professionals, small and large business owners, housewives and factory workers, grandparents and sales clerks. They are all citizens like you and me, and they come from every corner of our country. They have been understanding and patient. However, I fear they are reaching the limits of their tolerance. Yes, these are real Canadians, and there are millions of them.

• (1750)

Honourable senators, I may not totally agree with them, but I will not ignore them. Because of all the eloquent voices raised in protest to this bill by so many Canadians, I believe that the best way to deal with this issue is for the Parliament of Canada to delay the passage of this bill for a couple of years.

I ask the Minister of Justice to allow time for calm reflection, a period of thoughtful contemplation and dialogue among interested Canadians. What is the hurry, Mr. Rock? Why are we creating another divisive issue which pits Canadian against Canadian, especially at this time in our history?

With the thoughtful input of all the stakeholders during the next couple of years, we can craft a bill which will really get tough on criminals and be fair to law-abiding Canadians.

If this bill is passed now, then Karen Selick's prediction may come to pass:

> But the debate that raged throughout Canada in 1994 and 1995 will ultimately prove to be just one of many battles in a long, long war.

Honourable senators, others in this chamber have spoken much more eloquently than I ever could on the pros and cons of this bill. What I have done is to listen to Canadians who are being ignored and, with my vote tomorrow, I will speak on their behalf.

Senator Graham: Honourable senators, I see the clock and I will try to speak within the time. I know that honourable senators opposite have regional caucuses scheduled for six o'clock. I assure honourable senators that I will not go beyond two or three minutes past six.

I want to address just one aspect of the current debate. I think it is best illustrated in a little story that I read about a few weeks ago. At a recent National Rifle Association convention in Phoenix, Arizona, all the delegates were observed to be walking the halls with empty holsters. The question which immediately crossed my mind was: Why would such ardent gun owners be caught without their shooting irons handy? The answer is a simple one: The NRA demands that their members deposit their guns at the door as a pre-condition to admission. In other words, the common good of the membership is served by a rigorous control of the individuals who make up the association.

Although NRA officials openly state that people, not guns, kill people, I believe the actions taken in organizing their conventions speak louder than their words.

Clearly, the organizers worry about the exceptions, and I emphasize the exceptions. The greatest threat to any free association is the fear of the unexpected; and the greatest threat to freedom is fear.

Robert Frost had the gift of saying important things with the beauty of simplicity. "There's nothing I am afraid of like scared people," he once observed. I would like to reflect briefly on this thought in stressing the great significance of the legislation before us today.

None of us can be unaffected by the waves of crime and violence so endemic in our country today. I do not think any supporters of this legislation believe that this will be the final chapter in the government's fight against the tragedy incurred by far too many of our citizens as a result of the actions of some gunmen. This, of course, can be of the random variety, but it can be of the far more dangerous, premeditated kind of violence as well. Frost was right in his observation — fear generates fear. It destroys confidence. It destroys optimism. It generates paralysis.

No nation can be free, no people can be free, living in a culture or society where people are scared. Closed doors are not the route of freedom. No nation living behind closed doors is free. The important thing to remember about freedom, honourable senators, is that it is really a state of mind. It is the openness of spirit with which we think of ourselves and others. That is why random violence and terror are so detrimental to liberty and democratic values. Such acts close the portals of the confidence citizens have in themselves and in their fellow human beings. Such acts have become part of the process of decay within peace-loving nations such as ours.

That is why, honourable senators, we must be as jealous of our responsibilities as we are of our liberties. Like the National Rifle Association, we must leave our weapons at the door or, to come to the present debate, we must register them because the fear of the unexpected, of the unanticipated, can ruin many a fine family, many a fine association, and many a country.

Someone once said that liberty means responsibility. Of course it is also true that many people dread responsibility. In lieu of the very focused opposition to gun control in some sections of our society, in some areas of our country, the gun control debate epitomizes the quandary that democratic governments must periodically experience in protecting liberty.

Somehow, governments must balance individual rights against the common good. This balancing act is never-ending. We must remember, as well, that the fight to make the streets of our nation safer has as much to do with things like literacy as it has to do with law. The security of Canadians is as much contingent on health as it is on gun control. Public safety has as much to do with living standards as with sentencing. It is in this regard, honourable senators, that I speak of the task of government as a continuing balancing act.

The important point to make today, however, is that gun control means the preservation of the common good, even though there may be some concessions individual gun owners will have to make. In other words, gun owners must consider coming to the association meeting with empty holsters, a concession, in my opinion, to the preservation of the common good of the community.

• (1800)

No one who loves liberty can fail to be impressed by the arguments of farmers, of hunters, of northerners, and of firearms enthusiasts generally. I have followed the debates very closely. They have mounted a significant and well-publicized campaign. They fear that gun control could mean prosecution of innocent Canadians for failure to register their weapons. They fear the loss of constitutional freedoms. They fear the loss of important sources of traditional incomes and the impact on livelihoods. In many instances, they fear the inconveniences and the costs associated with the registration plan. I recognize and empathize with what I am sure those individuals feel are their very legitimate concerns.

However, honourable senators, there is a greater fear at work in all of this, and it is the fear which can destroy freedom, the closed doors which lock out the spirit of liberty from the hearts and the minds of Canadians. I must say that, for those victims of violence inflicted by guns, and for all those who live behind closed doors in fear of violence inflicted by guns, and for all those who have witnessed violence inflicted by guns, all other fears must be secondary. They have one simple request to make of Canadians: When you come to the meeting, leave your guns at the door. The common good of Canadians rests on the fact that we recognize that it is people with guns who kill people.

The Hon. the Speaker: Honourable senators, it is now a few minutes after six o'clock. If it is the wish of the Senate, I will not see the clock. Under the rules, I am to leave the chair at six o'clock. What is the wish of the Senate?

Hon. William M. Kelly: I believe we are about to recess until eight o'clock. I am the next in line to speak. I hope that senators will indulge me and allow me to speak at eight o'clock. I am an old man and have to get to bed early.

The Hon. the Speaker: Honourable senators, it being six o'clock, I leave the chair, to return at eight o'clock.

The Senate adjourned until 8 p.m.

• (2000)

At 8 p.m. the sitting of the Senate resumed.

Hon. William M. Kelly: Honourable senators, I apologize to Senator Doyle. I did not realize that he had a question which he wished to direct to Senator Graham. Therefore, providing that I can retain my place, I ask that Senator Doyle be allowed to ask his question now.

Hon. Richard J. Doyle: Will you accept a question, senator?

Senator Graham: Absolutely; especially from you, Senator Doyle.

Senator Doyle: In that spirit, allow me to say how impressed I was with your contribution to this debate. From time to time, we all need reminding that we do not come to this chamber to be strangers. We are Canadians all, with goals to share and hopes to achieve. I have not spoken to anyone on either side of this chamber who does not wish for the wisdom to devise more effective gun control.

The question which disturbs me is this: Could we not have been closer than we are today to that goal had we come together at the beginning without legislation already passed in the other place and already assumed to be beyond improvement?

Would the honourable senator, in the spirit of his message, say to his colleagues that the time has come for a return of prestudy of bills in areas in which the public good would be best served by giving our committees the opportunity to work with open minds and empty holsters?

Some Hon. Senators: Hear, hear!

Senator Graham: Senator Doyle always has words of wisdom. I do remember the days of prestudy. I recall that when we dealt with the emergency situation in the country with respect to the railway strike, we pre-examined that proposed legislation, but it was not prestudied.

In the same spirit of cooperation which Senator Doyle is seeking from this side, I say to him that it would have been very helpful if the bill which is now before us had been further examined. It could, indeed, have been dealt with by the Standing Committee on Legal and Constitutional Affairs over the summer when there were several months during which the committee could have done a proper examination of the bill, rather than waiting until time was running out.

I take Senator Doyle's suggestion in the best spirit of the chamber. It is something to which I would not turn a blind eye or a blind ear, particularly when it comes from someone with his very impressive credentials.

Senator Kelly: Honourable senators, on several occasions during my time as a senator, this place has debated highly contentious and politically charged legislation. The first such legislation to which I was exposed dealt with the National Energy Program. Since then, we have had the GST legislation and, of course, Bill C-22, the bill relating to the Pearson International Airport. We have before us today, Bill C-68, which is as contentious as anything that has been brought before the Senate recently.

The lesson I learned from some of these debates, and in particular the marathon GST debate, is that we all lose when the Senate is motivated, or appears to be motivated, by partisan politics. We, as individual senators, lose and, more important, this institution, and the people whom we are appointed to serve, lose.

This place is, or should be, the house of sober second thought. I do not believe, and have never believed, that partisanship should be our preoccupation. It is perhaps in vain, but I would hope that we could put aside partisanship and partisan objectives in our consideration of Bill C-68. The debate on Bill C-68 has been emotional and polarized. Those supporting the bill and those opposing it come to it from the very divergent views of the society in which we live, and of the society to which we aspire. They also come to this bill from very different views of the motives, and of the proper role of government in that society.

I believe the Senate performs its best service to Canadians when it cuts through the emotions and the politics, and examines the essence of the proposed legislation which comes before it. That is what I should like to accomplish with this bill and the amendments to it which have been proposed by the committee.

Those of you who know me, know that I am an avid shooter and hunter. I therefore bring to this debate a certain perspective and a certain knowledge of firearms. The time available does not allow me to discuss each proposed amendment in detail. I will endeavour to be brief.

First, I have serious concerns about the proposed amendment which would allow individual provinces to delay enforcement of this legislation for up to eight years. In that regard, I have three concerns.

The first is that this could result in something constituting an offence in one part of Canada and not in another. I believe that, particularly in matters of criminal law, all Canadians, wherever they are in Canada, must be treated equally.

Second, I worry about the precedent we are establishing for asymmetrical federalism by statute in an area of exclusive federal jurisdiction. I do not believe we have considered the implications of that seriously enough. Is a special-purpose piece of legislation such as Bill C-68 the appropriate means to create such a far-reaching precedent?

Third, I worry that such a provision would encourage interprovincial smuggling of restricted firearms. We have seen how varying provincial taxation regimes led to the smuggling of tobacco on an unprecedented scale. I am afraid that, as a result of this amendment, the same type of situation would occur with respect to firearms.

I do not agree with the proposed amendment relating to antique firearms. As someone very familiar with firearms of all sorts, I know that antique weapons can be just as dangerous and lethal, in fact often more so, as modern weapons. I find it entirely reasonable, therefore, that they should be brought under the same regime.

• (2010)

Certain of the proposed amendments can be handled by regulation and, in fact, are better handled by regulation. I refer in particular to exemptions of bona fide sporting guns from the definition of prohibited firearms and the exception of bona fide museums from registration fees. The museum situation is an excellent case in point supporting regulations over a statutory amendment. What constitutes a bona fide museum will have to be carefully defined in order to avoid every gun owner, gun collector or gun merchant calling themselves a museum in order to evade the provisions of this legislation.

I also understand that bona fide museums should have no administrative difficulty complying with the provisions of Bill C-68. They will simply turn over their catalogue of pieces to the registrar and, if done in the first year after proclamation, will pay no fee.

Honourable senators, I have several reservations about the proposed amendment that would require full and considered consultations to ensure that aboriginal and treaty rights are not eroded prior to proclamation of any section of Bill C-68, or any regulation under Bill C-68 that affects aboriginals. I fully recognize that First Nations have special constitutional and treaty

rights. My understanding, however, is that this requirement for consultation goes beyond the requirements in section 35 of the Constitution Act. It is also my understanding that the courts have held that aboriginal and treaty rights are not absolute, but this amendment would make them so, at least in the context of Bill C-68.

Again we are establishing a major constitutional precedent in a special-purpose statute. That troubles me.

I also fear that the amendment will muddy the waters. What constitutes full and considered consultations? Who decides? In my view, the amendment could easily be a recipe for endless court proceedings.

Finally, I do not agree with the amendment that removes minimum sentencing requirements for repeat offenders. This would have the effect of reducing considerably the teeth in the legislation to deal effectively with the illegal trade of firearms. The same applies with the shift from penalties under the Criminal Code to summary conviction under the Firearms Act.

We must ask ourselves how important this legislation is and how serious we are in its implementation. If this is important legislation and if we are serious, let us not water it down too much. Let us give the authorities the tools they need for enforcement.

On the other hand, the committee has proposed amendments in which I see merit. I have concerns about the minister or the Governor in Council being able to criminalize by regulation — if I may put it that way — as is contemplated by clause 119(6).

The government contends that the public consultation process which attends the making of such regulations guards against abuse. The consultation process involves prepublication in the *Canada Gazette* and a consultation period of at least 30 days, or 70 days if Canada's international treaty obligations are involved. However, I point out that this process exists by Treasury Board guideline, not by statute or even by regulation. It also does not involve Parliament. I have personal knowledge of at least one situation where departmental officials tried to sneak a proposed regulation through in the dog days of summer, and were brought up short only by a vigilant industry and by international complaints through diplomatic channels.

Accordingly, I do not have the same degree of faith in this process as my government friends. I sympathize with the spirit of the amendment proposed by the committee which would require tabling of any proposed regulation before Parliament. Incidentally, Bill C-7, currently before the Senate, raises exactly the same issue.

Honourable senators, because I disagree with some amendments and I concur with others, I am faced with the question: What am I to do? I have tried personally to go back to some basic principles. I have asked myself: Does this bill as a whole aim to satisfy a legitimate public policy objective? Will the bill as a whole likely be effective in satisfying that objective? Is there a proper balance in the bill as a whole between achieving that public policy objective and in safeguarding the established civil rights of Canadians?

Does this bill aim to satisfy a legitimate public policy objective? This bill aims to reduce the incidence of death and injury due to firearms. It aims to reduce criminal incidents involving firearms. It aims to reduce the threat to innocent Canadians from the misuse of firearms. Even those of us who believe in a minimal role for government in society, even those of us who would like to return to Adam Smith's "watchman's state" recognize that the essential role of government in civil society is public security and safety. That is the essence of a social contract between the government and the governed.

Will Bill C-68 be effective? There is no obvious, empirical evidence that Bill C-68 will work, nor is there evidence that it would not work. Experience with similar legislation in other countries varies. At least, the interpretation of that experience varies. Therefore, I must defer to the experts, the people on the front lines. I note that two national police associations, the Canadian Association of Police Chiefs and the Canadian Police Association, support Bill C-68 in its current, unamended form, as do 44 police organizations at the provincial and municipal levels across Canada. The police argue, in part, that 47 per cent of firearms seized in criminal incidents are rifles or shotguns compared to 21 per cent that are handguns. They state that, without the information obtained through registration, there is too little control.

I am also impressed by the fact that a very large number of health care organizations, over 50 I believe, such as the Canadian Association of Emergency Physicians and many organizations representing suicide prevention experts and public health professionals, support Bill C-68.

I know that Bill C-68 is not the only solution to crime. It is not the only solution to abuse within the family or to suicide. It is a partial solution but I cannot help but be swayed by 46 police associations and over 50 health care groups who tell us that it is both an effective and a necessary step. More important, if the police organizations tell us that Bill C-68 is an important tool to add to their arsenal in crime prevention and apprehension, I am inclined to take their word for it and provide them with the legislative tools they seek.

That brings me to my third fundamental question: Does Bill C-68 as a whole achieve a proper balance between the ends it seeks and the means it chooses to reach that end? This has been a very vexing question. First, it must be noted that there is nothing in our Constitution that gives our citizens the right to bear arms. In this, therefore, there is a fundamental difference from our American neighbours. I am also told that there is nothing in our Constitution that bars the registration of firearms as contemplated by Bill C-68.

I personally do not object to the registration of firearms, any more than I object to the registration of my car or my dog. I would reject the claim which has been made by some, that registration is a Trojan horse for government expropriation, that once the government knows where these firearms are, it will swoop down and take them away. Quite frankly, with all due respect, I find this argument silly, although I admit that, in a public relations sense, it has been effective. It is based on a view of the world and a relationship between government and governed which is more reflective of the American right-wing militia than mainstream Canadian society.

Honourable senators, I have concluded that this bill, taken as a whole, meets my three tests. It is not a perfect bill, but I think we all agree that few bills that pass this place are without some flaws. My biggest concern is that, by supporting certain amendments, I may help put the entire bill at risk. I do not wish to be a party to killing this bill.

If we are committed to voting for or against the amendments as a slate, I will have to consider very carefully and weigh the risks inherent in supporting a set of amendments that may imperil the bill against my personal desire to support certain important amendments that I think would improve the bill.

Honourable senators, it is not an easy decision. I shall weigh the alternatives very carefully between now and 5:30 tomorrow evening.

Hon. Herbert O. Sparrow: Honourable senators, first of all, I would like to thank the Speaker for attending my office earlier today.

Next, I want to speak on the committee report and on the amendments which are before us. At the end of my short address, I want to make a further amendment.

The members of the Senate who have spoken have all indicated that they are not opposed to greater efforts to control crime in this country, nor to additional penalties for criminals who commit crimes with firearms. I think we are all of one mind there.

• (2020)

My greatest objection to the bill, and I will speak in opposition to some of its provisions, is primarily the registration of the long barrelled guns. These are the so-called shotguns and rifles used extensively by the native community as a tool for livelihood and also by the agricultural and ranching communities who consider those firearms a tool. We fail to consider those of our citizens who may be from the larger, urban communities and who may have never owned a gun or used a gun. Perhaps they have never known anyone who owns a gun. They may have never been outside city limits where guns might very well be used.

I have some sympathy for those people who say, "As far as I am concerned, there should be no guns." There is a school of thought that exists out there because of that very issue.

Where I come from — and we can call it distinct society or whatever we want — there is a distinct difference in the way we think. That is true for various parts of this country. There is definitely a distinct way of thinking in Northern Canada, there is definitely a distinct way of thinking in Western Canada, in the agricultural community. It is unfair for us to say that those people are bigots, or whatever, because they are opposed to some provisions of this bill and, more particularly, the registration of those firearms.

Let me just talk to you for a minute about that aspect of the bill, namely the registration of guns. People who have never committed a crime, and who have no intention of committing a crime, wonder why it is necessary for them to register the tools of their trade. Let me talk to you about a farmer, or a rancher, and the use of guns.

Many of such people do not hunt for a living, but they use the tool of a rifle or a shotgun on the farm. They would use it, not necessarily daily but certainly at least once a week. When they have predators on their farms, be they porcupines, rabbits, skunks, rats, gophers, coyotes — any of those predators — the gun is a necessary tool. When people head for their pastures and ranches, they must take a gun with them in the event that a calf or a cow has broken a leg, and must be put down. Some animals, such as bears, may be predators on the calves, and the gun is a necessary tool.

Let me make this personal: I do not hunt, but I have two guns on the farm. They are tools. I must use those guns to give to the men who work on that farm, or to the members of my family who go from point to point. If I am required to register that gun, I must register it in my name only. I must register at the address where I live. I cannot take that gun to the four different areas in which I ranch or farm.

I have what we call bunkhouses on each of those places. They have only one room. When you stay overnight in that bunkhouse with a gun, you will be breaking that law. I cannot have my men go out with those guns because the gun is not registered to them. It is easy to say, "Well, get them to apply for a licence to own a gun." This involves all of my family members, and all of the people who may work on my farm. It may be a person who is working there for just one day, going out to the ranch or the farm for that use. It is unreasonable that they should be expected to conform to the desires of the problem areas in the city of Toronto. It is not fair. Why would we make criminals out of those farmers or those farm workers because they did not have a gun to register?

If a farmer attends to a farm 50 miles from his residence and he takes a shotgun and a rifle with him — which is the normal process — in his truck or car, because he will need it there, and he decides to stop on the way back, 25 miles out, to attend a Liberal meeting, he breaks the law. Maybe he should not attend

that meeting, anyway. Maybe there should be a law against it. If you attend any type of meeting on the way back, you have broken the law because you are carrying a gun with you. You must then justify to the police officer or to the court that you were justified in having that firearm with you. It creates the opportunity for many of those people to become criminals under the existing legislation.

When you talk about the north country — and these gentlemen here will talk about that tomorrow — we are in that fringe area from where I live. A gun or a rifle is a tool of the trade for them. When they go out, must all those family members have a license to own that gun? Each time they borrow that rifle from someone else, must they have written permission to do so? This is an unreasonable approach.

If I was convinced that the act of registration itself would save lives, then I might take another look at that and say, "Yes, it might very well save lives." However, the fact that a gun is registered has literally nothing to do with saving a life. If a person is intending to draw a gun on someone, they do not check first to see if it is registered. Obviously, they do not do that.

The police departments in Western Canada are basically not for this legislation because they are working with such people. If the police out there have access to what would be a gun registry on a computer, and if violence in a home is reported, the police can check that registry and say "Yes, there are guns in that home"; or, "There are no guns in that home." If there were guns in that home, they would go out and surround the house, take out their loudspeakers and say, "Throw out your registered guns." They would not ask for the guns that are not registered. Why would any policeman in his right mind go to any home where there is violence and assume that there are no guns there? The answer is "Absolutely not." That would not occur.

Senator Gustafson: They all say that.

Senator Sparrow: Yes, they all say that it is not a protective tool for them in those particular circumstances.

When we talk about the native community, when they go out — which might very well be to visit in a one-room shack — how are they to register a gun if there are six people there? If any one of the farmers in my community has a criminal record for impaired driving, or whatever it may be considered, he cannot get a licence for that gun. It might be extremely difficult for him. His whole family and the whole operation suffers because he has a criminal record for something else. The whole community in which he lives will also suffer.

This is also true for the native community. We often hear that 80 per cent of the people in jails are native people with records. Upon release from jail, they cannot get a licence to own a gun in order to support themselves. That is what Bill C-68 will do to them.

I will put forward an amendment to this report to take away the need for registration of those tools. They are tools, not weapons. That would satisfy, in most instances, the people who feel that, primarily, not only their lives but also their livelihood is threatened by this particular aspect.

It is easy to say: What is the big deal about licensing? The Prime Minister and Mr. Rock have said that we license our bicycles, our cars, our dogs and our cats. We do not! There is not a farmer in Saskatchewan who has to license his bicycle, his dog, his cat, his tractor or his all-terrain vehicle.

One senator said to me, "We used to license our radios." Perhaps we did. Do we want to go to that extent? Would they be happy in the city of Toronto, for example, to register their televisions? There is so much violence on television nowadays that it might very well be worthwhile controlling what is watched on TV. We are talking about getting at crime; corruption and crime by violence, yet we allow these things to happen.

• (2030)

It is said that deaths are caused by guns in the case of those who commit suicide or murder. There are far more suicides in the Province of Saskatchewan caused by agricultural crises than there are for any other reason, and they are usually not carried out with guns. Far more people are killed by tractors on the farm, by being bucked off a horse, or by being kicked by a cow. Some would take away those tools and say, "It is no big deal." It is a big deal.

MOTION IN AMENDMENT—VOTE DEFERRED

Hon. Herbert O. Sparrow: Honourable senators, I wish to move, seconded by Senator Lawson:

That the report be not now adopted but that it be amended

(*a*) by adding, on the first page, immediately before amendment number 1, the following:

"1. Page 15, clause 15.1: add, after line 4, on page 15, the following new Clause:

"15.1. (1) A registration certificate is not required for any purpose under this Act or any other enactment for a firearm that is reasonable for use in Canada for hunting or sporting purposes.

(2) Notwithstanding subsection (1), a registration certificate may be issued for a firearm that is reasonable for use in Canada for hunting or sporting purposes.

(3) For the purposes of this section, a firearm shall be deemed to be reasonable for use in Canada for hunting or sporting purposes if

(a) it is a rifle or shotgun designed or intended to be used for hunting or sporting purposes; and

(b) it is not a firearm described in

(i) paragraph (b) or (c) of the definition of "prohibited firearm" in section 84 of the Criminal Code, or

(ii) paragraph (b) or (c) of the definition of "restricted firearm" in section 84 of the Criminal Code.

(4) Notwithstanding any other provision, no person who possesses a firearm that is reasonable for use in Canada for hunting or sporting purposes commits an offence under this Act or any other enactment by reason only that the person is not the holder of a registration certificate for the firearm.""; and

(*b*) by renumbering the subsequent amendments accordingly.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): I rise on a point of order, honourable senators. I believe that the house order is such that the debate should continue concurrently on the amendments and the main motion; and that all votes should take place tomorrow.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I believe that Senator Berntson is right in saying that all the Speaker has to decide now is whether the amendment is acceptable or not. If you decide the amendment is acceptable, discussion on the amendment will continue, keeping the general debate in mind of course. I do not think we are required to dispose of it at this point.

[*English*]

The Hon. the Speaker: Unless I misunderstand the house order, honourable senators, my understanding is that, provided this motion is in order, and I believe it is, then we must proceed to debate this motion. If there is no further debate, I will call a vote on it, but there will be no standing vote on it until tomorrow. The standing vote will be deferred until tomorrow.

The debate will now proceed on this amendment. If there are no honourable senators who wish to speak on the amendment, then I will call the vote.

Hon. Sharon Carstairs: Honourable senators, I wish to ask a few questions of Senator Sparrow, if he is prepared to accept some.

Senator Sparrow: Certainly.

Senator Carstairs: My first question is a practical one. Would the senator tell me exactly where in the legislation he is prohibited from taking a weapon to one of his cabins?

Senator Sparrow: First, I should like to quote from the bill in regard to carrying a weapon from one place to another if I am stopping at a meeting.

Clause 89 states:

(1) Every person commits an offence who, without lawful excuse, carries a weapon, a prohibited device or any ammunition or prohibited ammunition while the person is attending or is on the way to attend a public meeting.

(2) Every person who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction.

That means that I cannot carry a weapon from one place to another if I am to stop at a meeting.

Senator Carstairs: It means that you have to have a lawful excuse.

Senator Sparrow: That is right. I have to justify to a police officer or to a court why I had it with me there, that is correct. I said that.

Senator Lewis: Are you not talking about leaving it in your car or truck?

Senator Sparrow: Yes, I am.

Senator Lewis: That is not taking it from place to place.

Senator Sparrow: Yes, it is. It is interpreted that way.

With respect to the other issue of taking a gun from one farm to the other, if you overnight on that farm in a one-room bunk house, under existing law you have to have that gun in safe storage in a separate room. I do not have separate rooms.

I cannot then have any member of my family take that gun, unless they have a permit to own guns. I cannot give it to any man who may work as a rancher or a farm hand unless he, in turn, has a licence to own a gun. He also has to prove that he obtained permission from me to have that gun.

Surely, under the law, there will not be a blanket permission as such for every man who comes to work for me on a part-time basis, or whatever the case may be.

Yes, there are restrictions every step along the way, and I could be breaking the law at each of those steps.

Senator Carstairs: I have another question for the honourable senator. Let me say to the senator that the safe storage regulations have not yet been written.

Senator Berntson: Why not?

Senator Carstairs: The safe storage regulations found in Bill C-17 certainly allow you to transport a gun under those circumstances. However, the provisions of that bill do not allow you to carry it to a public meeting. I must suggest that I think that is not a bad idea.

Does the honourable senator not agree that an employee of his who is to take his gun should have some training in the use of that gun, and some knowledge of safety standards with respect to the use of that gun? Alternatively, does the honourable senator think that anyone should have a gun without any training whatsoever just because they want to have a gun?

Senator Sparrow: I thank the honourable senator for her question. It is ridiculous, but I am prepared to answer it.

You do not give a gun to someone without a reason. I explained the reasons why they would have a gun on the farm. They have a use for that gun. It is the same as the native community.

The honourable senator is implying in her question that only dumb people would give someone a gun to use for any purpose. I would ask her to consider the situation in the North. The aboriginal people do not give their guns out willy-nilly. They train their people in the use of firearms. We train our people. We will not give out those guns willy-nilly, either. Surely to goodness we are not that retarded, although you may think so. We do not use these tools the same as we would use a tractor, an all-terrain vehicle, a combine, a swather, any tool on the farm. That is what I am saying: The honourable senator just does not understand that aspect of this issue.

• (2040)

Senator Carstairs: I think I do understand. Quite frankly, I think that if they indeed have that knowledge about safety, it will be very simple for them to qualify for a licence.

I have one final question. How do you explain that the rate of suicide by guns, and particularly rifles and shotguns, and the rate of domestic violence using rifles and shotguns, is higher in the Prairie provinces, in the Northwest Territories, in the Yukon, and in rural Canada than in urban Canada?

Senator Sparrow: Honourable senators, that is a great question, and I should have covered that.

There are far more guns per capita in Western Canada on the farms than in the city of Toronto. Every farm in the community has a gun. Almost 80 to 90 per cent are gun owners. In the North, it is the same. In Toronto, it would probably be 2 per cent of people. Of course the per capita rates of gun accidents and suicides are higher there.

If you are trying to indicate to this house that, in fact, guns cause suicides, I say that is nonsense. Guns do not cause family violence. There are other issues. Youth commit suicide because they have no hope left. That is what happens in a lot of cases, certainly in the native community. It is not the gun that causes the suicide. It is not the knife or the rope. It is not the car that runs into the bridge that causes suicide. It is the drugs and the alcohol and the loss of hope, things that are not covered in this legislation.

Senator Carstairs: Honourable senators, I have to ask one more question. I would like to know why there are more deaths among young men by suicide, despite the fact that more young women attempt suicide than young men. Is that not a direct result of the fact that young men, tragically, choose to use guns, which are fatal, and young women choose alternative methods?

Senator Ghitter: You have no statistics to bear that out.

Senator Sparrow: Honourable senators, I have an answer to that one, too. It does not matter whether or not the guns that are used for suicides are registered. They will use the gun whether or not it is registered. If the honourable senator is telling me that a cabinet with glass on the front and a little lock on it will stop them from getting the gun and committing suicide, I would say that the honourable senator is fooling herself and fooling the people. This is really a method of fooling Canadians into believing that we are doing something about gun control and crime in this country. It is not working. Suicide is not caused by guns. It is caused by other social problems, and the registration and the licensing of guns have absolutely no bearing on those problems.

Hon. Gerry St. Germain: Honourable senators, I wish to make a brief comment on this issue, although I do intend to enter the debate on the main motion.

I compliment Senator Sparrow on his motion. I support this motion on the basis of logic. Senator Sparrow has brought to this debate straight logic and a common sense that reflects the areas that we represent, the North and the rural and remote areas. It is hard for people who live on Wellington Crescent, Southwest Marine Drive, or Forest Hill in Toronto to understand what he is talking about. I think Senator Olson fully understands. It is based on pure logic. The people are trained, not formally through courses that really do not mean anything, but through experience, because of necessity and survival.

This argument is not being presented to speak against urban communities. However, it is an argument that must be understood. That is why we wanted so many of you to come out to the hearings and travel to the North, to visit with Senator Watt and Senator Adams and the rest of those who occupy that vast

80 per cent of the land mass that governments which are opposed to this legislation represent. No one wanted to come. Most were too busy. Senators from every point of this nation are here to deal with this bill, but it was not important enough to go to Whitehorse. It was not important enough to go to the Beaufort Sea. You did not have time. You were too busy. You just did not understand. You do not want to understand because you do not want to hear the other side.

Some of us live in rural communities. We may come to urban communities and live in them, but we also live in another world. We are just asking you to try to understand the logic that comes with a motion like this. The Speaker, having grown up in this environment, knows the impact that this type of legislation will have on the Métis, the natives, and the ranchers. I can tell you. I have spoken to them. I was there.

Some may think that certain senators are trying to undermine this bill, but this is what we were told. What Senator Sparrow said here today is what we heard day after day in our hearings. These hearings were not partisan. I do not give a darn if it is a Liberal bill or a Conservative bill; it is still a bad bill. I did not agree with many of the provisions in Bill C-17, and they still cannot be enforced in the Northwest Territories. However, I am not here to talk partisanship.

This is logic, my friends. Please look at this bill for what it is worth. Listen to the logic and the message. Believe me, there are two sides to every story. Senator Sparrow has just transmitted an important portion of one side, the side that has driven this country and developed this country. It is the pioneers and the people who have gone to the remote regions and taken the risks who have made a great difference in our great nation.

The Hon. the Speaker: If no other senator wishes to speak on the amendment, I will put the amendment to a voice vote now. If a standing vote is requested, it will be deferred until tomorrow at 5:30 p.m. Are honourable senators ready for the question?

An Hon. Senator: Question.

The Hon. the Speaker: Those in favour, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: I note the request for a standing vote. It will be deferred until tomorrow at 5:30 p.m.

• (2050)

We are now back to the main motion.

Hon. Terry Stratton: Honourable senators, I first want to thank senators who travelled to Manitoba to attend the hearings which we held at seven locations in that province. The legislation before us today, Bill C-68, respecting firearms and other weapons, has provoked a great deal of debate among Canadians across the country.

As many senators will know, there is considerable opposition to many parts of this legislation, particularly from residents of my home province, Manitoba. A Southam poll conducted in late May of this year indicated that 60 per cent of respondents in Manitoba are opposed to this bill. Since this legislation was first read in the House of Commons in February, and even before then, I have received hundreds of letters in my office from across Canada, representing both sides of this debate.

The majority of the letters I have received are from Manitobans opposed to a universal firearms registration system. I have met with individuals who are on both sides of this issue and listened to their concerns. I chaired a committee of senators who travelled throughout Manitoba to hear a broader expression of views on Bill C-68. I feel strongly that, as senators, we have an obligation to reach out to the communities we represent and ensure that their views are heard in the Senate. Representing the Manitoba region as I do, I believe that I have a good understanding of where Manitobans stand on this issue.

Honourable senators, I have heard the thoughts of the provincial government of Manitoba on this bill. It is no secret that it is opposed to certain aspects of this bill. Representatives of that government appeared before both the House of Commons and the Senate standing committees reviewing this legislation and presented their views on that matter.

The provincial government of Manitoba does not support a universal firearms registration system for Canada, and for very good reason: It believes, as do I, that universal gun registration will not deter the use of restricted or illegal firearms. Canada already has a ban on certain weapons, and has very tough registration requirements for handguns. Nevertheless, criminals still manage to use these weapons, despite the fact that handguns have been required to be registered since 1934.

Honourable senators, I am against spending millions of taxpayers' dollars on a universal registration system which the government has failed to prove will enhance public safety. In fact, I have heard that the administrative burden of gun registration will take police officers off the streets, and therefore have a detrimental impact on the safety of our communities.

This is a real concern to many people. From testimony that has been given at the hearings on this bill in Manitoba and in Ottawa, I believe that many Canadians are not convinced that spending millions of dollars on a gun registration system is the best way to go. Many Canadians sincerely believe that this money would be better spent in other ways, such as putting more police on the streets, educating citizens on existing gun regulations and enforcement of current regulations.

I should like to read to you an excerpt from a brief submitted at the Manitoba hearings on Bill C-68 by the Association of Women Shooters of Canada, who were not given the opportunity to appear before the Standing Senate Committee on Legal and Constitutional Affairs to express their views. This is what they had to say:

> If women's health and safety are truly of concern then one might reasonably consider taking the enormous amount of money that the federal government is so eager to spend on universal firearm registration and use that money in ways that actually will benefit women. For example, research on breast cancer, treatment programs for abusive men, and treatment programs for alcoholism (alcohol is almost always involved in incidents of domestic violence). These are all ways which will help women far more than additional firearms legislation.

Honourable senators, at the root of crime and violence in our society are many social problems. This message was delivered loudly and clearly by many concerned citizens who appeared at the Manitoba hearings on Bill C-68. There is a consensus that the federal government should be introducing crime control legislation rather than gun control legislation. Firearms are not viewed as the major problem in many communities. Drugs, alcohol and related difficulties such as poverty and hopelessness are seen as being the root causes of the problems. These are some of the real problems leading to crime and violence.

I believe that, in order to enhance public safety in Canada, the federal government must deal with the social problems which exist now. We need to look at ways of reducing the amount of violence on television. I am not an expert on how to do that, but if you have watched some of the programs on television or in the movie theatres, you know what I am talking about. That is what the young kids see. Those young kids then grow up and commit the violent crimes about which we all complain.

We need to place more emphasis on education. If we have generation after generation of people living on welfare; if we have generation after generation of people living without hope, we will have violence no matter what we do with gun registration. It will have no impact. Attack the real problem.

The Winnipeg Game and Fish Association said the following in its brief at the Manitoba hearings on Bill C-68:

> No significant evidence is in hand to show that any amount of gun registration applied against law-abiding gun owners has, or ever will, produce a safer public or crime prevention results. The justice system and police should be dealing with real criminals and criminal activity, and leave law-abiding citizens alone.

Honourable senators, Canada has a long history of effective gun control policies, and Canadian law has always recognized that legitimate reasons exist for the possession of firearms, especially in the more remote areas of the country where guns are often required to hunt for food or to control predators and other animals, as Senator Sparrow has very clearly pointed out.

During the recent public hearings on this bill in Manitoba, the committee of senators travelled to both rural and urban communities in the province. During those hearing, the different realities which exist for rural and urban residents were made clear to me. Many witnesses testified that this legislation reflects urban needs, and reflects a lack of understanding of rural residents.

During the Manitoba hearings, rural resident after rural resident expressed disbelief at Justice Minister Allan Rock's comments regarding who should own guns. Many witnesses cited Minister Rock as stating that he believes the only firearms in Canada should be in the possession of the military and the police. This comment clearly shows a lack of understanding of farmers, hunters, trappers, competitive shooters and others.

Many farmers are worried about the federal government coming to seize their weapons, which are often used to kill varmints that carry rabies and other diseases, in order to protect their livestock. A farmer from outside of Brandon told us the following true story at the Brandon hearings: He had a problem with skunks in his chicken coop, which contained some exotic prize chickens. His gun was locked up in a cabinet, and the ammunition was in another location. A skunk got into the chicken coop and, by the time he had unlocked his gun and got the ammunition, the skunk had got away.

Some would say, "Three cheers for the skunk." However, there was more than one skunk; the farmer, in fact, had an infestation. Over the course of the summer, there were 10 skunks and one fox. Needless to say, the gun was no longer in the house under lock and key. The farmer broke the law; he had to do so in order to protect his livelihood.

Further to that, concerns were raised at the hearings that this legislation would make criminals of law-abiding citizens, which would be very unfair. It would appear that it is not politically correct at this time to own a firearm.

It is disturbing that one of the most prevalent statements made during the Manitoba hearings was that individuals would not comply with this law. Sidney McKay of the Swampy Cree Tribal Council of The Pas, representing 10,000 people, stated unequivocally that they will not obey such a law. You are on treacherous grounds when you pass laws that the public will not obey.

• (2100)

Honourable senators, one of the amendments which is before us deals with the wording of section 117(15) of the bill. This section permits the minister to add any firearms to the prohibited category except those which, in the opinion of the Governor in Council, are reasonable for use in Canada for hunting or sporting purposes. The concern which has been raised here is that this clause gives too much power to the minister, and that any decision by the minister to add a firearm to the prohibited category on the basis of this opinion as to its suitability for use in hunting or for sporting purposes is not subject to judicial review.

The wording of this clause has sparked enormous concern. Concerns were expressed by a vast majority of witnesses who appeared before the committee at the Manitoba hearings, including the Selkirk Game & Fish Association, The Pas Firearms Association, the Dauphin Handgun Club and many other concerned groups and citizens. Quite clearly, all of these witnesses asked that the Senate try to have this clause changed. I fully support this proposed amendment.

Honourable senators, there are some aspects of the bill which I do support. I believe that enhanced control of crime should be supported, and I agree with the measures in this bill which would work towards that end. For example, I support increasing sentences for people who use a firearm in committing a crime. I am also in support of the provisions of the bill which control the possession of firearms by those who have been convicted of an indictable offence.

These are the areas of the bill which I support. However, I want to make it very clear that the package of amendments which we have proposed will do a great deal to improve the legislation before us. As a senator, I see it as my job to deliver to Canadians the best legislation possible. The changes being proposed will substantially improve this bill. It is for this reason that I intend to support these amendments.

Hon. Landon Pearson: Honourable senators, ever since I arrived in the Senate a year ago, I have been aware of the controversial nature of Bill C-68, which was then in the drafting process. How could I not be? The issue of gun control raises such very strong emotions. All along, I paid close attention to the arguments which have been raised, both for the bill and against it, so that I could better understand the issues which seem so important to so many Canadians.

The question I posed to myself was: Where does all the emotion that surrounds this issue come from?

I believe it comes more from the symbolic nature of the debate than from its details. Symbols that have power are those that focus people's deepest feelings, especially when these emotions are related to their personal identity. It seems to me that the force of the gun control controversy derives from the fact that guns, because they are designed to kill, have come to symbolize power, ultimate power, the power of life and death. There are those who do not want this power to be curbed, not because they are criminals but because it has come to have such deep personal meaning for them. There are those who feel equally strongly that it must be curbed because they have directly experienced its misuse.

Let me reiterate, honourable senators, that I have no objection to the legitimate use of firearms for hunting, for culling, for protection, for the armed forces, for the police. It is not the killing of animals that disturbs me; I am not a vegetarian. It is the killing for pleasure; the unjustified and unjustifiable taking of life, and the use of guns to threaten, intimidate and humiliate.

Today, honourable senators, I would like to give voice to those who have spoken in support of Bill C-68; those who have written to me personally or to the committee; and those who have come forward as witnesses to the need for greater gun control because they have experienced in one way or another the misuse, by accident or intention, of a weapon that kills. These include women, health professionals, city administrators, the police, individuals who feel disempowered by the gun lobby, children and youth. Please listen to what they say for they, too, are ordinary Canadians.

Let the women speak first. Linda Taylor from the Children's Home in Winnipeg writes:

> I do not think Bill C-68 is the answer: it is only a beginning. It presents a message to Canadians that ownership of guns is a responsibility, and one to be taken seriously. Perhaps there could be better bills. Certainly there could be far stronger ones. As a woman living in Winnipeg, I would support that... Bill C-68, however, is a small and necessary first step if we are serious about creating a society free of violence.

[*Translation*]

Mrs. Simone Baron, the mother of a victim, wrote us from Rosemont, Quebec:

> I am the mother of a girl who was a victim, at the age of 19, of a criminal act involving a firearm... Bill C-68 is good and we support it very strongly. It should have been passed long ago.

[*English*]

Jennifer Allen Simons writes from Vancouver:

> In the interest of public safety, I ask you to give Bill C-68 speedy passage through the Senate... This bill does not impede any lawful use of a firearm. It does, however, provide a tool for intervention where there is a reason for concern. Surely the prevention of any death or injury justifies the adoption of this legislation.

The YWCA of Canada writes on behalf of the National Council of Women; women's shelters and transition houses in Alberta, Saskatchewan and Ontario; the Action Committees on the Status of Women in Manitoba and Saskatchewan; and many other women's groups:

> The YWCA supports the legitimate use of firearms for hunting, sporting activities and law enforcement. It is the misuse of firearms in domestic violence that poses the greatest threat to women and children. We believe the key elements of the legislation will have a significant impact on domestic homicide and women's and children's safety.

June Mitchell writes from Regina:

> I am aware that a resolution opposing the new gun law was passed in the Saskatchewan legislature. I am also aware that less than half the MLAs chose to be in the legislature to vote on that resolution. I believe there are many citizens like myself who support this new gun law which was promised, and has been passed by our democratically elected government.

Of the many mayors and municipalities who have written, I have chosen to quote a very recent letter from Barbara Hall, the Mayor of Toronto:

> I understand that the vast majority of gun owners are law-abiding citizens. Clearly, access to firearms is only part of the problem. Restrictions on firearms alone will not solve the problem of crime and violence in our communities. However, it is a significant part of the solution. The firearms restrictions, registration and minimum sentencing requirements as outlined in Bill C-68, along with other investments in our communities will ensure a more sustainable, safer urban environment.

Many health care professionals appeared before the committee, each one with a separate tragedy to report. As individuals who actually see the blood and guts, they all support the bill.

Anna Lovasik and Kathy Belton from the Injury Prevention Centre of the University of Alberta Hospitals in Edmonton write:

> The cost of gunshot wounds to the health care system is $70 million per year. Approximately 40% of the women killed by their husbands are shot, usually with legally-owned guns. Bill C-68 would provide more tools for early intervention in domestic disputes, allowing police to remove guns where there is a risk.

A group of public health and safety professionals from Quebec wrote in an open letter last week:

> As representatives of Quebec's major public health and safety experts...we are unequivocally opposed to any amendments at this point in the process. All the experts in crime prevention, public health, domestic violence and criminology who testified before the Senate legislative committee have called on the Senate to pass the bill as soon as possible, without amendments.... You must therefore be aware of the tremendous importance of this bill for the families of the victims of the Polytechnique massacre, as well as all Montrealers. If this legislation is still not passed on the sixth anniversary of the December 6th tragedy, we expect an outcry of national proportions.

From the New Brunswick Nurses Union-Syndicat des infirmiers et des infirmières du Nouveau-Brunswick, I heard:

> We also understand that this Bill is not the whole solution, but it will help prevent injury and death. As health care professionals, we support Police Chiefs, criminal justice experts and women's groups in calling for stronger control on guns.

Law enforcement representatives, both union and management, appeared before us to support Bill C-68. I quote from a recent letter from the Canadian Association of Chiefs of Police:

> We appreciate that individual members of the Senate of Canada may have different views on the details surrounding Bill C-68 and we understand and respect the emotion and concerns raised in the debate. Nevertheless, we wish to impress upon you and your colleagues the importance of this bill to policing and law enforcement and to the communities to which we are accountable. We therefore repeat our request to the Senate of Canada to pass this Bill without amendment.

• (2110)

This bill has also received support from many individuals. For example, George Richards of Castlegar, British Columbia writes:

> This bill has received support from many groups: the police, women's organizations, emergency room doctors, suicide counsellors, and a large majority of those Canadians living in cities. In addition, there are those who have a general antipathy to firearms and violence for a variety of reasons; engendered, in my case, by service in the Canadian Army during the second World War.

From Don Mitchell in Moose Jaw, I heard:

> There are many of us in Saskatchewan who feel disenfranchised by the position taken by a majority of provincial politicians...The gun owners lobby obviously has a loud voice...but it does not represent a large constituency of informed and caring people at the community level who continue to view gun controls as a sound and progressive measure.

Like many members of the Legal and Constitutional Affairs Committee, I listened with particular interest to representations from members of aboriginal communities. There is no question that many of them are unhappy with the bill, and I have done my

best to understand their reasons. I am not proud of our sorry history with respect to our aboriginal peoples, especially our arbitrary impositions on their culture and their way of life. However, I believe those who told us that they do not want to be regarded as different from other Canadians with regard to federal legislation. In addition to the problem of aboriginal rights, which I believe are protected in the bill, the prime issue appears to be the question of consultation and regulation.

I see the ongoing and proposed discussions with the aboriginal community with respect to the administration of the law as an occasion for some positive community development, especially for young people. We need to do everything possible for the young. As Doug Cuthand, who I believe is an aboriginal person, wrote in the Saskatoon *Star Phoenix*:

> About 60 per cent of suicides in Indian country are carried out by firearms. This is disturbing and indicates the need for more effective gun control legislation and enforcement....The push for gun control came from the cities where crime is perceived to be on the increase. But, in reality, a person walking down a street in Montreal, Toronto or Vancouver is in little danger of being shot. Our people in Indian country have a far greater chance of being killed or wounded by firearms.

Children are especially sensitive to the currents of emotions swirling about them. While they do not have the sophistication to understand the complexities of the issues, they often go right to the heart of the matter. Seven-year-old Kathryn Hole wrote to us from St. Albert, Alberta. She said, "I think of guns as violence and cruelty. People should not get guns because if they are drunk they can kill themselves. They kill other people with them and they would sell them to create more violence. I want this to stop."

One can only wonder what Kathryn has already seen in her young life.

[*Translation*]

Finally, I would like to quote Jeunesse du Monde Montréal.

> The young people of Jeunesse du Monde Montréal, aged 12 to 25, wish to express their support of the gun control bill. ... Young people are greatly concerned with violence and we feel that controlling firearms could make a contribution to improving our society and the relationship between humans and nature. We are inundated on all sides — by the media in particular — with gratuitous violence, often involving guns.

[*English*]

Honourable senators, during the months that Bill C-68 has been before us, I have examined it with the greatest of care. While I appreciate the sentiments of those who have spoken against it, particularly the concerns and anxieties of our aboriginal peoples, they have not convinced me that the bill is an unwarranted invasion of their personal lives leading to the destruction of their livelihood. On the contrary, I see some provisions of the bill as an opportunity for those who really need guns to demonstrate to the rest of us when the use of a gun is legitimate and when it is not.

For the aboriginal peoples, I see the process of creating culturally sensitive regulations as an admirable way to teach those of us who are not aboriginal what it means to truly respect the natural environment in which we live.

I will vote against the amendments which, in my view, do nothing to improve the bill, and for this bill as it stands because I am convinced it will make life in Canada safer, more respectful, more civil and more humane.

Hon. David Tkachuk: Honourable senators, the debate on Bill C-68 has formed some interesting political coalitions. For example, I will quote from 'Feminism and Gun Control' by Pat Lorjé, a former alderwoman in Saskatoon for over a decade, now a member of the legislative assembly for the New Democratic Party. She represents Saskatoon-Southeast. She is a noted feminist, and I will spend a bit of my speaking time quoting from her submission to myself, Senator Gustafson and Senator Sparrow in Saskatoon. She brings a unique perspective to the issue of Bill C-68. She said:

> Now the easiest thing to do is just stay out of an emotional and distorted controversy. But I'm tired of the tyranny that passes for informed debate in this country. Shallow analysis and selective distortion of statistics painting men as brutes will not stop violence. It amazes me that a belief system like feminism, a philosophy of tolerance, now seems to represent intolerance. Is there no room in feminist circles for intellectual discourse about practical solutions, not extremes?
>
> As a feminist, my first reaction to Rock's gun proposals was "Good on you." Then I investigated a tad further and discovered a modern version of Canada's "two solitudes." Contrast the reaction of the panicked big city dwellers with those you might call TRUC (The Rural Unsophisticated Canadians). They think "guns-ducks-lifestyle". Urban people, particularly feminists, think "guns-crime-violence." But how many of them have analyzed the practicality of Rock's proposals? They're all so busy saluting the gun control flag that they ignore the PR sham it really is.

> Gun registration isn't, and hasn't been, a panacea for violence. There is a major danger this version may push some people from the proud Canadian position to gun ownership as a right. I don't want to see any further Americanization of this country. But it could happen. You can only prod a buffalo so far before it turns and stampedes. Of course we need to get guns off the street. But we need workable solutions to violence. Not just feel-good populist fixes that push the problem further out of sight, but not out of range.
>
> Legislation that creates civil disobedience and drives a further wedge into an emotional issue is counter-productive. It merely adds to bloated bureaucracies, off-loads costs onto provinces, takes valuable time from the police...
>
> No guns are manufactured in Canada. Since 1979, every gun is either smuggled into the country, or it comes across the border legally and is recorded at the point of wholesale and retail distribution. We already have a comprehensive way to record gun ownership. But nobody has bothered telling the clerks at Canadian Tire to slip the data on-line to their friendly police service so it can be cross-referenced with other information.

Many arguments have been presented on Bill C-68, but I will try to reflect the presentations of the ordinary and wonderful Canadians who made presentations to senators who took the time to listen to what they said.

I will say a little bit about the politics of the bill. Pat Lorjé is right. This is not a bill about gun control. There is massive support in Canada for gun control. I know of no one, not even one among all the people who came to see us, who is against gun control. Why, then, are we having this debate? Why are millions of Canadians who support gun control and who own firearms so vehement in their opposition to Bill C-68?

Bill C-68 is not about saving the lives of people who have lost loved ones. That is part of the problem with the politics of this bill. People who support gun control are told that because they do not support gun registration, they are somehow involved in the deaths of Canadians caused by guns, and that there is some sort of violence inflicted on people because guns are not registered. These are the same people who came to us and told us that they support gun control.

• (2120)

Why is there this political turbulence? Why is there this great division in our country over an issue about which everyone agrees, gun control? Because it is Bill C-68; because Bill C-68 does not save any lives and will not save any lives. I resent the fact that the presenters of Bill C-68 use violence in our society as the reason for this bill, particularly its gun registration aspect. They say that those who oppose the gun registration aspect somehow do not have the same concerns.

Proposing a bill which potentially criminalizes people who are law abiding is in itself a violent act. Proposing a bill that the Prince Albert Tribal Council, which represents 17,000 people, including all those who live on reserves in Northern Saskatchewan, has said they will not obey, is, in itself, a violent act. Proposing a bill that causes ordinary, normal, law-abiding Canadians to say that they will not register their guns is in itself a violent act. Proposing a bill that divides rural Canadians from urban Canadians, and those living on Indian reserves from white people is, in itself, a violent act.

Who the heck do we in the Senate think we are? We are legislators and parliamentarians. As the friendly senator from Nova Scotia said, "Who do we think we are, passing a bill that causes these great divisions?"

I am not a gun owner. However, I am acquainted with guns. We sold them in our family's general store. I do not have memories of these firearms as instruments of violence, nor were they. People had them because they used them and, in most cases, because they needed them. No one carried them around. You learned to use them the same way you learned to use an axe or a knife. My negative image of firearms comes from television and from the cities. It is of bad people using violent means to achieve violent ends, where people who live in suburbs hire their guns. They fill the streets with police, all with guns. They have access to 911 and are 10 minutes away from the local man with a gun.

Up in Northern B.C., in Yukon and the northern part of Saskatchewan, there are no police. There is no one protecting the people there from the cougars in the Kootenays, as we were told, of which there are some 200 now, because you cannot kill them. One woman told us of watching her child being attacked by a cougar. By the time she could get her gun out of the box and gain access to her bullets, the child was dead. That is a stupid law, anyway.

City people tell rural people that it is not okay to carry a rifle from one place to another place. Gee whiz, you cannot go to a community meeting, you may have a gun in your truck. At community meetings in Montreal, there are guns everywhere.

We have this political debate going on over a bill which is called a gun control bill, something which we all support. Why did they write the bill in such a way as to cause this great division?

In order to acquire a firearm in Canada, you must take the firearms safety education training program. You must apply for a firearms acquisition certificate, which includes 35 questions. You are even asked if you are happily married, if you are divorced or not, or whether you are bankrupt. It requires two references, two photos and $50. The police check records, interview references, neighbours, employees and spouses. The firearms acquisition certificate is issued after a mandatory 28-day wait.

Then you must purchase the pistol. You must leave it at the dealer. You must then join the pistol club. You must apply to the police to register the pistol and fill out form C-300. You must then transport the pistol to the police where the permit is issued. You must then complete registration of the pistol and leave the pistol with the police.

Step number 11 involves having the registration certificate issued by Ottawa, which is form C-306. You must then obtain a permit to transport the pistol home, which is form C-301. You must apply to carry the pistol to the gun club, which is form C-302. Your police record is checked, and a permit, which is good for one year, is issued. You may now go target shooting.

Steps one to four must be completed up to the acquisition certificate stage to obtain a long gun. Then you may purchase the rifle or shotgun, take the hunting course, pass an exam, purchase a hunting license and go hunting according to provincial regulations. That takes only three to six months.

Would someone who supports this bill tell me how all those gangs in Montreal, Toronto, Edmonton and Saskatoon get their guns?

Senator Berntson: They plan ahead.

Senator Tkachuk: How do they get their guns? Did they take the course? Did they register their weapons? Did they fill out the forms? I do not think so. How did they get their guns? The only people we are registering here are people who have owned guns all their lives and who have never done anything wrong. Those are the ones who are left. They are the people on the farms who have owned guns all their lives and who have never done anything wrong. All those guys in Montreal, Edmonton and Toronto who are shooting people over drugs are to blame for this. They all have guns. Do honourable senators know why? Because it is easier to purchase an illegal gun than it is to purchase a legal one.

I would be a happy gun smuggler with this kind of gun law because then, even people who would never even think of breaking the law will just look at this and say, "I can get a gun in 30 days. What does it hurt?" It takes 15 minutes to buy a gun on any street in Saskatoon.

During the referendum campaign, the Prime Minister assured Canadians that all was well. He risked the entire country on his wrong political instinct. This bill reflects the wrong political instinct about Western and rural Canada. The large majority of elected municipal, provincial and federal politicians in Western Canada have said, "Do not do this." In my province, every municipality passed unanimous resolutions saying not to do this. They are not crazy. The attorneys general of three Prairie provinces, Yukon, the Northwest Territories and the chiefs of all the reserves asked us to reject this bill. That included Liberals and members of the NDP and the Conservative Party in provincial legislatures in Western Canada. They all asked us to reject the bill. Representatives of the tourism ministry, the wildlife federation, Ducks Unlimited, gun clubs and competitive shooters from local gun clubs to Olympians have said, "Reject the bill." Cattle associations, trappers, outfitters — the majority of the population — have said the same thing.

I do not know about the rest of you, but I am a Western Canadian senator. I was not elected. I was lucky enough to be appointed to the Senate. There is the same number of senators from the Maritimes as there is from Western Canada. There is the same number from Ontario as there is from Quebec. In all, there are 24 senators from each of those regions.

• (2130)

Senator Carstairs: There are 30 in Atlantic Canada.

Senator Tkachuk: There are six more from Newfoundland. Boy, they have a lot down there.

It seems to me that since I do not have to be elected, perhaps I have some reason for being here, and that is to represent my region, to somehow fulfil a mandate. Otherwise, perhaps, I should pack it in and run for election because —

The Hon. the Speaker: I am sorry, honourable senator, but your time is up.

Senator Tkachuk: May I have another couple of minutes?

Senator Sparrow: I have an appointment at twelve o'clock. Could you be finished by then?

Senator Tkachuk: I will be finished by then.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Tkachuk: As a Western Canadian senator, I have an obligation to listen. Even if I believed in this bill, I would have a tough time. I do not think I could do it. Who the heck am I to say to all of the attorneys general, "Oh, you guys are wrong; I am right. You guys do not know anything. You must go out every four years and be elected by ordinary folks, and I get to stay here and vote the way I want." I do not think so.

One last point: Do we have a crime wave going on in museums? What is happening at the gun clubs that I do not know about; and on the trapping trails and the cattle trails? Is there something that I do not know about happening at the hunting camps, at competitions at the Pan-Am Games, the Olympics, and guiding expeditions in northern British Columbia? Is there a crime wave going on? Are people being shot? Are duck hunters shooting each other? Are gun collectors amassing firearms to overthrow the government? Are those flintlocks awaiting a crime wave?

There are more guns in Saskatchewan per capita than there are in Toronto and Montreal, but at two o'clock in the morning I would rather walk in any part of the province: in any small town where everyone has a gun, on 20th Street, on 2nd Avenue, instead of walking down these streets that have no guns but, instead, have hired guns and policemen running around.

I do not understand this legislation. Are inheritors of weapons going nuts when their parents die? Do they go on a shooting spree? Are they saying, "Gee, my parents died; I've got a gun; I am going to go nuts today." That is what this bill is about.

Are trap shooters assaulting Rosedale or Westmount? I do not think so.

In all these situations, everyone has a firearm. I do not know how many of you have been to a shooting range, but they do not have any accidents on shooting ranges. I tried to find out if there had been any such accidents, and I found that there had been none. Everyone has a gun, but nobody is dead. How can that be?

Guns do not kill people; people kill people. That is the problem the Liberal government should be addressing. The problem is about drug addiction and alcoholism and gang violence and broken homes and family abuse, and no one is attending to those problems. This is the great scam, the great escape. We will impose gun registration to keep people quiet for a while, and we will allow all the other violence to continue.

Hon. Richard J. Stanbury: Listening to the debate so far makes me think that we are talking about two entirely different bills. The interpretation of what the bill says on one side is completely different from the interpretation of what it says on the other side.

Senator Tkachuk has asked us whether we think that all those people who are against the bill are crazy. Are all the people who are in favour of the bill crazy? There are many more people for the bill than against it.

Honourable senators, if I may, I wish to make a brief contribution to the debate.

I have a rural background and I have a military background, so I quite understand the productive and practical uses of guns. I can understand the attraction, and even the obsession with guns that some people develop. However, it would never have occurred to me on the farm or in the army that anyone would object to having guns in their possession recorded.

I have always known that the purpose of a gun was to kill, as painlessly as possible, a quarry as game or as food. I have also known that there are those who misuse guns to kill or maim other human beings or themselves, or to threaten to kill or maim others — neighbours, wives or children, or anyone else with whom they differ. I have always known that there are people in the hands of whom possession of a gun is not safe, such as those suffering from emotional or mental stress, or alcohol or drug-induced conditions. I have always assumed that society is entitled to know who has guns and when those protecting society are likely to be inhibited by the possession of guns by others.

The first time I came into face-to-face contact with the issue of gun control was during the regime of Prime Minister Mulroney. He had a young Minister of Justice for whom I had a good deal of respect. Her name was Kim Campbell. She brought forth a bill creating a fairly comprehensive firearms regime. All of the things that Senator Tkachuk was complaining about, the procedure you have to go through to get a gun, came from Bill C-17. That was passed by the other place, and it found its way into the Standing Senate Committee on Legal and Constitutional Affairs, on which both Senator Spivak and I sat. I welcomed it, as did the Progressive Conservative members of the committee, including the Conservative chairman, Senator Nathan Nurgitz, now Mr. Justice Nurgitz of the Manitoba Supreme Court.

We did our usual, in those days, non-partisan study of the bill and agreed to pass it without amendment, but we instructed our chairman to accompany that action with a letter which strongly recommended other steps, the most substantial of which was gun registration. That was the main recommendation of our committee and of the Senate at that time. I believe that all of the Liberal and Conservative members on that committee endorsed that report, and the letter which accompanied it, signed by our most eminent chairman. I do not recall a single voice being raised against it as it received third reading in this house. There is now this great uproar on this very point. I could speculate as to the cause and source of the uproar.

• (2140)

It is always legitimate for those in a business affected by a bill to lobby against it. Of course it is legitimate for those who seriously believe that registration will somehow impinge upon their legitimate use of target or hunting firearms to do their best to keep their sport or their means of gaining a living as unfettered as possible, within the limits and within the interests of public safety. However, the pile of misinformation that has been dissipated among the Canadian public, and has, through yellow journals, professional agitators and biased newsletters, found its way into the multitude of missives sent to the members of this house, and in many cases by well-meaning but emotionally charged people, has been downright scandalous. Some of it is so ridiculous as to be funny, but most of it is intended to prejudice our legislative process, and that must be taken seriously.

Some of it has a foreign tinge. Some say, "I have the constitutional right to carry a gun." Most people should know that that is part of the American Constitution. In Canada, we recognize that a democratic government is formed by citizens to ensure the security of the person. Our Constitution imposes on the government the obligation to preserve peace, order and good government.

People may feel that government has gone too far in regulating diverse aspects of Canadians lives, but surely this is not the issue on which to take that stand. This is the core of government responsibility. Violent crime has gone too far to allow the Canadian government to fail to take steps to regulate guns, and, fearmongering aside, that is all that this bill will do.

Honourable senators, I really cannot summon up great sympathy for those who are basing their objectives on myths, or who say it will be too much trouble in the interests of public safety to list up to 10 guns on a postcard and send the card and $10 into the local registry.

I do have real concerns for the aboriginal people whose culture has inculcated the principles of family and community care and the use of firearms, but those concerns have been shared by the Minister of Justice. He has already undertaken extensive consultations with aboriginal communities as to the best way to develop regulations which do not infringe on their constitutional rights, and methods of implementing the law to meet their needs. Still, he and they must acknowledge that misuse of firearms and the tragedy that flows from them is not the exclusive preserve of the non-native population.

Honourable senators, the purpose of guns is to kill. The misuse of guns to kill, maim and threaten is one of the most dangerous challenges to the peace, order and good government of our society. As such, our government, with the massive support of our people, has no alternative but to take the measures contained in Bill C-68 as a matter of public safety.

Honourable senators, I will vote to approve Bill C-68 without amendment.

Senator Sparrow: Would the honourable senator permit two questions?

Senator Stanbury: Certainly.

Senator Sparrow: First, in your initial remarks, you said you see no reason why people would mind admitting they have a gun. I would think those people who legitimately own a gun — there may be some exceptions — have no concern about admitting they have a gun. Every farmer in my country admits he has a gun. People who use guns in crime are the ones who will not admit they have a gun. Would you agree with that? You have been in Turtleford, have you not? You know the areas I am talking about. I am asking you if you believe that the reason there is opposition to this bill is that people are somehow hiding their guns from the rest of the population?

Second, you talk about the government need for gun control now. Is this need any more severe than it was 5, 10, 20 or 50 years ago? Is there any greater crime now that a licensing regime would stop?

Senator Stanbury: Honourable senators, in answer to my honourable friend's first question, I said that I did not believe anyone would object to admitting to having guns and having their possession recorded. I still do not believe that. When I was on the farm, we had a gun. If someone said we should register that gun, why would we have objected? We were not afraid to say that we had a gun, and we had no resistance to having it registered. This is just a matter of recording that you have the gun.

What was your second question, senator?

Senator Sparrow: Is crime worse now than it was in the past?

Senator Stanbury: Honourable senators, the fact is that the process in Bill C-68 has been going on for 30 or 40 years. The process goes back to 1981, and there was a gun control bill before that. It is gradually coming to be understood by legislators and the public that there is a need for a greater knowledge of where guns are located, and who has them. That is what the committee decided when they dealt with Bill C-17. If a Liberal government had not brought this legislation forward, it would have been brought forward by a Conservative government. Kim Campbell was already preparing the legislation to do exactly what we are talking about today.

Senator Sparrow: Do you know what happened to Kim Campbell?

Senator Stanbury: Yes, I do. However, I doubt that her passage of gun control legislation was the reason for her downfall.

Senator St. Germain: Honourable senators, I rise tonight because I think there may be some doubt as to where I stand on this issue. I want to make sure I am off the fence, especially for Senator Carstairs and others who may not know exactly where I stand.

Senator Stanbury began by saying that he figured there must be two entirely different bills. What we are dealing with, though, are two entirely different worlds. If you live on Wellington Crescent in Forest Hill, or if you live in Aklavik, there is a major difference.

Honourable senators, we came to this place to represent all Canadians. Somewhere along the way, I believe that perhaps we have lost sight of the fact that we represent all Canadians, those in Aklavik, those in Willow Bunch, Saskatchewan, and other places in this great country.

Senator Stanbury began his speech by saying that he has had military experience. Honourable senators, so have I. I spent five years in the military, and I spent about five-and-a-half years as a police officer, therefore I do not stand here inexperienced in the world of guns and violence. I spent months undercover in Vancouver with the drug community. I was an undercover agent in narcotics and various other areas of police work. I think I know a little bit — not much, but a little bit — when it comes to dealing with violence.

First, honourable senators, I want to state to all honourable senators that I am a strong supporter of gun control. Bill C-68, in my view, though, is not gun control — it is gun registration. A bureaucracy will be imposed on law-abiding citizens.

Honourable senators, I also support the safety and storage aspects of this bill. I think this is what distinguishes us from other societies in that we exercise a high degree of safety and control within our society. If I believed for one second that Bill C-68, as drafted, would improve the control of guns, I would be the first one to vote for it. If I believed that the registration portion of the legislation would do anything, I would be front and centre in supporting Bill C-68. However, I do support the criminal enforcement aspects of Bill C-68 because I think it is most important that we tighten our laws to impede those who would defy our laws.

• (2150)

I also respect the elected place in our bicameral system of Parliament. It is in that spirit that I support amendments to the legislation. I was shocked by the attitude of the minister who felt his bill was perfect. I have been around this place long enough, honourable senators, to know that nothing here is perfect. In spite of how great or how eloquent or how well-educated or how experienced one is, there is always room for improvement. I believe a minister who would not entertain, or even consider, any amendments is remiss in his or her duties.

To a degree, there is some intellectual dishonesty regarding gun registration when people say it will reduce crime and control criminals. I do not believe that it will.

If the minister and those who support him were to be really honest, do you know what they would be asking for? They would be asking that we ban all firearms other than for the police and the military. I do not know what the result of that would be in our society, but I do think that would have more credence than asserting that the registration of the firearms of law-abiding citizens will make a difference, because if all the guns we have in this country were to be registered, they would all still exist in their present form. As Senator Sparrow and others have said here today and on other occasions, it would make no difference because criminals would not register their guns anyway.

What difference would it make with respect to suicides? I have heard so many times that suicide would be reduced if all guns were registered. What difference would it make if every gun were registered in the Northwest Territories? Theoretically, this bill will cause everyone to send in a little slip to register their guns. When a registered gun owner reaches such a low point that he or she wants to end his or her life, registration will do nothing to stop them.

The Marc Lépines of our world will not go away because of registration. They will still be there, front and centre, because no government can legislate against insanity. We will always have those in our society who will be dangerous. I do not believe that gun registration, in any way, shape or form, will eliminate those people who become violent.

I do wish the minister had been honest and stuck to his guns when he said he believed that only the police and the military should have guns. Then he would have had some credibility with me. Then I could possibly believe that he was really committed to reducing violence in our society.

I would hope that the families of victims of violent crimes in this country are not used in the political agenda to pursue any kind of legislation. It is not fair to misrepresent the facts in that manner.

As most honourable senators know, I travelled with several senators across this country to hear what Canadians had to say about this bill. I apologize to Senator Prud'homme for not making him aware of the travels that we undertook; he would have accompanied us. However, we did hear, in the western provinces and in the north, what Canadians had to say on this issue. It is regrettable that the meetings were boycotted by those who support Bill C-68 because, as I said earlier, if someone could point out to me how gun registration would reduce crime, I would change my position and my views on this matter.

We did hear from school teachers, farmers, trappers, outfitters, that what we need in our society more than anything is education. We need the removal of violence from our media. We need to work with and build on the family unit. These are the issues which were brought forward to Senators Tkachuk, Stratton, Carney, Lucier, Lawson and others who were with us. These are the concerns that will make a significant change in our society.

We heard from our aboriginal community. We have, as a society, done things to these people for which we should all be very ashamed. I went and lived with the Inuit on the Beaufort Sea. I slept in a sleeping bag on the floor of one of their hunting cabins, which I shared with a family of seven. I spent the day with them. I saw how they lived. I did not want to come back here and just say that I believe I know how they live. I spent time with them.

I spent time with the Dene Nation, with Chief Bill Erasmus. I spent time with the Minister of Justice, Steven Kakfwi, in the Northwest Territories and with his people. I spoke to no native people, men or women, who were in favour of this legislation with the sole exception of Senator Marchand. He is the only native person with whom I have been in contact who supports this bill.

As I have pointed out before in this place, we have forced these people off their traditional lands. We placed them on reserves. We virtually persecuted them. One native at the Dene Nation meeting said to me: "Your white community should have practised gun control 150 to 200 years ago when they were killing all of us." When Senator Spivak talks about the need for gun control, I would point out to her that that is when it was needed.

We took their children and put them in residential schools. We had people running these facilities who sexually and physically abused their children. We told those native children that it was shameful to remember their culture or to speak their own language. We went one step further: We established the Department of Indian Affairs and Northern Development, and created a social welfare state. We removed from them every single ounce of dignity. We destroyed them as a people.

One young chief rose at a Dene Nation meeting in front of some 30 chiefs and said: "Senator, go back to Ottawa and tell these people we do not need gun control. I am the chief and there are only two of us in the tribe who are sober. The rest, elders and everyone, are under the influence. We need alcohol and substance control. Gun control is not part of our problem and it never has been."

Then we have our prison communities: In Stony Mountain prison in Manitoba, 55 per cent of the population is native, but only 7 per cent of the provincial population is native. My friends, we now want to criminalize them even further for not registering their tools.

The native people can hardly believe that this is happening. Senator Lucier can tell you about the elders in the Yukon who spoke to us, each one from the bottom of his heart. They did not make fancy speeches on the egregious errors or the temerity of this bill; they told us, in the most basic terms, how this bill will impact upon them negatively.

• (2200)

Why are we doing this? One senator told me that we will give them a break and only charge them with a summary offence and, on the second offence, they will become criminals. These people do not understand why they would be charged in the first place. They would logically commit the offence again because they would figure they were doing the right thing. Yet we want to criminalize and incarcerate them.

Honourable senators, this is the most horrible piece of legislation that we could impose on these people. It is totally unacceptable.

I do not know what the government is thinking. I was looking at the smug bureaucrat who sat beside the minister when he appeared before our committee. We asked them about consultation with natives. In our travels, we asked those who appeared before us about consultation. We heard in committee before we left that they had not been consulted. We were told this by Matthew Coon Come, Chief Erasmus and Ovide Mercredi — all of them told us that they had not been consulted. I said to the minister, "Why were they not consulted?" The minister provided us with a list of those with whom they consulted. The natives told us, "Our name is there but they never talked to us."

The bureaucrats at DIAND know better, just like all the other bureaucrats. They know what these people need. In spite of the fact that we have virtually annihilated them, we are still going at it.

Honourable senators, I wanted to change the amendment to include consultation for 12 months before the passage of this legislation. I was told that this would be seen as hoisting the bill. I understand that. I do not want to hoist any bills. I do not want to delay the legislation. I just want to see good legislation.

Honourable senators have talked about Kim Campbell's bill. I did not agree with it, either. All I want to do is deal with things logically. I do not believe that we are exercising logic in dealing with our native communities.

I would like to finish off by saying what I think this piece of legislation will do to our country. I was elected to the House of Commons in 1983. I did not know a living, breathing Tory when I got into this business. At the time I came into Parliament, I could see problems developing on the horizon as far as the unity of this country was concerned. I see four provinces and two territories representing 80 per cent of the land mass and 56 per cent of the population of this country saying, "This is not good legislation. This is not enforceable. We will comply with it if we are forced to."

Honourable senators, we are developing a wedge like the one that has developed in Quebec. It is not the same thing, but it is a division. It is divisiveness that I do not believe this country needs at this point in time.

I was told that the reason Quebec was allowed to hold a referendum in 1980 was that a duly-elected legislative assembly in that province wanted to exercise its democratic rights. Another referendum was held in 1995. What is wrong with the legislative assemblies of Ontario, Manitoba, Saskatchewan, Alberta, the Northwest Territories and Yukon? Why are we not paying heed to what these people are saying? These people are not supporting any criminal activity. What they are doing is representing their regions. Until we recognize the diversity of this country, we are destined to destroy it.

I can understand why Quebec is where it is today. I can also understand what will happen if we continue along this track and continue to ignore the likes of Manitoba, Saskatchewan, Alberta, Ontario, the territories and Yukon.

In closing, the minister quoted his Liberal friend, the Attorney General of P.E.I. What a coincidence; they are both Liberals and they both have their own special view of Canada, which is basically the same view. There is more to Canada than P.E.I. and downtown Toronto: just ask Chief Erasmus, Mike Dudar from Ethelbert, Manitoba, Mayor Gary Pollock from Swan Hills, Alberta, or Jim Zimmerman from the Kootenays. These people are Canadians. They have a different view of what Canada is all about and what it is to be a Canadian.

Maybe we should ask the Quebecers. Instead of the manipulation that took place with them, how different would it be if the Constitution had not been patriated without them being a signatory to the document? Had the Meech Lake Accord gone ahead, perhaps today we would be a stronger country.

We are at a crossroads. All this is history in the making. We control the destiny and the future of this country. Let us not forget that we are all diverse. We all may see Canada through a somewhat different window, but we all see Canada in the background. Let us not lose our focus on Canada and its diversity.

Some Hon. Senators: Hear, hear!

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I would certainly not suggest that we have completed the roster of speakers on this particular bill on either side of the house. There have been discussions with the leadership on both sides. There seems to be an agreement that we might adjourn and resume tomorrow. If any honourable senator wants to speak tonight, then we still have time. However, I do not see anyone who is so inclined.

If there is agreement, I would adjourn the debate in the name of Senator Bacon.

On motion of Senator Graham, for Senator Bacon, debate adjourned.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, if there is agreement, I move that all remaining Orders, Reports, Motions and Inquiries stand.

Motion agreed to.

The Senate adjourned until Wednesday, November 22, 1995 at 1:30 p.m.

THE SENATE

Wednesday, November 22, 1995

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

Prayers.

SENATORS' STATEMENTS

NIGERIA

EXECUTION OF KEN SARO-WIWA
AND NINE OTHER OGONI ACTIVISTS

Hon. Jean-Louis Roux: Honourable senators, I was shocked and appalled by the execution by hanging on November 10, 1995 of nine leaders of the Ogoni people in Nigeria at the hands of the military dictatorship of General Sani Abacha. One of these activists was the internationally acclaimed writer Ken Saro-Wiwa.

[*Translation*]

In addition to defending the rights of the Ogoni people, Ken Saro-Wiwa was a well-known writer and ardent environmentalist. He was president of the association of writers of Nigeria and known as a human rights activist through Amnesty International and PEN International, and for his defence of environmental rights through Greenpeace. In 1990, he abandoned his literary career to found the Movement for the Survival of Ogoni People.

[*English*]

Led by Ken Saro-Wiwa, the 500,000 Ogonis mobilized en masse to claim their fair share of the billions of dollars extracted from their homeland by multinational oil companies, such as Shell and Mobil. Several observers have noted that the revenues generated by this exploitation, an estimated $100 billion since 1960, were used indirectly to finance the repression of the Ogonis by the military rulers. As well, the Ogonis demand compensation for the ecological devastation caused to their traditional economy, which is based on fishing and agriculture, by badly maintained pipelines and oil blow-outs.

Despite the Ogonis' commitment to non-violence, an intervention by the Nigerian military to crush a demonstration against Shell in January 1993 led to the destruction of several villages and the mindless killing of several hundred innocent victims. In November 1993, the military junta annulled the presidential elections and incarcerated the presumed victor, arrested and persecuted hundreds of pro-democracy activists, muzzled the press, and engaged in widespread repression and corruption.

[*Translation*]

Saro-Wiwa was jailed in May 1994, after being charged with planning the murder of four pro-government Ogoni chiefs. Although he declared that he was innocent and was not even present when the incident took place, Saro-Wiwa and his fellow defendants were sentenced to death for these murders by a special tribunal, in a flagrant denial of the fundamental rights of the defendants, which was unanimously condemned as a parody of justice by many international observers. At least two witnesses have admitted they were paid by the government.

Despite appeals for clemency and protests from many organizations and many countries, General Abacha cynically turned a deaf ear and confirmed his odious reputation by executing the nine Ogoni activists. Outrage among the international community was instantaneous. In a decision unprecedented in the history of that organization, Commonwealth members, meeting in Auckland, New Zealand at the time the nine Ogoni leaders were executed, imposed a two-year suspension on Nigeria, during which time it would have to restore democracy and respect for human rights or otherwise be formally excluded from the organization. The European Union also broke off all cooperation with the military regime of General Abacha. Many countries, including Canada, also withdrew their ambassadors from Abuja, the capital of Nigeria.

We have known for some time the dangers inherent in political systems where freedom of expression is curtailed and any hint of dissent is silenced. Writer Ken Saro-Wiwa was among the first to be critical of the system in his country, Nigeria. The whole world will always be indebted to him, and I urge all my colleagues to pay him the tribute he deserves, bearing in mind this very apt comment by Albert Camus in *Le témoin de la liberté*:

> In a world in which we are condemned to die, the artist testifies to that which refuses to die in us...

[*English*]

• (1340)

GUN CONTROL LEGISLATION

Hon. Marjory LeBreton: Honourable senators, I wish to put on the record that I, like many of my colleagues, support strict gun control laws. I was honoured to be part of the government which legislated some of the strictest gun control laws in the world, particularly as the law relates to handguns and assault weapons.

I have spoken to many women who share these views on this issue. We now have a new bill before us for consideration. There is always room for improvement, and I intend to support amendments which seek to do just that: Improve the bill.

I would like to add, honourable senators, that many women who have spoken to me worry about the cost of the implementation of this new legislation. They ask: Would this money not be better spent on homes for battered women and children and on funding the child care package promised by the Liberals in their infamous Red Book, a concrete measure which would allow women to be freer to make choices for the overall betterment of their own lives and the lives of their children?

Hon. Lorna Milne: Honourable senators, in my speech yesterday, I had my eye on the clock, and I was unable to put on the record some thoughtful words we heard in committee on Bill C-68. I will take a moment to draw your attention to them.

The committee heard from the Honourable Alan Buchanan, Attorney General of Prince Edward Island. His words were echoed by his federal counterpart last week, and I think they bear repeating. He said:

> I am a Canadian and I believe that this bill is an important legislative expression of what it means to be a Canadian. I believe the bill to be a timely reaffirmation of the essential beliefs and values that set us aside as a civilized nation.

He added later:

> I am convinced that our long-standing cultural tradition as peaceful and law-abiding people is a fundamental part of our national character, a priceless badge of honour, and we should do everything possible to...strengthen this tradition. The federal government's legislation does precisely that and as a Canadian and as a parliamentarian I am pleased to support this legislative initiative...

Honourable senators, I agree with Mr. Buchanan, and I believe that his words should be reflected upon by all members of this house.

Hon. Pat Carney: Honourable senators, I too wish to address the firearms legislation that is before us this afternoon. I attended meetings recently in Vancouver to hear from people who feel they will be affected by Bill C-68, meetings that were called by my B.C. colleague Gerry St. Germain and attended by Senator Ghitter and others. I thought it would be timely to share with you some of the concerns expressed at those hearings.

Honourable senators, most of us in this chamber do, of course, support gun control. In 1991, our Conservative government, under then justice minister Kim Campbell, brought in the most extensive firearms legislation in existence in the recent past.

I have checked with our Vancouver police officer, and he finds that legislation quite effective. The officer in charge of firearms permits says he turns down about 10 to 20 per cent of requests for firearms certificates on the basis of that legislation. The man on parole does not get a licence; the man going bankrupt does not get a licence; a person showing signs of depression does not get a licence — in other words, we have effective legislation.

I wanted to mention some of the concerns from our hearings. A very important one was the effect that this legislation will have on aboriginal rights. One of the most effective agencies in my province is the Indian Homemakers of B.C. It is an advocate for women and children and a group that, I thought, would support this legislation. At the hearings, its president spoke to the contrary. It opposes this legislation because it feels the provisions in Bill C-68 will increase the level of violence against women and children among First Nations. That was disturbing to me.

Other concerns related to the impact of this legislation on international competition. As honourable senators know, the head coach of the Canadian Olympic team says that the provisions in this bill, whether by design or accident, would impede our ability to compete in the Olympic Games and the Pan-American Games. The Commonwealth Games could not have been held in Victoria had this legislation been in place. There is concern that an activity which is a recreational sport and an international sport to many Canadians is being unfairly targeted in this bill.

Concerns were raised about the cost imposed by this legislation, the millions upon millions of dollars that witnesses said should go to child care, violence against women, shelters, and policing activities against criminal elements. That is a very real concern.

There was concern that law-abiding Canadians could be found in violation of a minor infringement under this legislation, and could actually go to jail on a second offence. As one ex-police officer said at the hearings, "If we are not the target, why do we have to pay the price?"

Concern was expressed about the harshness of the penalties contained in the bill. It was pointed out that under this legislation the minimum penalties for failure to register a gun would be harsher than those for manslaughter or attempted murder. That is considered to be an inequitable application of the law in our part of the country.

There are concerns about hobbies. People interested in our history like to re-enact battles and feel they will be targeted by this legislation.

Some people were concerned about museums. Normally, we do not consider museums to be a hotbed of criminal activity, but museums say that they will be required to pay about $4 million in fees under this legislation.

There is concern that antique guns are included in this legislation. As we were told at the Vancouver hearings, there is no record of a 7-Eleven convenience store being shot up by anyone using a 200-year-old musket.

There is a private fear, publicly voiced, that under the computer registration provision of this legislation, homes could be targeted by criminals. As one female witness said, a computer list could turn into a shopping list for criminals. They fear that their privacy and safety will be affected.

I wanted to bring those concerns forward for the benefit of honourable senators who did not have a chance to attend the Vancouver hearings, the Kamloops hearings, the Yukon hearings, Manitoba hearings, or all the other hearings organized by our colleagues on Bill C-68.

CANADA COUNCIL

FUTURE OF ART BANK

Hon. Eymard G. Corbin: Honourable senators, I did not have sufficient time to prepare myself for this statement. Nevertheless, I think it is important that a senator make a statement at this time about the future of the Canada Council Art Bank.

Some months ago, the president of the Canada Council and the director announced the establishment of a transition advisory committee to help the council decide what to do about the Art Bank, an institution which has functioned exceedingly well up until this point in time. I am not saying that there were no problems, especially managerial ones, but that is something I do not wish to speak about today.

Honourable senators, the fact is that a number of papers have articles on the presentation of the report, which was released only yesterday, though it had been in the hands of the president and the director of the Canada Council for over a month. The headline in *The Toronto Star* reads, "Keep Art Bank alive, but cut off funds, report says." *The Globe and Mail* reads, "Scale down Art Bank, advisory team says — Canada Council questions report."

• (1350)

[*Translation*]

Today's *Le Devoir* has a four-column-wide headline, which translates roughly as:

> Survival hangs in the balance.
>
> Canada Council Art Bank transition committee tables its report.

[*English*]

The *Montreal Gazette* had a four-column-wide headline:

> Committee report on Art Bank's fate calls for it to be resuscitated.

The Ottawa Citizen's B-folio headline reads as follows:

> Art Bank shouldn't be sold, panel says. Hiring managers, paring collection, also suggested.

The point is that the chairman of the Canada Council and the director of the Canada Council made up their minds, they say, with the few members who were then on the board of the council; but their number was small compared to the full complement of council members. Some months ago, they decided that the Art Bank would have to disappear. That was what was in their minds; they made the announcement, and that was that. They then established a transition committee to help them achieve that goal.

Notwithstanding the fact that it was not within its mandate, the transition committee has emphatically stated that the Art Bank should be maintained, although perhaps not in the specific way it is now managed and operated. They did single out the Art Bank as constituting a unique art collection spanning some 25 to 30 years of artistic production in this country. That goes directly against the will of those who direct the Canada Council today.

To me, that is indicative of there being something gravely wrong within the Canada Council.

Honourable senators may agree or disagree with some decisions the Canada Council has made over the years but, in my opinion and in that of many senators, overall, it has served the cultural interests of Canada exceedingly well, in spite of incidents or accidents. I do not think we should throw the baby out with the proverbial bath water.

The time has come for Parliament to re-examine the operation of the Canada Council. I believe it should be maintained. However, the Canada Council, existing by virtue of a law of Parliament, mandated by Parliament, has to come to account with the way it is directing that institution. The Senate is in an excellent position to take that initiative and, indeed, to have a second look at all of our cultural institutions and what they bring to the identity and unity of Canada. In the near future, we should set ourselves that task.

REFORM PARTY

BID TO BECOME OFFICIAL OPPOSITION IN HOUSE OF COMMONS

Hon. J. Michael Forrestall: Honourable senators, if my information is correct, this afternoon Preston Manning will attempt to achieve his lifetime dream of becoming the Leader of the Official Opposition in the Parliament of Canada, and to have his colleagues rise and sing our national anthem.

On the surface, this is laudable. We enjoy the presence of our flag on the floors of our respective chambers, but we have refrained for a very good and valid reason from the practice of singing our national anthem.

Anthems, of course, are living things and, as such, from time to time they should reflect the society in which we live, our history and culture, our hopes for the future, our own separate beliefs and our own separate gods. However, honourable senators, when we subject those symbols to the peril of ridicule or politicization, then I believe we do a disservice.

As one of the two remaining parliamentarians who had the rare and deep privilege of helping to rewrite our national anthem back in the mid-1960s, I take exception to the Reform Party of Canada's attempt to — just what it is, I am not sure. If they are attempting to bring into disrepute the flag of Canada and the parliamentary process, then I would be very upset.

Honourable senators, it will be obvious whether certain members of another party, who have every right to be in that other chamber, respect the singing of the national anthem. If they sit and do not participate, then I ask you to consider what that will do to our national anthem as a symbol of our lives in Canada.

ROUTINE PROCEEDINGS

EMPLOYMENT EQUITY BILL

REPORT OF COMMITTEE PRESENTED AND PRINTED

Hon. M. Lorne Bonnell: Honourable senators, I have the honour to present the eleventh report of the Standing Senate Committee on Social Affairs, Science and Technology. This report concerns Bill C-64, respecting employment equity.

I ask that the report be printed in the *Minutes of the Proceedings of the Senate* of this day.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(For text of report, see today's Minutes of the Proceedings of the Senate.*)*

The Hon. the Speaker *pro tempore*: When shall this report be taken into consideration?

On motion of Senator Graham, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1400)

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH (CANADA WEST DISTRICT)
FIRST READING

Hon. Leonard J. Gustafson presented Bill S-12, to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District.

Bill read first time.

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

On motion of Senator Gustafson, bill placed on Orders of the Day for second reading on Wednesday, November 29, 1995.

BANKING, TRADE AND COMMERCE

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

Hon. Michael Kirby: Honourable senators, I give notice that on Thursday, November 23, 1995, I will move:

> That the Standing Senate Committee on Banking, Trade and Commerce have the power to sit at two o'clock in the afternoon, Thursday, November 30, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

STATE OF CANADIAN FINANCIAL SYSTEM—
NOTICE OF MOTION TO EXTEND DATE OF FINAL REPORT

Hon. Michael Kirby: Honourable senators, I give notice that on Thursday next, November 23, 1995, I will move:

> That, notwithstanding the order of reference adopted by the Senate on Wednesday, November 30, 1994, the Standing Senate Committee on Banking, Trade and Commerce be authorized to continue its examination into the present state of the financial system in Canada;
>
> That, in conducting this study, the Committee pursue, in particular, its examination into Crown financial institutions, corporate governance, and the 1992 reform of financial institutions;
>
> That, notwithstanding usual practices, if during the winter adjournment the Senate is not sitting when the Committee's report on its review of Crown financial institutions is completed, the report may be deposited with the Clerk of the Senate and it shall thereupon be deemed to have been presented to that Chamber; and
>
> That the Committee present its final report no later than September 26, 1996.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, I have in my hand a petition containing 4,370 signatures from rural municipality 92, Wawota, Saskatchewan. It states:

TO THE HONOURABLE THE SENATE OF CANADA IN PARLIAMENT ASSEMBLED

The PETITION of the undersigned, residents of Canada,

Humbly Sheweth:

THAT the majority of Canadians are law-abiding citizens who respect the law;

THAT the crime rate in Canada will not decrease if mandatory registration of firearms legislation is passed; and that stricter penalties on offenders would be a more appropriate solution to crime;

THAT the majority of Canadians are opposed to those measures in the Government Action Plan and in Bill C-68 that impose needless burdens on law-abiding Canadians such as the registration and licensing of firearms;

THEREFORE your petitioners pray that: The Senate of Canada will do all in its power to defeat Bill C-68;

AND as in duty bound your petitioners will ever pray.

Honourable senators, there are now 4,371 signatures on this petition, as I have added my own to it.

Hon. Gerry St. Germain: Honourable senators, I have the honour to present the following petition signed by 2,500 people from every region in the province of British Columbia from Prince George to Delta and Surrey:

TO THE HONOURABLE SENATE OF CANADA IN PARLIAMENT ASSEMBLED

The petition of the undersigned citizens of Canada humbly showeth that Bill C-68, a bill concerning firearms and other weapons, is unwarranted and intrusive legislation which needlessly targets law-abiding firearms owners and which attacks the very foundations of the democratic principles of this country.

Hon. Leonard J. Gustafson: Honourable senators, I should like to present the following petition:

TO THE HONOURABLE SENATE OF CANADA IN PARLIAMENT ASSEMBLED

The petition of the undersigned citizens of Canada humbly showeth that Bill C-68, a bill concerning firearms and other weapons, is unwarranted and unnecessary legislation which needlessly targets law-abiding Canadians and which attacks the very foundation of the democracy principles of this country.

There are thousands of signatures here. I have not counted them, but they give some indication of the concern about this legislation, especially in rural Saskatchewan, parts of Alberta and B.C.

Hon. Duncan J. Jessiman: Honourable senators, I have the following petition to present:

TO THE HONOURABLE SENATE OF CANADA IN PARLIAMENT ASSEMBLED

We, the undersigned, do not feel that registering and restricting the use of sporting guns will reduce crime in this country. It will only add cost and waste time for honest and responsible gun owners. It will also cost taxpayers a lot of money to enforce. We enjoy the sport of hunting and shooting, and hope our children, too, would get the chance to enjoy it. Additional costs and hassles introduced by further restrictive legislation will no doubt discourage them from taking up the sport.

This petition was signed by approximately 1,000 persons in the province of Manitoba outside the city of Winnipeg.

Hon. Willie Adams: Honourable senators, I have a petition to present with 1,552 signatures from the Baffin region, the Keewatin region and Aklavik, with regard to forcing Bill C-68 upon the Northwest Territories.

QUESTION PERIOD

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—TABLING OF LETTER TO SWISS AUTHORITIES—REQUEST FOR ANSWER

Hon. J. Michael Forrestall: Honourable senators, I invite the Leader of the Government in the Senate to respond to a question I asked of her on November 20 concerning the complexity of tabling a pertinent letter in this chamber. That letter concerned the request of another government to pursue a certain matter.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have made inquiries. I was advised that, no, it would not be possible to table that letter. That letter is confidential.

Senator Forrestall: Honourable senators, it certainly is confidential; there is no doubt about that. So that the record is clear, could the minister indicate what makes it confidential? Is it confidential because of an agreement that would require the permission of another authority to release it, or is it an internal matter?

Senator Fairbairn: Honourable senators, the letter to which the honourable senator refers — that is, the original letter — is a confidential letter that was transmitted in that manner, very carefully, to the Swiss authorities. It remains confidential. Other varieties of correspondence which have found their way into the media are not the document of the Department of Justice.

[*Translation*]

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—DEPARTMENTAL LETTER TO SWISS AUTHORITIES—SOURCE OF LEAK TO MEDIA

Hon. Pierre Claude Nolin: Honourable senators, yesterday afternoon the Minister of Justice admitted, in connection with this letter, that it was important to find out how the infamous letter had been leaked. Yesterday afternoon, at the very same time or just shortly after, RCMP authorities contacted admitted that they were not aware of any investigation into this famous leak. Could you please enlighten us about this confusion?

[*English*]

• (1410)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, we have no idea how an edited version of the letter to the Swiss authorities found its way into the hands of the Canadian media. As I believe I have made clear, Department of Justice officials confirm that the edited document is not a federal government document. The original letter was a confidential letter between the appropriate Canadian and Swiss authorities, as I have already told Senator Forrestall.

With regard to my honourable friend's comments on the RCMP, I will follow up on that matter with my colleagues.

[*Translation*]

Senator Nolin: The Minister of Justice was very clear: The source of the leak must be found. Canadians are entitled to conclude from the minister's statement that he wants an internal investigation carried out. That statement also sent the media after the RCMP to ask if an investigation was under way. The response is confusing. I think we are entitled to know whether this confusion is going to be cleared up.

[*English*]

Senator Fairbairn: Honourable senators, I will, of course, do anything I can to clear up any confusion experienced by the honourable senator with regard to this issue.

However, I will state once again that there is no confusion about the fact that the Minister of Justice has confirmed that the original letter between Canadian and Swiss officials was confidential, and documentation which is out in the media or elsewhere is not Canadian government documentation.

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—ALLEGATIONS OF MISMANAGEMENT—FINDINGS OF NATIONAL DEFENCE INVESTIGATION—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is a follow-up to a question I raised previously with regard to the removal of assets from DND property in Cornwallis, Nova Scotia. The leader may be aware that the Military Police from CFB Greenwood have finally been called in to investigate the suspicious removal of base property.

Given that the Military Police were not doing their jobs when the assets were being removed, what assurances do Canadians have that the findings of the DND investigations will be made public?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I was not aware of the information which the honourable senator has provided. I will follow up on that matter.

Senator Comeau: Honourable senators, given that the findings may be of incompetence, or worse, will the minister assure the house that the findings of the investigation will be made public?

Senator Fairbairn: I should like to refresh my memory on the details relating to my honourable friend's original question before I give such an assurance.

HUMAN RIGHTS

NIGERIA—EXECUTION OF OGONI ACTIVISTS—POSSIBLE RESTORATION OF DEMOCRACY—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, I should like to associate myself with the comments made by Senator Roux on the tragedy which occurred in Nigeria recently. Could the Leader of the Government in the Senate update us on what action the Government of Canada is taking in dealing with those who are running that country?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I should like to associate myself with the remarks of Senator Di Nino and Senator Roux, as I am sure all of us in this house would, on the enormous tragedy which occurred in Nigeria. It occurred, in effect, in the face of the Commonwealth, which was meeting at that time.

As Senator Di Nino will know, the Canadian government and the Prime Minister very strongly condemned the decision by the Nigerian authorities. Indeed, Prime Minister Chrétien was very outspoken in his efforts to mobilize public opinion against the occurence of such a tragedy.

In concert with other nations, Canada has recalled its chargé d'affaires from Lagos for consultation. The Canadian government is considering a number of measures against Nigeria's military regime to promote the return to democracy in that country. The honourable senator might appreciate that the most effective manner of doing this is through multilateral action. The kinds of measures which might be taken will be discussed with Canada's Commonwealth allies, and also within the United Nations family.

Senator Di Nino: Honourable senators, it is laudable that our colleague the Leader of the Government in the Senate agrees with us. I have no doubt that she does, and I am delighted to hear it.

However, is the government prepared to take some leadership in this matter, and take some action against the hoodlums who are running Nigeria, or will it be as cowardly in dealing with this issue as it was in dealing with the hoodlums who are governing China?

Senator Fairbairn: Honourable senators, I will not repeat the answer I gave to the honourable senator earlier. I will only add that Canada very definitely took the lead in advance of its Commonwealth allies on this issue, and intends to follow up this tragedy with action. We have already taken certain diplomatic actions, and other actions are being suggested in discussions among Commonwealth nations and the United Nations.

From past history of movements toward governments such as the government of Nigeria, we have learned that the effectiveness of international action is based primarily on the unity of nations, and on the response emanating from them. In concert with its partners both at the United Nations and in the Commonwealth, Canada is very actively attempting to reach some agreement on what kind of action will produce an effective and meaningful result in Nigeria.

Senator Di Nino: We look forward to your actions.

MANUFACTURE AND USE OF LAND MINES—GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, staying on the international front, I wish to ask a question of the Leader of the Government in the Senate with regard to land mines and the conventions dealing with them. I associate myself with her comment that multilateral action is the way to go on certain issues of human rights and international difficulties. I am pleased that Canada is involved multilaterally in trying to curb the use of land mines.

I am, however, distressed by the fact that, on a bilateral basis, the minister in charge has stated that Canada would continue to manufacture certain parts which can be used only for land mines.

In trying to discern what the government policy is, I got contradictory statements from various departments. In the end, my office was told that the whole matter is under review.

• (1420)

Could the Leader of the Government enlighten me as to where we stand today on land mines and the countless deaths that they have caused? We do not know the names of the dead, but we see the horrors in many countries: Cambodia, Vietnam, Bosnia, and the list goes on.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I, too, have been seeking information on this very issue, and I will share it when I receive it.

ENVIRONMENT

REDUCTION OF GREENHOUSE GAS EMISSIONS— ESTABLISHMENT OF NATIONAL STANDARDS—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, at a recent federal-provincial meeting discussing greenhouse gas emissions, there seemed to be a difference of opinion between the Minister of the Environment and the Minister of Natural Resources. It seems that the Minister of Natural Resources favours a voluntary approach on the part of the provinces in curbing greenhouse gas emissions, while the Minister of the Environment, who is attempting to achieve federal standards for curbing levels of greenhouse gas emissions, does not.

I should like to know the Leader of the Government's personal views on this matter, as well the policy of the government in terms of national standards.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, one thing that is sure is that both of my colleagues are united in their desire to see an orderly reduction of greenhouse gas emissions. I know there was a meeting a few days ago among ministers in Edmonton. I should like, to look into that meeting and obtain a report on the exact outcome.

Senator Spivak: Honourable senators, environment is a matter of shared jurisdiction. I know that there have been efforts to harmonize environmental evaluations. However, in making her enquiries, could the Leader of the Government in the Senate clarify how all of this will eventually play out?

Greenhouse gas emissions are a major concern. The reason for Minister Copps' position is that there has been new scientific information on global warming. Could the minister clarify whether, if it chooses, the federal government will be able to set federal standards? That is a very important question.

Senator Fairbairn: It is an important question, honourable senators. I agree that the issue itself is enormous, both internationally and for Canada. I shall try to obtain an answer for the honourable senator.

TRANSPORT

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—STATUS OF EH-101 CONTRACT—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I should like to try to clear up another matter. It has to do with search and rescue helicopters. As the Leader of the Government is no doubt aware, her colleague the appropriate minister has announced a final settlement with EH Industries for the contract that was cancelled by her government on assuming office.

I know she understands the importance of making the settlement public, because it speaks directly to the total cost of cancelling the EH-101 contract. It is also important because it is relevant to the $600-million price tag that the minister has outlined for the purchase of replacement equipment.

I would appreciate it very much if, sooner rather than later, the leader would shed some light on this matter so that we might have her answer as part of our record.

Hon. Joyce Fairbairn (Leader of the Government): I will certainly do that, honourable senators. I cannot do it today. On an issue like this, I would not even attempt to do so. I will try to obtain the relevant facts for the honourable senator as best I can.

[*Translation*]

ORDERS OF THE DAY

FIREARMS BILL

CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, for the adoption of the sixteenth report of the Standing Committee on Legal and Constitutional Affairs (Bill C-68, an Act respecting firearms and other weapons, with amendments) presented in the Senate on Monday, November 20, 1995.

Hon. Lise Bacon: Honourable senators, in a few days we shall be commemorating the horrible massacre at École polytechnique in Montreal.

On December 6, 1989, 14 young women lost their lives because a madman happened to cross their path, a madman with a gun. The École polytechnique massacre, like many other tragic events, reminds us that all too often firearms are part of our day-to-day reality. Cases of family homicides are surprisingly common in our country, and it is a shock to realize that firearms are the weapon of choice in spousal homicides.

Also terribly common are suicides involving a weapon that was too readily accessible, and made the difference between an irreparable outcome and an instant when the worst could have been avoided.

Bill C-68 was drafted in order to spare the women and men of this country from having to experience, or to fear, such situations any longer, and delaying its application and proposing unfounded amendments is not the way to start any effective action.

First of all, I shall address one of the amendments which is to delay implementation in certain provinces or in the territories. Allow me to state, honourable senators, that I find it somewhat ironic, when there is talk of equality between the provinces, that there is a desire to make some of them distinct cases. This amendment would allow provinces and territories to delay total Canada-wide implementation for up to ten years. This amendment is tantamount to allowing the provinces and territories the possibility of not implementing the firearms act for ten years. A ten-year delay means a heavy risk to the health and safety of Canadians.

This proposal cannot be supported, for a number of reasons — practical, economic and legal.

In his final submission to the Senate committee, the minister addressed the possibility of withdrawal, and its consequences for public safety and crime prevention.

Firearms from the provinces and territories deferring implementation will end up in jurisdictions that have chosen to implement registration promptly, thus undermining their program of universal registration.

Provincial and territorial governments told Parliament and the Senate committee why there was a need for national standards for enforcement of the legislation. The experience of other countries has illustrated the problems that occur when universal registration is not mandatory throughout the country. For instance, in Australia, universal registration exists in five of the country's administrations but not in the other three. The national committee on violence, an intergovernmental committee that examined violence in Australia, found that gun control was seriously undermined by the differences that existed from region to region. The committee recommended making universal registration mandatory throughout the country.

The provinces and territories could all elect to postpone implementation until all governments are ready to implement the program. Ten years would be too long and would not be acceptable, considering what Canadians expect gun control legislation to do in terms of protecting the public.

An assessment of universal registration by a few governments would not be very helpful. Unregistered guns and rifles would be moved from territory to territory, and the benefits of universal registration would be lost.

We need registration in all provinces and territories. According to a report on the unlawful entry, exit and circulation of firearms in Canada, in 1993 nearly 5,000 firearms were recovered by the police, which means 10 police forces serving 40 per cent of the rural and urban population of Canada. Half of these weapons were guns and rifles, which was one of the reasons why the task force recommended that all guns, and not just handguns, be registered upon entry into Canada.

• (1430)

What would be the consequences of this amendment? The police would not be able to trace the ownership of many of the firearms they recover. They would not know whether they were stolen, illegally imported, sold, or used previously to commit a criminal act.

Enforcement would create problems for Customs Canada. How could Customs officers enforce export regulations that differ from province to province? In the case of foreign visitors, would a licence and a certificate be issued to someone who arrives in a province where the program is in effect? Should the training Customs officers receive depend on where they work? How will the public react to Customs laws that vary, depending on the province and territory?

Parliament has an obligation to ensure that responsible owners of firearms are able to comply with Bill C-68. This provision for opting in or opting out would not be in the public interest. It would upset owners of firearms, hunters from other countries and the police who must enforce legislation that is passed to protect the Canadian public.

The financial framework of the Canadian firearms registration system, tabled by the Minister of Justice before the committee of the House of Commons, shows a balance between expenditures and revenues. However, this financial framework is based on the assumption that the money will come from three million owners who will register seven million firearms.

The Senate committee's proposal to amend Bill C-68 would make the legislation so confusing and so vague that it will be impossible to enforce and will benefit no one. Province by province implementation would mean that the present Part III of the Criminal Code and the new Part III provided under Bill C-68 would need to be in effect and enforced at the same time. One wonders whether this would be legally feasible.

With its application in different administrations with different criminal codes, an individual in a province that has the registration system in effect could not sell a long gun to someone in another province that does not, because no licence would be required.

Clearly, serious consideration has not been given to the disastrous effects this amendment would have in terms of the application of the legislation.

The amendment also poses problems in terms of the Canadian Charter of Rights and Freedoms. Under Part III of the present Criminal Code, two years' imprisonment is the maximum sentence provided for the transfer of a long gun to an individual who is not authorized to acquire a firearm. Under section 101 of the new Part III, five years' imprisonment is the maximum sentence for this offence.

Those proposing the amendment on participation and withdrawal will not want to impose such unfair and discriminatory legislation on Canadians.

The amendment is obviously incomplete. It aims at suspending the application of provisions of Bill C-68 pertaining to the registration of long guns. However, the section proposing the amendment does not indicate which clauses of Bill C-68 are involved. Many of the provisions relating to selling, lending, importing and exporting refer simply to "firearms" and concern their registration. There is no way of knowing whether these provisions are involved.

These questions cannot be justified by the Senate. If the amendment is passed, it will tarnish the image of every senator in the eyes of Canadians.

Furthermore, the dates indicated in the new clause 194 are in contradiction with both the provisions of this clause and those of clause 193. According to clause 193, the bill must come into effect by January 1, 2003, at the latest. However, according to the proposed subclauses 194(1) and (3), Bill C-68 must come into effect, in the case of long guns, a maximum of eight years after Royal Assent, which, obviously, does not coincide with January 1, 2003.

The essential cooperation between the provinces and territories and the federal government can only occur if we all make a commitment to achieve the purpose of this bill, namely the public health and safety of all Canadians. Bill C-68 addresses crime through gun control in order to promote safety in homes and on the streets across the country. The provinces agree with this Parliament that, at the end of the day, gun control legislation must be supported by the public. The gun control legislation must be fully implemented.

In conclusion, honourable senators, the purpose of Bill C-68 is to make our society safer and gun owners more responsible. That is the basic principle underlying this bill.

Bill C-68 is aimed at protecting family members from the dangers of unsupervised or easily accessible weapons. It is also designed to protect police officers, and to make their fight against crime more effective. Thanks to the registration of firearms, to harsher sentences and to other measures provided for in this bill, police officers will be better equipped to do their job while enjoying better protection.

Gun control represents an important and even an essential milestone in the fight against crime and violence. Honourable senators, we all want a safer, more secure society, and that is what Bill C-68 proposes.

[*English*]

Hon. Janis Johnson: Honourable senators, I rise today to express my support for the government's gun control bill, Bill C-68. I support this bill as it stands, without amendment. I ask each and every one of you to approach this as a matter of conscience. This is not an easy decision for any of us.

In the Senate, honourable senators, our most important role is to provide careful and ethical analysis of legislation. On matters as important as gun control, we must consider the ethics of our decision, and we must vote according to personal principles.

This is one of the most divisive issues to come before this house in recent memory, but the controversy is rooted in politics and the power of certain lobby groups. The fact is that the great majority of Canadians support tougher laws for the use and ownership of firearms, and this bill expresses the will of the Canadian people.

A poll taken by Angus Reid last October indicated that a clear 70 per cent of the 1,504 adults surveyed support tougher gun regulations. An Environics poll indicated that 90 per cent of Canadians support a law requiring all firearms to be registered. In the same poll, Canadians, particularly women living in large urban centres, show even higher levels of support than the national average. These statistics are impressive and cannot be overlooked. There is substantial support for this legislation, particularly in the province of Quebec.

• (1440)

My dear friends in the Senate of Canada, many organizations and groups in my own home province of Manitoba also support Bill C-68. When one hears people from the West speak, one would think that no one in Western Canada supports this legislation. This is not true. The Manitoba Action Committee on the Status of Women, the Manitoba Police Association, the Manitoba Teachers Association, the Manitoba Child Care Association, the John Howard Society of Manitoba, the Children's Home of Winnipeg, the Portage Women's Shelter, the Winnipeg Health Department, the Winnipeg Police Service — and I could go on with many more — all support the passage of this bill. I support the position of these groups.

I am concerned about public safety in Canada and, as honourable senators are aware, many police associations representing hundreds of officers across Canada support Bill C-68. I would remind my honourable friends of what was said by Chief MacDonald, President of the Canadian Association of Chiefs of Police, on this matter. He said, and I quote:

> Without information about who owns guns, there is no effective gun control.

In his letter of February 24, 1995, he stated:

> Opponents of gun control argue that the registration of firearms will not reduce crime. In fact, it is the position of the Canadian Association of Chiefs of Police that cost effective registration is a key component of the new proposed gun control legislation. Registration of firearms will help control smuggling, gun theft, and the misuse of legal firearms in a number of important ways. The illegal gun trade is a major problem, particularly in large urban centres.

Regarding the effect of the registration system, the chief also stated the following in his letter:

> Registration will help to ensure that gun owners are held accountable for their firearms and do not sell them illegally or give them to individuals without appropriate authorization.

Honourable senators, this is not a perfect bill. We are a patchwork of cultures across this country, and some groups such as trappers, hunters, farmers and aboriginal people have argued quite convincingly that this legislation runs counter to their life style. I think they have a point. However, this legislation will prove to be nothing more than an inconvenience to those groups. They certainly have a right to oppose inconvenient legislation, and they have done so with remarkable vigour. In my travels, listening to hunters, farmers and other gun owners — and, keep in mind I grew up in rural Manitoba — I have yet to encounter any explanation of how exactly this bill will constitute anything more than just that: a minor inconvenience.

Guns are designed to kill. Handguns and assault weapons in particular exist for no other purpose than to kill human beings. That being the case, this bill is only a moderate step. Any law-abiding Canadian citizen will, under the terms of this bill, retain the right to purchase and use a vast variety of guns. In no way does this legislation diminish the right of law-abiding Canadians to own guns.

The cornerstone of this proposed legislation is registration of those guns. While registration may indeed prove to be a nuisance, I have yet to comprehend why registration should be such an affront to gun owners. We live in a society that routinely registers everything, from my dog, to bicycles, to fishing boats. Perhaps, just perhaps, I am missing the point.

After listening to testimonials in town halls in rural Manitoba, I am still at a loss to understand how registering a deadly weapon is somehow un-Canadian or undemocratic. In these meetings the witnesses suggested some excellent, and quite reasonable, amendments to this bill.

Many gun owners feel that the bill targets law-abiding citizens instead of criminals. They argue that the first line of attack against gun crime should properly be directed at individuals who use guns in the commission of a crime. Of course, that is a reasonable argument. Many law-abiding gun owners have expressed strong support for much tougher penalties for the criminal use of firearms. I have to say that I am in agreement with these points of view. Although I feel that this bill inadequately addresses those concerns, I do not believe that is enough to defeat the bill.

All of us bring our own wish list of amendments to this bill. However, if we insist on the adoption of these amendments at this stage, we know very well that the bill may not survive another passage through the house.

It is not being overly dramatic to point out, honourable senators, that the lives of many people hang in the balance. These people are alive and well as we speak but they could well become victims of gun violence. They are people that you and I have probably met or may have known. They are tomorrow's victims, the people who appear as simple names and statistics in a game of political football.

One of them may be a woman with no job, no education, and a family of five children. She is in a long-term abusive relationship with a man who continually threatens her with a gun. By this time next year, she will probably have become another statistic.

Consider the 10-year-old boy alive, and well today, who will be killed while playing with a loaded gun. Consider the depressed teenager, the jilted husband, the mean drunk, the mentally deranged individual, and the 14-year-old gang member with something to prove. Consider that it is becoming increasingly easy for people like these to obtain firearms from across the border, from house break-ins or from the black market in unregistered guns. Consider the Canadians who must live with the consequences.

I am not speaking about people of privilege like you and me, honourable senators, some of whom live in the safest of society's enclaves. I am speaking about the victims: the person who earns $12,000 a year driving a taxi at midnight; the police officer who must ring a doorbell in the middle of the night in a domestic dispute, not knowing whether a gun waits on the other side of the door. We have all seen that officer's photograph in the newspaper, the handsome young father cut down in the prime of life. We will see that tragic photograph again.

That, honourable senators, is not in question. That is a fact. People will live or die as a result of our decision, and that is why this is an issue where ethics and personal responsibility must supersede politics.

In conclusion, I ask you to approach this vote as a matter of personal conscience.

Some Hon. Senators: Hear, hear!

Hon. Edward M. Lawson: Honourable senators, I am in favour of crime control, but I am opposed to mandatory gun registration.

It is somewhat ironic that in the next few weeks we will be asked to vote to decriminalize marijuana, and today we are being asked to vote on a bill that can criminalize decent, law-abiding Canadian citizens such as hunters, aboriginal people, and farmers.

Although I was impressed to some degree by Senator Johnson's presentation, two matters bother me. In the name of God, whatever happened to the word "compromise"? If we are dealing with crime control, we should have before us a simple bill with the toughest penalties, and it would meet with the unanimous approval of every farmer and rancher across the country as well as the whole Senate chamber. I repeat, "...whatever happened to the word 'compromise'?"

The other matter that causes me concern is that we talk about this being a life-and-death issue. If you take literally what has been said two or three times today, with the passage of this bill — from tomorrow forward — no one will die from the misuse of an unlocked gun; and no one will be killed by a crazed killer. All of that violence will disappear.

Honourable senators, it is fraudulent to suggest that to the Canadian public. They are being deceived because that will not be the case. The day following passage of this bill, or next week, or next month, people will die because guns are not being properly controlled. People will die at the hands of criminals and this bill will not prevent it.

• (1450)

I have been told that those of us who dare to oppose the legislation are somehow captive to the ideas of the National Rifle Association of the United States. I know something about the NRA. I know they are the largest political pack in the U.S. They raise more money than any other organization, including the medical association. They influence the election of more

congressmen and senators. I am also aware of the letters that they send out to their members, which under the name of any other organization would be regarded as hate literature — so much so that, as you may recall, President Bush resigned from that organization.

I have seen their buttons — they corrupt teenagers by selling them buttons that say: "Yes, you may take my gun when you tear it from my cold, dead fingers."

What a fraud! I consider the National Rifle Association to be almost an evil organization. However, I am not captive to their ideas simply because I oppose the fraud that is being perpetrated on Canadians with this bill.

A couple of incidents have had some influence on my thinking: A female public official in British Columbia told me to go back to Ottawa and tell the government to improve the legislation by banning all guns with the exception of police arms. I asked what she would have me tell natives and hunters who hunt for survival, and who feed themselves and their families on animals that they kill with guns? She said to tell them to get their meat at Safeway, the same as the rest of us.

Have we advanced very far in 200 years? Is that any worse or any better than "Let them eat cake"?

We had another incident in my "backyard" of British Columbia involving animal rights protectors. A number of mink farms operate in the Fraser Valley, where Senator St. Germain and I come from. On the mistaken assumption that these animals were being harvested with guns, in the dark of night 10 or 12 people turned thousands of the animals loose. Fortunately, about 80 per cent of the animals were recovered. Of the other few hundred, some were killed on the highways in traffic. Those that made it across the road would die an agonizing death from starvation, because those animals are domesticated, and cannot fend for themselves. One of the animal activists remarked: "Better that kind of death than to be living in a cage."

These are economic terrorists of the worst kind. They are misguided, and without any regard for the economic damage done to the farmers who are trying to make an honest living. You can almost forgive that kind of ignorance. I really must ask, though: What is Allan Rock's excuse?

We have all had thousands of letters and form letters. Setting aside the form letters, we received from legitimate Canadians 2,380 letters: 197 agreed with the bill, and 2,183 were against. From my own province, I received 1,320 individual letters: 34 were in favour of the bill, and 1,286 were against. That had some influence when taken with my own experience and my views of the bill.

I was pleased to join with my colleague from British Columbia, Senator St. Germain, as well as Senators Ghitter, Tkachuk, Carney and Lucier, at the hearings in Vancouver and Kamloops. We sat for a full day in both communities. Almost every group began by saying: "Finally, here is the Senate performing its function, hearing from ordinary people, and associations, and protecting regional interests." They had been denied the opportunity because of logistics, or because of the numbers of people wishing to appear before the Senate committee in Ottawa, or because they could not reach Allan Rock, but this was their chance. Almost without exception, they prefaced their presentations with applause for the Senate.

I would like to add my applause to the Conservative senators who took the initiatives in holding these hearings. I was pleased to join with them to hear from ordinary Canadians in Vancouver and in Kamloops.

What did these ordinary Canadians tell us? My friend Senator Sparrow made an amendment which I seconded, and which I support. He talked about hunters and ranchers, and really made the case for city versus country. That is what this bill is all about. Why do we not have a city bill and a country bill? We heard today about how Senator Sparrow, as a rancher, deals with predators.

We do not have capital punishment in Canada; we have not had it for years, with one exception: On the farms and ranches of Canada, we still have capital punishment. If a predator steals a chicken, or kills a sheep or a cow, he must pay the ultimate price.

I do not know how many of you have had the experience of dealing with predators. I am a farmer. If you do not have your ammunition in that gun, and if you do not have the gun cocked and the safety off before you step out from the barn or the house, and that predator hears that click, you will never get a shot. These are simple, practical facts about the reality of what happens on farms and ranches.

In California, Governor Wilson ran for re-election on the platform that the economy and the environment were compatible. He said he had to do this because, in southern California, there are many sheep ranchers. He said that the old farmer who had been around for a long time, on seeing his sheep attacked by coyotes, would, like his father and grandfather before him, take out his rifle and chase down the predators.

Under the new system, along comes the environmental officer to tell the farmer he cannot do that. The farmer then asks how he is supposed to deal with predators, and the environmental officer replies, "Under the new system which allows you to get rid of your guns, we will follow the coyote to his lair and spray it to cause the coyote to lose its desire for sex." The farmer then says, "Well, sonny, I don't know what those coyotes do in the city, but out here in the country, they eat the sheep." This is a country-versus-city issue. Those kinds of "cures" for these kind of problems simply do not work.

At the hearings I attended, we heard some very valid points from native women's groups. Some of these native women were hunters themselves. They had recommendations for the justice minister if he is concerned about suicide and about violence to native women. They said he should arrange for some federal funding for British Columbia to restore the suicide crisis line; that he should arrange federal funding for alcohol and drug abuse. They see funding as the problem, not the hunting of food for the survival of the tribe.

Some of you heard Senator Tkachuk's presentation last night. Look at the Application for Registration forms with the 20 questions. This was another issue that was raised at the hearings. A native chief from Kamloops said, "I hate to tell you this, but there are many in my tribe who cannot read or write." How can we reconcile the promotion of the use of those application forms with that statement? I asked the chief, in his opinion, although his people may not be able to read or write, whether they would have the equivalent of a master's degree in the safe handling of firearms, and he replied: "Yes, they are taught from a very young age. They can safely handle guns. They could even teach about firearms." Under this bill, no one seems to be concerned about those kinds of things.

In Vancouver, we heard from one very impressive young woman who was a competitive shooter. She had won at a number of venues. This is a pastime that she enjoys pursuing with her husband and her family. She showed us, as she said, "Exhibit A, my small hand." She could not use a gun with a barrel any bigger than four and a half inches. She had an expensive little Smith & Wesson for target shooting. She told us it falls into the category of "Saturday Night Specials." It is not, but it falls into a category of weapons that will become restricted or abolished. Why should she have to pay a price like that? She is a law-abiding citizen who has done everything right. She even works for the government as a public servant.

Of greater concern was the point made — a valid point, in my opinion — about computer lists. People are worried about that. This is not propaganda emanating from the National Rifle Association, promoting fear of being stripped of handguns. This is a simple question: What guarantee do we have about the security of such a list? We are now told that that list will be safe. We had a presentation about it.

• (1500)

Some may recall that a number of years ago the U.S. government invited a dozen professional hackers to test the security of the computer systems. Within 48 hours they had cracked every one of them. That is not very comforting. You then read — and we heard about this earlier today — that the Mulroney letter, secure in the hands of the Justice Department and the RCMP, is out on the street. That does not provide a lot of comfort to ordinary citizens and gun owners.

Some have said, "You have all these crazies out there who want guns." We had one presentation in Kamloops that sounded a bit like the National Rifle Association in its rhetoric. Senator Ghitter was quick to draw to their attention that they did their cause no good by exaggerating and putting forth false information in their presentation. We put an end to that.

In addition, we had a good system, which was instituted by the chairman, Senator St. Germain. After the formal presentations, he allowed time, in both the morning and afternoon sessions, for individuals in the audience to take four minutes to come forward and express their views. Two things were made clear by both of these groups when they made their presentations: First, they were for crime control. They were for harsh, severe penalties against criminals charged with the misuse of guns, but they were opposed to national registration. They were concerned about the costs to themselves, and many were concerned about the costs to the government.

Someone said that if you could wave a magic wand and all the guns would disappear, we would have a much better and more civilized country. I have a lot of friends in police departments. I served with them for a number of years as their negotiator. I am on the Vancouver Police Foundation. I speak regularly to senior officers of both our Vancouver police and the RCMP. They say that if you did wave a magic wand and all the guns disappeared within 72 hours, any criminal or anyone else could acquire a gun from those that are smuggled across the border.

I am talking here about the police, and that is their position, in spite of the position taken by the Canadian Chiefs of Police Association. I understand why they would make such a presentation, since they must be seen to be on the side of motherhood and gun control. However, I am told that to meet the registration requirements of this legislation they will have to take from resources within their various police departments; resources that should be used for fighting crime, and and that it will turn them into bookkeepers and registrars. They also say that if they do not get federal funding to assist in this undertaking, they simply will not do it.

We heard a presentation from the Kamloops department — a three-man RCMP department — whose concern is that one-third of their force will be doing registrations and will not have time to deal with matters of police responsibility.

The conclusion is that we will incur costs of millions of dollars. I do not accept the premise that it will balance out nice and neat. That is nonsense. It never works that way. It will cost ordinary Canadians millions of dollars — ranchers, farmers, natives, and so on, who use guns as tools of their trade, or for their livelihood. Who knows how many millions, but it will be significant. I could understand the expenditure if we knew that this legislation would have some effect on crime issues, or solve

all the problems about which we are concerned. However, we know up-front, based on the New Zealand experience, the Australian experience and the U.K. experience, that gun registration does not work. The maximum that they were able to achieve in New Zealand and Australia was approximately 60 per cent registration. The key feature in all those jurisdictions was the same: They had to take from resources that could have been used for policing.

I would support a tougher crime control bill in a single, pure form, which would include: tougher penalties, no plea bargaining for those who use a gun, and some training for judges. On one occasion, a judge on the Supreme Court of British Columbia had a career criminal before him, an old bank robber who had been charged with armed robbery with a gun. The judge said, "I must give you 14 years. Do you have anything to say before I pass sentence?" He said "Yes, judge. I am 70 years of age. I just cannot do 14 years." The judge replied, "That is different. Just do as much as you can."

The Hon. the Speaker *pro tempore*: Honourable senators, according to the rules, the honourable senator's time has expired.

Senator Lawson: I have one sentence in conclusion.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that the honourable senator be allowed to finish?

Hon. Senators: Agreed.

Senator Lawson: If the government ever puts together a tough crime control bill, they will have my support. In the absence of that, and given the deficiencies of this bill, which misleads ordinary Canadians, I will support Senator Sparrow's amendment and the amendments in the report of the committee in the hope that, upon returning the bill to the other place, they will look into a crime control bill separately.

We do not have to punish one group of Canadians for what we want to do to another group of Canadians. Therefore, I will oppose Bill C-68.

Hon. Leonard J. Gustafson: Honourable senators, I rise to speak on Bill C-68. First, I want to congratulate the committee for the work it did. Second, I want to congratulate the senators who travelled to hear from Canadians across the country. People of the rural areas, in particular, were very appreciative of the fact that those senators had come to hear what they had to say. I want to clarify one thing — and several comments have been made about this point: These people are the best educated people when it comes to firearms safety. Many of them are sportsmen, farmers and natives who have taken training in the use of firearms. They are not illiterate people when it comes to the use of firearms.

As farm boys and girls, they have been raised to handle firearms in a safe manner. They do not have the fear of a gun that you might find in an urban centre. Unfortunately, this is becoming a rural/urban situation. That is not good. We in rural Canada are in the minority. I speak for native people, farmers and ranchers, hunters and trappers. We are a minority.

I should like to remind honourable senators of something that the Right Honourable Pierre Elliott Trudeau said. He said: "A nation can be judged on the way they deal with their minorities."

While we farmers, ranchers and native people may be in the minority, we are very important to Canada. We are good citizens who produce for this country, and who happen to see things in a little different light. I ask you for one thing: Give us a little consideration in this bill.

Senator Sparrow gave an excellent exhortation here on the practicalities of agriculture and of the native people. I will not take up a lot of your time because I know that other senators on both sides want to speak about this matter. However, I want to place a couple of things on the record.

We heard from the people in Manitoba, Saskatchewan, Alberta, British Columbia and Whitehorse, Yukon. I remember particularly a couple of young native fellows, perhaps 18 or 19 years of age, who made an excellent statement. They said something to the effect: Does it come as any surprise to you people that we do not live in four-storey apartments? Many times we are out in a tent in the summer; or we are in a one-room cabin. We have been taught from a young age that that gun is hanging over the door, loaded, should we encounter a brown bear or another animal — and a tent is no problem for them to destroy — and should we need to protect ourselves. We saw on the news what can happen in the national park west of Calgary just this summer.

Is our legislation practical? I am talking about some of the legislation that was brought in by our own government but has never been enacted or tried on farmers. It is the same thing.

• (1510)

By way of a personal example of that, about three weeks ago, I was cultivating one of my son's fields. From across the field came a coyote that looked bigger than a wolf. A cattle herd was grazing nearby, which included small calves. The coyote watched the herd while the cows formed a circle. Had I run home to get the gun out of the cabinet and the ammunition from another place, the coyote would have been long gone before I returned.

I cite those examples pertaining to the native community and the ranching community only to say that we must be practical. Let us try to understand the different regions of this country.

We heard from native people, including at least three chiefs who represented largely populated areas. One represented 24 bands from the Prince Albert area, and another represented a number of bands from The Pas. We also heard from Sol Sanderson from Regina. They all basically said that native people would not abide by this legislation.

As a good Canadian citizen, it disturbs me to hear others make those kinds of remarks. We asked them: "Are you telling us that you will not abide by this legislation; that you will not register your guns?" They said, "We will not." We heard that time and time again. We heard it from veterans, from clubs and from individuals. Honourable senators, it is a divisive issue. We do not need more issues that will divide this country.

It behooves every honourable senator to look at this legislation in terms of criminalization and in terms of how it affects the people who use guns as tools and not as weapons.

We are not opposed to clamping down on criminal activity, on guns being brought across the border illegally. We are in favour of that. We must crack down on criminals and give them adequate punishment. This legislation must have the ability to deal with those situations. However, we must not penalize the law-abiding people who are opposed to this legislation, even though we are a minority. We may only comprise one-third of the population of the country; but we are a very important one-third. We have a voice. I represent those people in Saskatchewan and in the west in general.

I know of the concerns in our large urban centres, and there is no question that those are legitimate concerns. However, I feel very safe walking on the streets of Macoun, a village of 150 people. I know almost everyone in every house in the village. I know that every farmer has a gun, but I feel safe nonetheless, as I should. I wish all of Canada were like that village.

I will cite one statistic before I close. In Switzerland, every able-bodied man has a gun, because he is a member of the reserve army. The guns are not .22 calibre guns; they are larger guns. Yet, Switzerland has one of the lowest crime rates in the world. The same is true of Denmark, Sweden and Norway.

I have heard many speeches here about the atrocities committed with guns. Most of us have lived through enough history to know who has committed the greatest atrocities with guns. A female senator spoke eloquently about the use of power. The greatest misuse of power has been by ill-directed governments and dictators who, with armies and police forces, have annihilated many thousands of people.

Our greatest concern must be to ensure that the Government of Canada works for the people, rather than the people working for the government. Many people have had too much government interference in their lives, and want no more of it.

Honourable senators, I ask you to give this matter serious consideration so that this legislation can deal practically with all of the requirements of every part of this great country in order that we might build a better Canada.

[*Translation*]

Hon. Rose-Marie Losier-Cool: Honourable senators, it is a pleasure to speak to you today about Bill C-68.

Bill C-68 deals with firearms, a subject of particular concern to me and to all Canadians.

[*English*]

Bill C-68 provides an important framework for preserving that deep sense of civility and peacefulness which is part of our heritage. The proposed firearms legislation has been drafted in order to help preserve the kind of country we as Canadians want, and to reflect the values that are fundamental to it.

[*Translation*]

This bill, which has been under consideration for many months, will help us correct some of the many problems connected with firearms in Canada. Once in place, the measures proposed in Bill C-68 will help reduce the number of incidents or deaths caused by firearms.

Women are certainly not immune to such incidents. In fact, on average, one woman is shot to death every six days.

Between 1974 and 1992, 42 per cent of the women who were killed by their spouses were shot. Canadians understand what happens in a society where firearms are available to criminals and to people who are a threat to themselves or to others, including women and children in violent or high-stress situations.

Although domestic volence is a complex problem that cannot be solved simply by passing a stricter gun control bill and increasing controls over access to firearms, we will be able to avoid a few more tragedies.

I am concerned about amendment number three, which would exempt museums from paying the cost of firearms registration. As a member of the board of directors of the museum of New Brunswick, I realize that the budgets of our museums can no longer absorb additional costs in these times of budgetary restrictions. The 100,000 firearms in our Canadian museums must be registered, otherwise they would be given special status, which would undermine the universality of this bill.

[*English*]

The term of museum licences will be three years as opposed to one year for other businesses. This modification was made at the House of Commons committee stage of the review of Bill C-68 in order to reduce any possible administrative burden on museums, which are widely variable in size, and to facilitate a reduced fee.

In terms of fees, actual amounts have not yet been determined for any type of business, including museums. The fees, once set, will be submitted in regulations to Parliament for a full review.

[*Translation*]

The department has already advised government representatives and others defending the interests of museums that it appreciates the fact that they generally operate on a non-profit basis, on limited budgets, and that the rates would be established accordingly. Furthermore, they would be established on a full cost recovery basis, and there is considerable emphasis on modern technology that would make it possible to operate more efficiently.

In concluding, I would like to quote from this morning's *Le Droit*. I am referring to an article by Murray Maltais, in which he said:

> According to their conscience —

He said that today, senators will vote according to their conscience, and went on to state:

> The amendments proposed by the Conservative majority in the Upper House are basically aimed at making the bill less strict, to more or less legalize the possession of arms that are readily available, which would of course be welcomed by the powerful lobby financed by the people involved in the manufacture and sale of firearms.

I am opposed to these amendments. Bill C-68 will receive my support and that of the majority of Canadians, in addition to the support of many national organizations that came to testify before the parliamentary committees.

[*English*]

• (1520)

Hon. A. Raynell Andreychuk: Honourable senators, I will restrict my comments to a number of areas, although I have concerns on both sides of this issue that I wish we had more time to discuss.

Honourable senators, I grew up in this country understanding and accepting two concepts. The first was that, in the democracy that I thought Canada had, the will of the majority would prevail, not at the expense of a minority but taking into account the views of that minority. This was especially true if the minority were disproportionately affected. Sensitivity was the key and civility was the rule.

Second, I grew up in a Canada that looked at criminal law starting with the question of what behaviour or action we would find collectively intolerable. In most cases, to be successful, a criminal law requires significant support from those affected to be effective. Utilizing the Criminal Code for social engineering is rarely successful. We are most successful when the rules are rules which we all understand, and which we are able to protect. In other words, we build a fence within which normal, appropriate behaviour is tolerable. If you go beyond the limits, that is criminal behaviour. We try to leave as much room for people to use their own discretion with the changing times.

I make those comments, honourable senators, because those two concepts underpin where I wish to start. While I believe that we should be governed by our conscience, I respectfully disagree with Senator Johnson in the most vehement terms. This bill, uniquely, sets out a fiduciary relationship.

I will return to this point, but before I do, I want to say that I have deep regrets with respect to Bill C-68. I regret that the bill does not go far enough or fast enough in its stated objective of attacking the criminal use of firearms. I regret that the roots of violence are not attacked sufficiently. We are again dealing with the symptoms. We are trying to cure, not prevent.

I regret that there is no overall strategy to look at firearm registration within the context of the conventional and non-conventional use of weapons in the international setting. We cannot combat the improper use of firearms without an international strategy like the drug strategy.

We must understand that globalization is a factor in our daily lives, and I regret that this bill is silent except when talking about holding our borders accountable to the extent that the bill outlines, which I believe is inadequate.

I also regret that Bill C-68, the Young Offenders Act and many other criminal statutes do not have a wellness model for justice. At least we are struggling in the field of health to use a wellness model, not a curative model. We have a long way to go in justice to make that adjustment.

I regret that the will of the majority does not function in such a way as to take into account the minorities.

Honourable senators, I would return now to what I believe are our fiduciary duties. The duty of Parliament is not to say that this legislation is inconvenient to our aboriginal peoples; the issue is much deeper, and it does a disservice to the aboriginal people and to our history to say that, to them, it is simply inconvenient legislation.

History tells us that the rights we gave aboriginal peoples are not to be trifled with, and not to be taken lightly. If we consider section 35 of the Constitution, and if we consider the treaties, the covenants, the agreements we signed, we must ask ourselves: Did we sign them as people of integrity? Did we sign them as people who care about their word? Did we sign them as people who care about the rule of law? Did we sign them because we believe in democratic principles? If we did not, we can continue being paternalistic and fragmented; and we have no right to believe that our values are worth keeping. I feel very strongly about this.

Honourable senators, we can trace our treaties and covenants to the *Sparrow* case and to section 35 of the Constitution Act, 1982. I will point out a number of areas in the *Sparrow* decision because I think it is something that we all should have read, or should read before we vote today.

The Supreme Court in the *Sparrow* decision stated the following:

> For many years, the rights of Indians to their aboriginal lands — certainly legal rights — were virtually ignored.

The Supreme Court went on to say that, to the credit of the Honourable Jean Chrétien, Minster of Indian Affairs, there was an expression of acknowledged responsibility, but by no means a legal right. Then we, the people of Canada, incorporated section 35 into the Constitution Act, 1982.

The court went on to state:

> It is clear, then, that s. 35(1) of the *Constitution Act, 1982*, represents the culmination of a long and difficult struggle in both the political forum and the courts for the constitutional recognition of aboriginal rights.

The judgment states further that the following principle that should govern the interpretation of Indian treaties and statutes was set out in a number of decisions before the 1982 constitutional changes, but that nothing has changed before 1982 or after in this principle. The principle is that, when it comes to governing the interpretation of Indian treaties and statutes, "treaties and statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians."

Another principle enunciated in these cases was the emphasis on the importance of Indian history and traditions as well as the perceived effect of a treaty at the time of execution.

• (1530)

The judge also cautioned against determining Indian rights "in a vacuum." The honour of the Crown is involved in the interpretation of Indian treaties and, as a consequence, fairness to the Indians is the governing consideration. The principles to be applied to the interpretation of treaties have been canvassed over the years. However, in approaching the terms of a treaty, quite apart from the other considerations already noted, as the decision in fact states:

> ...the honour of the Crown is always involved, and no appearance of 'sharp dealing' should be sanctioned.
>
> This view is reflected in recent judicial decisions which have emphasized the responsibility of Government to protect the rights of Indians arising from the special trust relationship created by history, treaties and legislation.

Further on in the *Sparrow* decision, it is stated that the government has the responsibility to act in a fiduciary capacity with respect to aboriginal peoples.

I believe that every senator must understand that that fiduciary relationship, as laid out in the British North America Act, is on your shoulders. The decision goes on:

> The relationship between the Government and aboriginals is trust-like, rather than adversarial, and contemporary recognition and affirmation of aboriginal rights must be defined in light of this historic relationship.

I believe we have a duty to act on a trust basis with the aboriginal people, and not on an adversarial basis. The minister pointed out to the Legal and Constitution Affairs Committee that the onus is on the aboriginal peoples to prove the infringement of their rights. That is true, if we go to court. It is true that they must prove a *prima facie* case that this act infringes their rights. It is also true that the rights of the aboriginals are not absolute. In other words, national interest and public interest can overrule these aboriginal rights. However, the power to legislate must be read together with these two comments.

In other words, the minister is saying, "I am putting legislation into place. Let the aboriginal people prove that they are being infringed upon." Is that not adversarial? Is that really trust?

Section 35 quite properly points out that we cannot avoid our duties. The inclusion of clause 2(3) into Bill C-68 does not help our fiduciary responsibility. In fact, the constitutional experts have indicated that this clause does not take away or, indeed, add to aboriginal rights.

In my opinion, consultation only occurred after the bill was tabled. In fact, by letter, the minister advised that there would be some gun control legislation, and I respect that that effort was made. However, I do not accept that that is proper and adequate consultation, nor is the fact that the minister then met with a number of groups in a general way. I do not believe that that is adequate consultation. At that point, the aboriginal community had already been forced into an adversarial role. There was the bill. They had not sat down at the table to discuss it. What else could they do but start talking to the minister about what they liked and disliked and to express their fears?

Someone asked why they had not raised this issue with regard to Bill C-17. If I had been here when Bill C-17 was being considered, I would have raised the same questions, because I think they may have applied. However, the wrongs of the past cannot be brought forward as justification for the wrongs being committed today.

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?

Not being blessed with the wisdom of Solomon, I have been seeking the opinion of other senators as to what we should do in this case. I agreed with Senator Carstairs that the amendment put forward on aboriginal people did not go far enough, that it perhaps restated known law and known positions. I thought it was an honest compromise, a compromise that would have acknowledged that we have not done what we should in terms of consultations, and that would have demonstrated that we respect our fiduciary relationships by undertaking to ask the minister to conduct more consultations.

We would not then be put in the position of saying that the minister's consultations were adequate or not; and we would not put the aboriginal community in a position where we would disagree with them and say that we believe they were consulted, or that we accept their word in that regard. In other words, I do not believe we should be that adversarial. The amendment would allow us to have a compromise.

I will vote for the amendment because I think the minister can speedily call all the aboriginal people together and sit down at the table with them. As Minister Irwin has said, we must sit at the table with them and discuss this matter.

I have yet to find one aboriginal leader who does not want some form of gun control, who does not want firearms regulation. Their concern is that their rights are respected and that they have a say as to how this legislation will be implemented within their reserves, their territories. I do not believe that anything less is desirable.

I find myself in a conundrum, in that I believe in the fiduciary responsibility that consultation is a condition precedent, and that we should not pass this bill until such time as the consultation takes place. Nonetheless, I am still willing to vote for the amendment that in some way diminishes, perhaps, or puts aside for a time, aboriginal rights completely, but allows a form of compromise. We cannot do anything less than attempt a compromise respecting this bill.

I appeal to the minister, and I appeal to honourable senators, not to disregard this aspect in haste, because we will then be continuing the legacy of paternalism which has caused so many difficulties for aboriginal peoples.

We talk about victims of violence. There are many types of violence. I have not told my personal, emotional stories of how it has touched me, but I can assure you that it touches me as much as it touches anyone else. We cannot put our personal tragedies before the rights of the aboriginal peoples because, if you want to see death, if you want to see destruction, if you want to see disruption in its rawest, crudest form, you will find that it has happened to their people, and we have been, in part, responsible for their problems. Surely it is time that we became part of the solution.

We cannot force the aboriginal community to go to the courts so that, one more time, someone can ask, "What do they want now?" If we do that, we encourage what is already a growing pocket of what I believe is discrimination between non-aboriginals and aboriginals in some areas, because some people believe the aboriginals are in court too often asking for too much. What they are now seeking is what they were entitled to at the start: nothing more, nothing less. We do them a disservice by forcing them to seek a judicial remedy. As Senator Forsey said, and I paraphrase him, that in a well-functioning democracy, citizens should not have to go to court to prove their rights. If there is any doubt, we must find some other way of dealing with it.

I also have a concern that, if we do not deal with this legislation now, the law will not be universal because the outcome of a win for the aboriginal people in the courts will be that the law does not apply to them. If the law does not apply to them, how do non-aboriginals and aboriginals live together in the communities in the North and in the West, in Ontario, in Quebec, and in Atlantic Canada? We must help the aboriginal community to contribute its full share to the destiny of Canada, and we cannot separate our people.

So little separates us now. What separates us is not the fact that we do not have a valid national objective that is justified; what separates us is not that there is one way or another way of legislating gun control; what separates us is that we have not taken into account people who have a right to be included.

Many of the things that I believe about aboriginal rights are not enshrined in rights, per se, and they are equally valid with regard to the minorities in Canada who must also be considered. If we want to be judged as a fair and just society, we must bring them to the table, whether it is with regard to this piece of legislation or another piece of legislation. In this instance we have a fiduciary relationship. It is a legal requirement beyond a moral requirement.

The United Nations Human Rights Centre, in its study of indigenous people, said that many treaties carry a great symbolic meaning to indigenous peoples. In Canada, those treaties are more than symbolic, they are actual legal rights. They are seen as providing recognition of indigenous self-determination and a guarantee of the collective rights of the peoples concerned. An agreement which has the character of a solemn pledge by one people to another, when fully honoured by both parties, breeds mutual trust and respect, and has a potentially vital role in promoting and protecting human rights and fundamental freedoms of indigenous peoples.

Honourable senators, aboriginal rights in Canada are human rights. In our zeal to correct many of society's problems, let us not create even more tragic ones.

• (1550)

We can find a middle road. It is unfortunate that we have needlessly pitted one group of citizens against another. Let us not further compound the problem.

[*Translation*]

Hon. Jean-Robert Gauthier: Honourable senators, I would like to express my support for Bill C-68, an act respecting firearms and other weapons.

I endorse the arguments of my colleague Senator Carstairs, who has clearly analyzed the amendments before us and has followed this bill in committee in a most exemplary manner. I would like to thank her for her work and to tell her that I personally have greatly appreciated the way she has conducted herself. As you know, I feel that the Senate is the house in which regional considerations need to be expressed. I have no problem in listening to various senators eloquently defend the views of their regions.

In my region, I must tell you, there is majority support for Bill C-68. In Ontario, 82 per cent are in favour of the bill and 77 per cent support weapon registration.

Like all of the other senators, I have received briefs, letters, all manner of communications concerning Bill C-68. I am neither surprised nor inordinately influenced by letters that have sometimes been copied from other letters in mail-in campaigns. I believe that they do have a message to get across.

There is one thing I have noticed. In the National Capital Region, almost all letters and comments to me were in support of the bill. I must admit that the bulk of the other letters, from Western Canada, were against it.

I am an Ontario senator and therefore represent my region, and the views I express here in the Senate today will be those of a senator who believes strongly that this chamber has a duty to reflect regional considerations.

If I may, I shall read just a few examples of the testimonials received from people I believe to be credible and serious.

[*English*]

The letter is signed by Brian Ford, Chief of Police, Ottawa-Carleton Regional Police Services. I will read just one sentence:

> I am writing to you... to convey to you our support for the passage of Bill C-68 on gun control. Gun control is to the police community a very important piece of legislation because it is both preventative and also gives a starting point for the investigation of crimes involving firearms.

I have a letter from Marion Dewar, Chair, Ottawa Regional Police Services Board, approving of Bill C-68.

[*Translation*]

I have numerous letters but I shall read only a few of them, otherwise it would take all afternoon. I would, however, like to quote a few sample comments from the President of the Canadian Association of Chiefs of Police, who states as follows:

[*English*]

He writes to Senator Lynch-Staunton:

> I am writing to express my considerable dismay that neither you nor the Caucus —

He is talking about the Conservative caucus.

> — would meet with representatives of the Canadian Association of Chiefs of Police.

He goes on to say:

> ...the Canadian Association of Chiefs of Police wishes to confirm and clarify that they support the passage of Bill C-68 by the Senate of Canada without amendment.

The Canadian Federation of University Women wrote to me on November 16 expressing their support for Bill C-68. I could go on — the Canadian Teachers' Federation, the Canadian Public Health Association, and so on.

However, honourable senators, I have received from my region alone credible support for Bill C-68.

[*Translation*]

In the 1993 election, the Liberal Party undertook, in its Red Book, to provide a more rigorous control of firearms. This is what we said. I ran in those elections; I supported this measure then, and continue to support it now.

Revenue Canada and the RCMP have already implemented certain measures in the fight against smuggling. The passing of the bill before us marks another important stage in the commitments made by the government and supported by the people of Canada in 1993.

These measures include, among other things, minimum imprisonment of four years plus the prohibition in perpetuity of possession of restricted or prohibited firearms following a conviction for one of the 10 designated violent offences perpetrated with a firearm; the prohibition against future importing and selling of .25 and .32 calibre handguns, and handguns with a barrel length of 105 mm or less; the creation of a national system for the registration of all firearms, to be administered by the RCMP, in cooperation with the provinces and territories.

I do not need to tell you I have heard arguments against the registration of firearms. I have not heard or seen, nor have I seen in the amendments, a single proposal that would improve the system.

I have seen amendments eliminating certain things. I am sorry, but you cannot oppose a part and, at the same time, support the whole thing. National interest must prevail.

I can understand the reluctance of some senators from the West and the North, who want to eliminate firearms registration from the application of the bill. However, it is only one of the measures. We cannot kill the bill because we do not agree with one of its provisions. I think that national interest must prevail and that this bill will improve our chances of having a safe country.

The firearms registration system will help the police solve murder cases when a gun is recovered, and determine the origin of recovered firearms, allowing the police to return to their legitimate owners some of the 3,000 weapons that are lost or stolen every year, which, I assume, will prompt owners to store their weapons more securely.

Bill C-68 will make it possible to provide gun owners with direct and inexpensive information on firearms storage and handling regulations. It will also enable the police to know how many and what kind of firearms they might face when answering an emergency call.

Honourable senators, the vast majority of murders by firearm are committed by someone known to the victim. In Canada, a woman is killed by a firearm every six days, most often at home by someone she knew, using a legally owned rifle or shotgun. Making access to firearms more difficult in cases of domestic violence is a public security measure.

We never claimed that this bill would definitively solve the problem of family violence, or put an end to all violence in our society, as some of the speakers I heard here have said. This is not a piece of legislation which will solve crimes; it is a measure that will help to better organize crime prevention.

Let me quote the Report of the Firearms Smuggling Work Group:

> There are approximately seven million firearms in Canada. ... About one in four Canadian households owns at least one firearm. About 1,400 Canadians die each year in an incident involving a firearm: 78 per cent in suicides; 15 per cent in homicides; 5 per cent in accidents; and 2 per cent from a legal intervention or some undetermined cause.

It goes on, and I quote :

> Half of all firearm homicides since 1991 have been committed with a handgun: this constitutes an increase from about 35 per cent prior to 1991. It has been estimated that, each year, there are almost 10,000 firearm–related violent crimes in Canada. About 8,000 of these are firearm robberies — firearm robberies increased by 44 per cent from 1988 to 1993.

This study also showed that nearly half the firearms recovered by police in the urban centres examined were rifles or shotguns, and that they were used in criminal cases.

Some 10 per cent of Criminal Code offences are violent crimes. Yet, 40 per cent of the crimes in which firearms were recovered were violent. This finding shows an important link between firearms and violence.

In 1993, two years after the adoption of Bill C-17 tightening gun control, the reported crime rate fell by 5 per cent, the biggest drop since 1962. The proportion of firearm-related deaths — homicides or unknown causes — reported in Canada shrank from 36 per cent in 1991 to 34 per cent in 1992 and 31 per cent in 1993.

Whether it is a father who decides to commit suicide or to kill his family, a group of young offenders who fire at a passer-by, or an individual who shoots a convenience store cashier, we are all concerned about this kind of violence and we want the means to fight it. As I was saying, the polls show that Canadians support this bill. According to a poll conducted by Angus Reid for Southam News, the majority of Canadians, 66 per cent, support this bill.

Honourable senators, I heard leading lights say that this bill needed to be improved. We have considered the proposed amendments. I did not find a single amendment that improved the bill. Not a single one. Some may tell me that I misread the bill; it is possible. Honourable senators, every amendment has been debated in this chamber.

I, for one, think that this bill should be adopted today, without amendment, so that it can be ratified as soon as possible.

Honourable senators, I will not take any more time, because I know that several senators wish to address this issue. I will conclude by saying this: I listened to people in my community, I heard very eloquent expressions of support of this bill by honourable senators, and I am convinced that, in supporting this bill, I am doing what I should be doing as a senator. Honourable senators, I represent my region and I care dearly about the national interest. I will vote in favour of Bill C-68.

• (1600)

[*English*]

The Hon. the Speaker: Honourable senators, before I call on the next speaker, I want to apprise you of a problem that we have. It is now five minutes after four, which leaves us one hour and ten minutes before the bell must ring. I have presently on my list approximately 12 speakers. Quite obviously, at 15 minutes for each speaker, it would be impossible to hear from every one of those senators. Could we have an agreement that we limit speeches to a shorter period than that: for example, a maximum of 10 minutes? I am in your hands. If it could be less than ten minutes, it would be preferable, so that everyone gets a chance to express their views. Would that be agreeable?

Some Hon. Senators: No!

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, I should like to accommodate everyone. However, the rules say that the speeches must be limited to 15 minutes. From here until the bell commences, we should follow the rule book as strictly as we can.

I know that some people have an argument to make that they could not make in less than 15 minutes, but I would urge all senators to stay within the time limit of 15 minutes, if they can, in an effort to accommodate all senators to the extent that we can. I expect that both leaders would want the opportunity to wrap up for their respective sides. That leaves us little more than half an hour.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, bearing in mind what the Deputy Leader of the Opposition has said, we on this side would be quite comfortable in limiting future speeches to 10 minutes. However, if the opposition prefers to go by what is provided under the rules, namely to the maximum of 15 minutes, then that is fine. In any event, we should be mindful that at 5:15 p.m., all debate ceases; the bells will begin to ring, and all votes will be taken at 5:30 p.m.

Senator Berntson: Honourable senators, in keeping with what is the Canadian way, could we find a reasonable compromise and limit to ten minutes the speeches of those who do not hold our respective leaders' chairs, as it were? I am sure that your leader would want to have more than ten minutes for her wrap-up on this bill, and I am sure that in the case of my leader, he would want to have more than ten minutes. Perhaps at quarter to the hour, or 20 minutes to the hour or whatever, we could agree to have our respective leaders wrap up the debate, taking whatever time is left.

Senator Graham: My leader assures me that she will not go over 15 minutes. She could whittle it down to ten, but if the Leader of the Opposition would like to have 15 minutes, we are prepared to accommodate him, perhaps at the appropriate time.

The problem I am having right now, however, is that we are using up valuable time in discussing this arrangement. Could we agree that others participating in the debate be limited to ten minutes, and that the leaders have the regular 15 minutes?

The Hon. the Speaker: Honourable senators, is it my understanding that we are agreed that I will call each speaker at ten minutes until quarter to five, at which time I will be prepared to recognize the Leader of the Opposition; and then at five o'clock, the Leader of Government. Is that understanding agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: On that understanding, then, I recognize Senator Atkins. I will need to be very strict on that limit of ten minutes. I appeal to honourable senators. If they can keep their speeches to less than ten minutes, that would accommodate other senators who will then have a chance to speak.

Hon. Norman K. Atkins: Honourable senators, in common with most citizens, I favour a form of crime prevention legislation. I am even in favour of the registration of firearms. However, I have some real difficulties with this bill, unamended, because I believe that it is seriously flawed.

The Standing Senate Committee on Legal and Constitutional Affairs has proposed a number of amendments to Bill C-68, the firearms bill. I would like to express some of my concerns regarding this bill.

• (1610)

I wish to state clearly at the outset that these changes alone will not resolve all the difficulties which have been brought to our attention through the thousands of letters received, the testimony heard by the committee and the meetings which have been held with concerned citizens.

The first issue we need to address is the constitutionality of Bill C-68 as it relates to the aboriginal peoples. The first part of that issue is whether the consultation process has been adequate and meaningful. It is clear that the aboriginal people are united in expressing their dissatisfaction with some aspects of this legislation. Senator Andreychuk has made a very strong case with regard to this point.

While in Canada we have some of the toughest gun control legislation in the world, there is a presumption that a citizen is entitled to possess a firearm such as a rifle or a shotgun. Citizens owning such firearms are not, in general, presumed to be criminals-in-waiting or criminals of the day.

Bill C-68, unamended, will change that. It will become necessary for our citizens to prove, on demand by authorities, that they have not committed a criminal offence, by producing both a licence to possess the firearm and a registration certificate. The ability to provide such proof should clearly be administrative, not criminal.

It has been said that for a long time Canadians have registered their cars, dogs, marriages, births, et cetera. However, failure to do so does not result in a charge under the Criminal Code. If this bill passes without amendment, the consequences of not registering a rifle or a shotgun will be out of proportion to the seriousness of the offence. I believe that these offences should be moved from the Criminal Code to the Firearms Act, unless the offence involves a prohibited or restricted firearm.

As a summary conviction offence, failure to register a firearm still carries a substantial penalty. The maximum jail term is six months and the maximum fine is $2,000, which is administered at the discretion of the judge. The penalties allow sufficient flexibility to impose suitable punishment. We should bear in mind that these charges are independent of any other offence an

individual may have committed. Clearly, this still allows the government to create a national registry, does not alter the intention of the registry, and does not interfere with the court's discretion.

Most provisions of Bill C-68, amended, will still come into effect at the same time in all parts of the country. The narrow exception is that provincial governments will be permitted to delay implementation in their jurisdictions of the licensing and registration of rifles and shotguns. Since the offences related to licensing and registration have been transferred to the Firearms Act, this delayed implementation does not mean that the Criminal Code of Canada will be applied differently in different parts of Canada, although the Firearms Act will be.

There is ample precedent for delayed implementation of federal legislation in some jurisdictions, not only in the case of regular statutes but in the Criminal Code itself. Many restrictions and regulations governing the use of rifles and shotguns for hunting purposes now exist in the provinces, and they vary greatly. The proposed flexibility will not create substantial confusion, because variations already exist and Canadians are aware of them.

Provincial governments will require positive affirmation through their provincial legislatures to delay implementation in their jurisdictions. Regions which feel strongly about this issue will have the opportunity to make their decisions on behalf of the people they represent.

There is a widespread belief that the cost of implementing the licensing and registration schemes will be much higher than the estimate of $85 million given by the Minister of Justice. The experience of those provinces which proceed immediately with all aspects of Bill C-68 will give others the opportunity to assess some of the practical difficulties before moving ahead with the scheme in their own jurisdictions.

The additional time granted will not involve an additional cost to the government. The existing firearms acquisition certificate program is essentially continued in the form of a licence to acquire and possess firearms in the new regime, and the federal government may be spared the costs of registering firearms in any areas which choose to wait for a while before beginning to implement registration and licensing.

The amendment introduced requiring that regulations made under the Criminal Code be tabled 30 sitting days before they come into effect is consistent with current provisions of the Criminal Code. One of the normal functions of Parliament is to review regulations. It is important that Parliament not surrender its powers to at least look at regulations before they become law. It should concern us that, as the bill is presently written, the Governor in Council will be able to pass regulations without them being subject to review by Parliament.

Furthermore, I believe that the words "in the opinion of the Governor in Council" should be removed. These words allow the government to avoid judicial review. They permit the minister to alter the status of an item, to restrict or prohibit it, and to deny Canadians the right to meaningful appeal to the courts.

Honourable senators, we should note that this amendment was accepted by the Justice Committee of the House of Commons and was removed by the Minister of Justice. It seems to me that when the majority of the members of a standing committee in both Houses accept an amendment, it should be honoured, or at least be given fair consideration.

I believe that the vast majority of Canadians encourage the increase of mandatory minimum sentences for the use of firearms in the commission of serious offences such as attempted murder, manslaughter, robbery, sexual assault with a weapon, and so on, and that the amendments proposed do not affect these areas. The amendment dealing with minimum sentences in clause 92(3), which relates only to the case of an individual who has committed a second or third possession-related offence in the full knowledge that it is an offence, simply gives the court the discretion to decide whether the particular case merits a significant jail term. It remains an indictable offence with a maximum sentence of ten years in prison.

It is my opinion that our museums should be exempted from the payment of fees. This will guarantee that additional costs will not cause undue strain on their very limited resources. The owners of antique firearms, which are almost never used in the commission of a crime, should also be exempted from the regulations. Antiques may be stolen from time to time, but they are bought for their intrinsic value, not for the remote chance that they could be used in the commission of a crime.

Honourable senators, I believe that the amendments being proposed are modest and reasonable. They improve the legislation and seek to reduce the impact on citizens who have committed no crime, while maintaining licensing and registration which is sought by the government.

A frequently expressed concern is that the new administrative scheme contained in the legislation is both intrusive and unnecessary. It adds yet another expensive level of bureaucracy, and complying with the new provisions will take time, effort and great care, in view of the penalties which may be applied.

I remind honourable senators that in the registration of rifles and shotguns we are not talking about people who are committing any criminal offence beyond failure to acquire a document from the government. Presently in this country, we have no minimum sentence for dangerous driving causing bodily harm, or for manslaughter. We leave it to the courts to determine what is appropriate based on the facts. I find it unbelievable that a missing piece of paper could incur a heavier penalty than killing or hurting a person.

The Hon. the Speaker: Honourable Senator Atkins, I am sorry to interrupt you, but your allotted time has expired.

Senator Atkins: I have one and a half pages remaining.

The Hon. the Speaker: Is it the pleasure of honourable senators to allow Senator Atkins to continue?

Some Hon. Senators: Agreed.

Senator Atkins: Thank you, honourable senators.

I believe that Bill C-68, with these amendments, will enable our courts to penalize criminals using firearms in the commission of an offence. It will allow the courts to impose fines and jail sentences, in conjunction with the sentence for the commission of a crime with a weapon. This then allows Bill C-68 to become a crime control bill while not hampering the intent of the legislation to create a national registry.

• (1620)

At a time when we have just completed the highly divisive exercise of the Quebec referendum, and at a time when the federal government has indicated that it is prepared to look closely at a more cooperative and flexible approach to the concerns and wishes of provincial and territorial governments, these amendments provide an opportunity to give a demonstration of that new attitude of compromise and understanding of regional needs.

Honourable senators, this is the first opportunity following the referendum for the federal government to indicate just how serious it is about this commitment. I hope all honourable senators would agree that this is an appropriate means by which to respond to the concerns many provincial governments have raised. They are the ones who have asked for some of these amendments. I find it inconceivable that the Minister of Justice is not prepared to examine these amendments in an attempt to make Bill C-68 more acceptable to Canadians from coast to coast.

Hon. Charlie Watt: Honourable senators, I stand here today to speak to the rule of law, and our duty as senators to uphold the Constitution of Canada. I will explain why the proposed amendment numbered 13 — the one respecting the aboriginal peoples of Canada — must be adopted by the Senate and by Parliament as a whole.

As parliamentarians, we do not have a choice about respecting the Constitution of Canada. We must — and I underline the word "must" — uphold and defend the Constitution. This includes ensuring that any legislation adopted by Parliament respects the constitutionally entrenched aboriginal and treaty rights of aboriginal peoples.

Honourable senators, this is a conclusion supported by various legal opinions from across the country: For example, expert testimony by Professor Mary Ellen Turpel-Lafond and Mr. Ian Binnie before the Senate committee confirmed, in the strongest possible language, that there are very serious problems with this bill in terms of aboriginal rights. These experts concluded that those problems cannot be fixed later by regulation. There must be some form of statutory amendment.

Mary Ellen Turpel-Lafond made it very clear that the fiduciary duty of the federal Crown attaches to each stage of the legislative process, including consideration of this bill by the Senate. Furthermore, this constitutionally entrenched duty requires Parliament to discuss and consider options for ensuring the least restrictive intrusion on aboriginal and treaty rights.

Honourable senators, the expert testimony and the testimony of the aboriginal peoples clearly points out the need for some change to this bill to ensure that it respects the Constitution of Canada. It is also clear that the federal government's duty to consult fully with aboriginal peoples has been carried out in a less than adequate fashion. I would point out that the consultation process had focused on regulation-making power rather than on the bill itself, and even that process is still not complete. In addition, the federal government has failed to use the consultation mechanisms established under the various land claims agreements for this purpose.

In summary, honourable senators, the government has been informed that there will be many instances of conflict in relation to constitutionally protected rights if this bill is adopted as it now stands. Therefore, each of us as senators have a responsibility to ensure the fulfilment of Parliament's fiduciary and constitutional obligations.

We should also consider that several aboriginal peoples have spent many years, and much money in negotiating complex agreements that spell out in great detail their hunting rights. We must remember that these rights are essential to the preservation of aboriginal cultures. On many occasions, the courts have confirmed that these hunting rights include a right to own and possess firearms. This is spelled out in the various land claims agreements. As Mr. Binnie pointed out to the committee, this bill would make those constitutionally protected rights subject to the discretion of firearms officer.

Why should aboriginal peoples have to waste their money, and taxpayers' money, in litigating to have parts of this bill struck down by the courts when their rights have already been recognized in constitutionally protected agreements? These agreements are intended to provide legal certainty. They are intended to discourage litigation by requiring the government by law to respect aboriginal and treaty rights. These agreements are entrenched in the Constitution to prevent exactly this type of situation — legislation that ignores aboriginal and treaty rights except to challenge aboriginal people to litigate.

In terms of practical impacts, this bill will interfere on a daily basis with the traditions and practices of aboriginal peoples. For example, the simple task of a non-hunter collecting firearms after a hunting expedition to place in storage will require possession of a licence and a registration certificate for each gun. Likewise, the need to lend a firearm to women and children left in the camp to protect themselves from animal predators will become a bureaucratic nightmare under this bill. The storage and transportation regulations are not only not suitable to the North, they are unsafe in an environment where animal predators are a fact of life.

Honourable senators, the registration requirements of the bill will mean that those people in the North with the greatest need for a gun and the least access to government services will wait the longest to obtain the necessary permission; permission that they should not need to seek because their way of life is constitutionally protected.

These are just a few examples of how this bill will harm aboriginal peoples and how it will infringe upon their rights. This bill will force aboriginal peoples to either forgo their rights or fight again in the courts to have those rights recognized. This is not fair; this is not equitable; this is not constitutional. We must adopt the very modest amendment proposed by the Senate committee. In doing so, we will be giving the government another chance to get it right, and to uphold the honour of the Crown.

That is why, honourable senators, I stand today to urge the adoption of the aboriginal amendments. I do recognize the importance of the requirement for gun control, but not at the expense of aboriginal peoples.

The Hon. the Speaker: Senator Watt, I regret to interrupt you, but your ten minutes are up.

• (1630)

Senator Graham: Honourable senators, I very much regret interrupting Senator DeWare, but we did allow Senator Atkins to go over the allotted ten minutes. If Senator Watt does not require more than two or three minutes then, with unanimous agreement, we could allow him to continue.

Hon. Senators: Agreed.

Senator Watt: Honourable senators, just to conclude my remarks, I should like to touch on the fact that firearms, at times, are used for wrongful purposes. I, too, sympathize with the families of those who have been victimized by the misuse of firearms.

I would ask all honourable senators to give serious consideration to what we said in committee and in this house. I should like to express my appreciation to those who have spoken on behalf of our people. Please continue to do so!

This is probably the first time that, day in and day out, I have heard speeches about aboriginal people being made by everyone in the house. Perhaps one day our French and English people with receive the same attention. There are many similarities between our French society and our aboriginal society. At times, we are misinterpreted as wanting to be different, or wanting to have more than anyone else. That is really not the case. We must face the fact that we are slightly different in some ways because of our way of life.

Hon. Mabel M. DeWare: Honourable senators, I rise today to speak on the importance of the vote which will occur later today on Bill C-68. I must confess one thing has been puzzling me today, and that is: Why is the government leading the public to believe that these amendments cannot be sent back to the other place without ultimately killing this bill? That is not true. We saw an editorial in *The Globe and Mail* today, and we have seen other news articles to that end. By whom is this idea being fostered?

We are not trying to kill this bill. Several weeks ago we agreed on a date in this house by which we would vote on this bill. We did this in order to allow the government ample time to deal with any potential amendments.

If the government did not feel that was a sufficient amount of time, it should have been made known then. We did appreciate the fact that we had an extra week or two in which our members could travel. We feel that is probably one of the most important things that has happened in all of our deliberations on this bill.

I am sure you will agree that the government has more than ample time to pass this bill, even with amendments. If this bill does not become law, it is not our fault.

Many of us want to see parts of this bill amended. However, we compromised partly because we want this bill passed by the Christmas break. How then can anyone really say or believe that we are trying to kill this bill? The amendments which were chosen are fair; they represent the concerns of many witnesses who appeared before our committee. That, honourable senators, is the role of the Senate.

Some of my honourable colleagues have already explained the thinking behind the amendments proposed by the Conservative members. However, I would like to focus on a section of the bill which has not been amended. I refer especially to the gun registration section. Will registration really work, or are we just entering into another bureaucratic nightmare?

The current firearms registration process, which has been in effect for over 60 years, is woefully ineffective. Firearms are often inaccurately described. Assembly numbers are recorded as serial numbers. Records are lost. Cheap copies of guns are registered under well-known brands they resemble. Furthermore, firearm owners move or die, and often, as is human nature, there are time lapses before address changes are reported to the proper authorities, if they are ever reported.

These are just a few of the problems which will also occur in the costly system which the government seeks to implement. This does not include the numerous people, including law-abiding citizens, who will just downright refuse to register their firearms.

Despite the concerns of some, including myself, the committee chose not to amend this section on registration.

To all the women's groups who fought against amendments to this section, I should like to say that I, too, want to see an end to violence against women. My opposition to registration does not contradict this position.

I was shocked and horrified, as we all were in the committee, when a group of witnesses revealed that a woman will go back to her abusive partner, on average, 30 times. Money would be better spent to ensure that these women do not have to return home to abusive partners, rather than on a registration system which might lead to confiscation of a firearm but which does nothing to address the underlying causes of abuse.

Every senator who has spoken against this bill has confirmed that he or she would support the bill if there was any indication or proof that registration reduces violence against women or violence in the home, or that it reduces homicides and suicides. Yet, honourable senators, we did not seek to amend the registration clause. We pray it provides the solutions Canadians are hoping for.

Honourable senators, I hope we can come together today to adopt these amendments, in order to give the government sufficient time for speedy passage of the improvements to Bill C-68.

Hon. P. Michael Pitfield: Honourable senators, this is a very important bill. It is, unfortunately, seriously flawed. I am deeply concerned about its insensitivity to farmers and outdoorsmen and, particularly, to the people of the North.

The recognition of the needs that flow from the interaction of great space and small numbers is the particular duty of Canadian federalism, and especially of its federal ministers. This bill does not meet that test: something poignant, indeed, in the circumstances of these days, in times immediately following yet another referendum springing from somewhat similar issues of insensitivity. Perhaps Ottawa is as arrogant as many people seem to think it is. Maybe we should examine our consciences.

The Attorney General of Canada and Minister of Justice is no ordinary minister when it comes to these issues of equity and the duties of political leaders in a federal structure. He has a unique position. I believe he should have found a compromise in this case. He has not. I find that most regrettable. I have never met the honourable gentlemen, but all reports are that he is an extraordinarily intelligent man. We need such people in Canada desperately, but we must also preserve the capacity to compromise.

In that light, I simply do not understand why we must choose between a well-intentioned, largely useful, sincerely compiled piece of legislation on the one hand and, on the other, the legitimate interests of a significant group of our fellow citizens whose interests the bill certainly ignores, even encumbers.

• (1640)

To my mind, this bill shows that the Liberal Party still has to learn the lesson of the reversal it suffered in the 1980s. For those of us who think of themselves certainly as philosophical Liberals, this is very bad news. When liberalism came under attack, many, if not most, of its adherents seemed to think it was their principles that had somehow lost the support of the people. In fact, it seems to me that it was the way those principles were being asserted in a modern, complex society that people found objectionable. People simply rebelled against the monstrous mechanisms of policy and process that were being used by governments, even, and I might say especially, so-called conservative governments, to realize those principles. Again, it was not the principles of liberalism but the mechanisms of their realization that were unacceptable.

A decade later we now have a prime example of this same phenomenon. It seems to me that those concerned have not yet learned, and we ordinary back-benchers are pressed to try to sort the situation out.

This is not an easy question. I have thought it through as best I can. On the one hand, there are the undisputed benefits of the bill. On the other hand, there is its unbelievable, naive faith in machinery, its lack of a certain degree of ordinary sense, its blind reliance on bureaucratic process.

Perhaps I am unduly influenced by the scene last night when our colleagues denied, as I see it, the elected government the right to manage the government's business. Vote down the electoral boundaries, as some of us wanted to do, but do not refuse us the right to bring it out of committee so we cannot vote at all.

I might not make this judgment normally. However, it seems to me the message of these circumstances today is that if we are to have a bill at all in the current circumstances of divided power in this house, then we can only have a flawed one. I regret that. It is the role of the Senate to try to avoid that kind of situation. We are a chamber of sober second reflection.

The minister has not made our role easy. However, we have not made it easy for ourselves, either. I have reluctantly concluded that, in this instance, I will support the government's right to legislate.

The Hon. the Speaker: Honourable senators, looking at the clock, I see that it is 4:45. It was agreed earlier this afternoon that at this time we would hear from the Honourable Senator Lynch-Staunton for 15 minutes, followed by the Honourable Senator Fairbairn.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am sure that nothing I will say on the bill itself will change any minds, as all minds are obviously pretty well made up by now. The debate has been eloquent, convincing and, certainly for the most part, extraordinarily well thought out.

However, I want to clarify the position of this caucus on its approach to the bill. First, I want to say that the Progressive Conservative Party, as represented by this caucus, unanimously has never opposed gun control. As a matter of fact, it was the Mulroney government, with Kim Campbell as Minister of Justice which, in 1991, introduced and legislated, if not the toughest gun control law in the world, certainly one of the toughest gun control laws in the world. Yet Canadians are unaware of that. Only this morning Senator Meighen was telling us about a highly educated, well-informed friend of his who asked him last night while talking about Bill C-68, "Why are you delaying it? Anyone can walk into a shop and buy a gun, legally." That is the sort of ignorance about gun control that there is in this country, which, unfortunately, is leading people to wrong conclusions about the laws that we have, and how strict they are.

Let me tell honourable senators about how they can acquire a gun in Quebec today under the law which we passed in 1991. If you want to buy any kind of a gun, for whatever legal purpose — target shooting, let us say — did you know that you have to take two safety courses, be investigated by the police on three separate occasions and produce 12 letters of reference? That is just part of the process which can take up to one year. There is no other country in the world which imposes such conditions on those who want to legally acquire firearms. This is our doing, but it has had a negative effect. It has led to a drop in the issuance of firearms acquisition certificates and, as a result, an increase in the smuggling of illegal guns and the trade in them.

One must be careful in designing legislation that becomes so strict and so onerous that some people just cannot cope with it, and will use other means to attain the same ends.

It is this party that allows us to look at Bill C-68 today. Had there been no Bill C-17, there would be no Bill C-68 today. It is because of the pioneering work of Brian Mulroney, Kim Campbell and the Conservative caucus that we can at least discuss Bill C-68 today.

What disturbs many of us is that the principles on which Bill C-17 is based have not been honoured. When Ms Campbell introduced Bill C-17, she said that the legislation "was to provide better protection for all Canadians against firearms violence, while avoiding undue or unnecessary interference in the activities of Canadians who use guns legally, responsibly and safely." Russell MacLellan, who was then the Liberal critic, said:

> The objective of the legislation is to control access to firearms and ammunition in Canada and not to place excessive or undue restrictions on responsible gun owners. I think that has been achieved.

Those were the comments in 1991 of the two main parties in the House of Commons on our legislation.

Those principles and those objectives have been abandoned with Bill C-68. What the government should have done is introduce two bills, one on gun control exclusively, increasing the penalties and the sanctions for those who trade and bring in arms which are illegal or not acceptable. There would have been hardly any debate on it, except some of us may have thought that the sanctions were not severe enough, as such a bill would have gone after the criminal element.

Another bill on registration should have been introduced, a law which affects law-abiding citizens. Criminals do not register their firearms, nor do they ask for firearms acquisition certificates. They thumb their noses at Bill C-17, just as they will thumb their noses at Bill C-68. If Bill C-68 is passed, all Canadians will be deemed as suspect because they will be mixed with the criminal element. This is why so many law-abiding citizens are concerned and upset, because they are being treated as suspects right off the bat; being targeted by a law which aims at both the criminal element and themselves.

• (1650)

Look at the amendments. I will not discuss the details because they have been extremely well analyzed by those who are supporting them. These amendments in no way affect the gun control feature of the bill. They do not affect in any way the registration feature of the bill. They are but a modest response to complaints heard, not just in one part of the country but across the country These complaints and concerns were expressed not from a well-financed gun lobby about which I have heard so much — I can tell you honestly I have never met nor spoken with such a group — but rather from concerned, law-abiding citizens, including their elected representatives, in four provinces and two territories.

I am sure that these amendments are a great disappointment to those citizens. These amendments represent a minimum response but, to many of them, they are below the minimum. They expected more from us, particularly after so many of our colleagues went out across the country and listened to responsible, law-abiding citizens who, as one example, did not want their gun collections confiscated, which Bill C-68 allows.

As another example, the Canadian Olympic shooting team has told us that, had this bill been in effect at the time of the Commonwealth Games, there would have been no shooting competition.

Hon. Raymond J. Perrault: That is totally inaccurate. I confirmed it today; completely inaccurate.

Senator Lynch-Staunton: The regulations would allow the minister to ban the guns used in international competition.

Senator Perrault: Absolutely incorrect. You are spreading another falsehood. May I read the section to you?

Senator Lynch-Staunton: No.

Senator Perrault: It is in the bill, if you would read it instead of reading propaganda.

Senator Lynch-Staunton: I am not reading propaganda; I am reading the testimony of the Canadian Olympic shooting team.

Senator Perrault: It is incorrect. I will send you the citation. It may help you.

Senator Lynch-Staunton: Please do. Thank you.

What you cannot deny is that a gun which is purchased legally and then put on the restricted list, which means it has to be registered and then put on the prohibited list, which means it has to be confiscated, can be expropriated without compensation. That has already been done, and it will continue with this bill. Senator Stratton gave us examples yesterday.

The most troubling feature of this bill is that it raises expectations which will not be met. Although this too may be challenged, let me read you an analysis of the bill by Dr. Taylor Buckner of Concordia University, an associate professor of Sociology:

> Bill C-68, presently before the Senate, will have little or no effect on homicides, suicides or accidents. Its proponents have not offered a single piece of evidence or research that it will reduce homicides, suicides or accidents, because there is no such evidence or research. It may well allow for an increase in violent crime as police efforts and funds are diverted into bureaucracy. It will certainly increase the overall crime rate, as almost every gun owner in Canada will inadvertently be in violation of one or another of its confusing provisions.

Honourable senators, the Minister of Justice is falsely claiming that if this bill goes to him tonight with amendments, there is a strong possibility that the House of Commons cannot deal with it. Is he so ignorant of the procedure over there that he does not know that the rules of the house favour the majority, and that any bill can get through in the time that the majority wishes, with or without the cooperation of the opposition?

Is the legislative agenda there so heavy that time cannot be made for this bill? Do I hear them discussing a bill which will abolish the GST? There is nothing of immediate importance going on over there. Is this government in a minority position? There is nothing to stop them from getting this bill tomorrow, amending it, and returning it to us next week, in plenty of time for the Christmas recess.

The minister is really saying that he does not want to see this bill back in the House of Commons. He fears another debate. He fears revealing again the deep splits in his own caucus, the deep opposition which will be expressed to him publicly and privately that Canadians by the hundreds of thousands object to being treated as suspected criminals by the policies underlying this bill.

The minister will not be able to show that he has properly consulted aboriginals as required by the Constitution and by treaties and agreements. Consultation does not mean sending 600 letters. The minister will not be able to show that he has consulted adequately with four provinces and two territories.

Speak to the ministers and attorneys general out there and ask them about the consultation. It was information. It was a monologue. These are the provinces which are responsible for the application of the Criminal Code. Provincial-federal relations at all times are tense, difficult, awkward and frustrating, and never more so than since the referendum. Yet, this government does not seem to accept that the days of "Daddy knows best" are over.

We are in a period where we should have been long ago, a period of consultation, of open discussion, even if it takes longer than one might want to come to agreements. We need an end to destructive letters from the Minister of Health demanding that the provinces follow the rules or be cut from the paylist; or destructive edicts back and forth from the Minister of Human Resources saying, "Do it my way, or no way."

The provinces have requested that only the registration of long arms be delayed so the system can be assessed, and then the provinces could do a better job in applying it. The rest of the bill would apply to all of the provinces.

The aboriginal people are asking only for consultation. They are saying, "We have a way of life here which is different from yours in Ottawa, Toronto and Montreal. We have a way of life which is essential to us. To us, a rifle is a tool. It is an essential, defensive weapon. We are law-abiding citizens. We cannot join your culture, but we do not want to be outside the mainstream. You have pushed us out over the years. You have taken our lands. You have put us on reservations. You have ignored our education. You have tried to abolish our culture. Now you are trying to make some reparations; that goes nowhere without respect. That is what consultation is — respect."

Yet, the Minister of Justice says to aboriginals, to provinces and to every Canadian citizen, "I do not care what you say; you will do it my way."

The minister came, as someone mentioned earlier, to our committee. Even before he entered the room, he said, "I do not care what amendments they have. I will not change one word of this bill."

That is not how the Parliament of Canada works.

Some Hon. Senators: Oh! Oh!

Senator Lynch-Staunton: There are those here who heard it.

Senator Thériault: That is not what he said.

• (1700)

Senator Lynch-Staunton: The minister's thoughts were well expressed. I will end on that note. He said, when he became justice minister, "I came to Ottawa with the firm belief that the only people in this country who should have guns are police officers and soldiers."

It is with that kind of mindset that Bill C-68 has been conceived. The most dreadful part is that Bill C-68 does not meet his goals. He has yet to restrict weapons, as is his intention, to police officers and soldiers. What restrictions will he conceive of next?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am pleased to be able to participate in this debate. It is an important debate. I think the contributions that have been made over the past several hours and days have indicated, once again, that when there is an issue of great national importance and emotion, the Senate responds to that issue with eloquence and with great care.

This is an important issue, honourable senators. For the last several years, one of the subjects for which concern has risen steadily among Canadians is that of safety and security — safety in terms of health; security in terms of economics — in private homes and on public streets; in large cities and sprawling urban areas; and in rural towns, villages, and remote communities in the north and south of this country.

This concern, honourable senators, touches every part of our society. It has deep roots in poverty, rapid change, lost opportunities, unemployment, drugs, illiteracy, shifting social values and changing family structures, and all of the manifestations that these combinations produce in terms of anxiety, anger, desperation, crime and violence. It is much more than just statistics, polls, media headlines and sensational trials; it is a public attitude of anxiety which is pushing institutions at all levels to take action, to do something, whether it be through governments, schools, churches, protective services, or the criminal justice system itself.

All of our institutions, honourable senators, are challenged with these demands, and they are challenged in the troubling context of diminished resources all across this land. There are no quick fixes for the problems that have taken root and grown, in ironic and even tragic parallel with years past of growth and prosperity in Canada.

While longer term efforts to reach the causes must accelerate, right now, attention has focused on strengthening means for protection through the law, through education and through trying to regulate and manage more effectively the tools which, if misused, result in crime, violence and death.

As all of us know, the issue of gun control has become a central feature of this process. It is a controversial issue which defies unanimity, but one on which, as honourable friends opposite have noticed, successive governments have sought and achieved varying degrees of consensus. For the past two years, the current government has tried to find a formula which bridges both protection and fairness. Already, there has been a great deal of consultation — real consultation — debate and compromise.

Bill C-68 is aimed at striking a balance between the legitimate use of firearms by law-abiding citizens of this country — whether they be aboriginal peoples, farmers, ranchers, people who use guns for hunting and recreational purposes, people who are involved in sports competition or who are interested in collecting and preserving guns — and the need to promote public safety and to curtail criminal activity.

There has been a great deal of discussion and debate in the House of Commons, and extensive testimony in its Justice Committee. That led, not to closing the door but to countless amendments and compromises to the original legislation. Here in the Senate, many more witnesses were heard. Senators held meetings across the country, some most recently in days and weeks, but others also throughout the summer, in the areas that they represent. We are now engaged in what may or may not be the final debate on this legislation.

As with all measures designed to strike that balance between competing interests, this legislation has its critics. They are vocal, and they have often been the most vocal in this debate. It is important to remember, however, that these proposals also have a long list of supporters in every part of this country. Often, their voices are not loud and easily heard. They may be members of social services, protective services, or police forces. They may be women and men in fear and distress wherever they live in Canada — urban or rural. They may be victims themselves; they may be families of victims who have been killed or wounded.

I cannot speak today without remembering that it was almost at this time of year in 1989 that 14 families had their daughters killed in a tragic event which took place at l'École polytechnique in Montreal. Some of those families are here with us today. We will not forget that event as a symbol of the other side of the coin in this legislation.

Sometimes, honourable senators, only the strongest come forward to speak. However, the trends of public surveys have shown consistently that a majority of Canadians do support gun control, as my honourable friend the Leader of the Opposition has said; they do support gun control measures, and, honourable senators, they also support this legislation.

There is no question that the levels of support vary in different regions of this country. That has been expressed forcefully and well in this debate. I, too, have heard those variations firsthand for months in my own province of Alberta, particularly in the southwest corner where I live. That is predominantly a rural area. Honourable senators, the views that I have heard are strong and forcefully expressed, but they are also mixed. They are not monolithic.

The thing that strikes me, when we are engaged in debate and argument on issues such as this, is that we very often communicate in extremes such as: "This bill will do nothing to solve our crime problems." Or, as Senator Lawson said earlier, when he suggested that other people were speaking in extremes: "The day after this legislation is passed, there will be no shooting." That is an extreme as well. Obviously, we concede that.

Other extremes are: "The registration system will not work at all"; "The law will not work"; "The money budgeted, no matter what it is, will not be enough"; "The government is really out to confiscate firearms from individuals"; "The museums automatically will be charged fees"; and "There will never be consultation sufficient enough or sensitive enough for the needs of aboriginals and northerners."

Honourable senators, all of those comments are extremes. We have heard these messages, not just in recent days but for months and for years.

• (1710)

I do not believe that this bill is built on extremes but, rather, it does seek consensus and compromise on what is clearly a very difficult issue for Canadians and for each individual senator in this house. We know that our political institutions and those who serve in them are viewed with scepticism and even distrust by many Canadians. Sometimes that occurs because we take it for granted that our messages are heard beyond Parliament Hill and that we are clever enough to make them easily understood.

Sadly, while communication should be a political strength, all too often we do a very poor job, both of listening and explaining. In the case of this bill, and the emotion and the controversy which surrounds it, the messages sometimes are confused, and they are contradictory.

I would suggest, honourable senators, that a great deal of effort has gone into the groundwork and the preparation of systems proposed in this legislation. This has not been a careless exercise and it will not be a thoughtless implementation.

I was not part of the committee which studied the bill, although I followed its work with very keen interest because it reminded me a great deal of Bill C-17, of which I was the sponsor when our party was in opposition back in 1991. The issues were similar; the testimony was similar; the frustration and the controversy were similar; and there was a great desire at that time to propose amendments to the bill to reflect some of the testimony which we had heard.

My honourable friend opposite is absolutely right: It was a good bill, and it was not just a good bill because it came from the former government; it was also a good bill because senators on both sides of this house worked strongly together to make it so and to support it. In the end, the committee chose to report the bill without amendment but with very strong recommendations to then justice minister, Kim Campbell. We did not see that bill as the final word on gun control but, Liberals and Conservative together, we put forward recommendations, and some of them, honourable senators, involved safety, training, and registration.

I believe that we should give the bill before us today a chance to prove itself to Canadians. We should give this bill a chance to work. Let us cooperate — not condemn but cooperate — with the justice department to inform our citizens, to ease the implementation process, and to demonstrate that Canadians and their governments have the ability, the creativity and the determination to make our laws work properly. Let there continue to be the broadest consultation with our aboriginal people so that the law will be implemented in a way that respects the realities of their way of life and their special culture.

The Minister of Justice again today assured me that every effort will be made to ensure that section 35 of the Constitution will be respected in terms of implementation of this legislation. Let us build, honourable senators, on the goodwill and the conscientious practicality with which most gun owners approach their work, their hobby, their sport, and most particularly the means of sustaining themselves and their families. Let us help to provide the climate in which this bill can work.

Honourable senators, this has been a very important, a very provocative, and a very moving debate. Last night, Senator Doyle observed:

> We are Canadians all, with goals to share and hopes to achieve.

I believe, honourable senators, that this legislation takes us a step closer to achieving our common goals and hopes: namely, the building of a culture and a society where the safety and security of all Canadians is enhanced. It is for this reason, colleagues, that I sincerely hope we can pass this legislation today in this Senate, and thus take our responsibility seriously because, speculate as you will, we do not know what will happen to Bill C-68 tomorrow, and I would sincerely hope we can work together to pass it today.

The Hon. the Speaker: I wish to thank honourable senators for staying strictly within their time limits. It now being five fifteen o'clock, pursuant to the order of the Senate and to rule 67(3) I order the bells to be rung for no more than 15 minutes.

Please call in the senators.

• (1730)

MOTION IN AMENDMENT OF SENATOR SPARROW NEGATIVED ON DIVISION

On the Order:

On the motion in amendment of the Honourable Senator Sparrow, seconded by the Honourable Senator Lawson:

That the report be not now adopted but that it be amended

(*a*) by adding, on the first page, immediately before amendment number 1, the following:

"1. Page 15, clause 15.1: add, after line 4, on page 15, the following new Clause:

"15.1. (1) A registration certificate is not required for any purpose under this Act or any other enactment for a firearm that is reasonable for use in Canada for hunting or sporting purposes.

(2) Notwithstanding subsection (1), a registration certificate may be issued for a firearm that is reasonable for use in Canada for hunting or sporting purposes.

(3) For the purposes of this section, a firearm shall be deemed to be reasonable for use in Canada for hunting or sporting purposes if

(a) it is a rifle or shotgun designed or intended to be used for hunting or sporting purposes; and

(b) it is not a firearm described in

(i) paragraph (b) or (c) of the definition of "prohibited firearm" in section 84 of the Criminal Code, or

(ii) paragraph (b) or (c) of the definition of "restricted firearm" in section 84 of the Criminal Code.

(4) Notwithstanding any other provision, no person who possesses a firearm that is reasonable for use in Canada for hunting or sporting purposes commits an offence under this Act or any other enactment by reason only that the person is not the holder of a registration certificate for the firearm.""; and

(*b*) by renumbering the subsequent amendments accordingly.

Motion in amendment of Senator Sparrow, negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Adams
Atkins
Balfour
Berntson
Buchanan
Cochrane
Comeau
Cools
DeWare
Di Nino
Doody
Doyle
Eyton
Forrestall
Ghitter
Grimard
Gustafson
Kelleher
Kelly
Keon
Kinsella
Lawson
Lucier
Lynch-Staunton
MacDonald (*Halifax*)
Meighen
Murray
Oliver
Ottenheimer
Phillips
Roberge
Robertson
Rossiter
Simard
Sparrow
St. Germain
Stratton
Sylvain
Tkachuk
Twinn
Watt—41.

NAYS
THE HONOURABLE SENATORS

Anderson
Andreychuk
Angus
Austin
Bacon
Beaudoin
Bolduc
Bonnell
Bosa
Bryden
Carney
Carstairs
Cohen
Corbin
Davey
De Bané
Fairbairn
Gauthier
Gigantès
Grafstein
Graham
Haidasz
Hays
Hébert
Hervieux-Payette
Johnson
Kenny
Kirby
Kolber
Lavoie-Roux
LeBreton
Lewis
Losier-Cool
MacEachen
Marchand
Milne
Nolin
Olson
Pearson
Perrault
Petten
Pitfield
Poulin
Prud'homme
Riel
Rivest
Rizzuto
Robichaud
Rompkey
Roux
Spivak
Stanbury
Stewart
Stollery
Thériault
Thompson
Wood—57.

ABSTENTIONS
THE HONOURABLE SENATORS

Jessiman—1.

CONSIDERATION OF REPORT OF COMMITTEE—
MOTION NEGATIVED ON DIVISION

The Hon. the Speaker: It was moved by the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, that this report be adopted.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Adams
Andreychuk
Angus
Atkins
Balfour
Berntson
Buchanan
Carney
Cochrane
Comeau
Cools
DeWare
Di Nino
Doody
Doyle
Eyton
Forrestall
Ghitter
Grimard
Gustafson
Jessiman
Kelleher
Kelly
Keon
Kinsella
Lawson
LeBreton
Lynch-Staunton
MacDonald (*Halifax*)
Meighen
Murray
Nolin
Oliver
Ottenheimer
Phillips
Roberge
Robertson
Rossiter
Simard
Sparrow
St. Germain
Stratton
Sylvain
Tkachuk
Twinn
Watt—46.

NAYS
THE HONOURABLE SENATORS

Anderson
Austin
Bacon
Beaudoin
Bolduc
Bonnell
Bosa
Bryden
Carstairs
Cohen
Corbin
Davey
De Bané
Fairbairn
Gauthier
Gigantès
Grafstein
Graham
Haidasz
Hays
Hébert
Hervieux-Payette
Johnson
Kenny
Kirby
Kolber
Lavoie-Roux
Lewis
Losier-Cool
Lucier
MacEachen
Marchand
Milne
Olson
Pearson
Perrault
Petten
Pitfield
Poulin
Prud'homme
Riel
Rivest
Rizzuto
Robichaud
Rompkey
Roux
Spivak
Stanbury
Stewart
Stollery
Thériault
Thompson
Wood—53.

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

THIRD READING

The Hon. the Speaker: It is moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Graham, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed on the following division:

YEAS
THE HONOURABLE SENATORS

Anderson	LeBreton
Angus	Lewis
Austin	Losier-Cool
Bacon	MacDonald (*Halifax*)
Beaudoin	MacEachen
Bolduc	Marchand
Bonnell	Meighen
Bosa	Milne
Bryden	Murray
Carstairs	Nolin
Cohen	Olson
Corbin	Ottenheimer
Davey	Pearson
De Bané	Perrault
Doody	Petten
Fairbairn	Pitfield
Gauthier	Poulin
Gigantès	Prud'homme
Grafstein	Riel
Graham	Rivest
Grimard	Rizzuto
Haidasz	Robichaud
Hays	Rompkey
Hébert	Roux
Hervieux-Payette	Spivak
Johnson	Stanbury
Kelly	Stewart
Kenny	Stollery
Keon	Sylvain
Kirby	Thériault
Kolber	Thompson
Lavoie-Roux	Wood—64.

NAYS
THE HONOURABLE SENATORS

Atkins	Kinsella
Balfour	Lawson
Berntson	Lucier
Buchanan	Oliver
Carney	Phillips
Cochrane	Roberge
Comeau	Robertson
DeWare	Rossiter
Di Nino	Simard
Doyle	Sparrow
Forrestall	St. Germain
Ghitter	Stratton
Gustafson	Tkachuk
Kelleher	Twinn—28.

ABSTENTIONS
THE HONOURABLE SENATORS

Adams	Jessiman
Andreychuk	Lynch-Staunton
Cools	Watt—7.
Eyton	

TRANSPORT

REPORT OF THE AD HOC PARLIAMENTARY COMMITTEE ON LIGHTSTATIONS—DEBATE ADJOURNED

Leave having been given to proceed to Inquiry No. 59:

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition), on behalf of Senator Carney, rose pursuant to notice of June 21, 1995:

That she will call the attention of the Senate to the report of the Ad Hoc Parliamentary Committee on Lightstations.

He said: Honourable senators, on behalf of Senator Carney, I will speak two words and then adjourn the debate on Inquiry No. 59, dealing with the parliamentary committee on lightstations. The reason for the adjournment is that we simply have not had time to get to that item on our agenda, with all the other things we have had on our plate. Senator Carney would like to debate this item at a later date.

On motion of Senator Bernston, for Senator Carney, debate adjourned.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, if there is agreement, I move that all remaining orders, reports, motions and inquiries stand.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, November 23, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair

Prayers.

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to distinguished visitors in our Speaker's Gallery. I refer to the Honourable Speaker of the Legislative Assembly of Manitoba, Speaker Louise M. Dacquay. She is accompanied by the Clerk of the Legislative Assembly of Manitoba, Mr. Binks Remnant.

SENATORS' STATEMENTS

GUN CONTROL LEGISLATION

CONSEQUENCES FOR ABORIGINAL COMMUNITIES

Hon. A. Raynell Andreychuk: Honourable senators, yesterday I abstained from the final vote on Bill C-68. I did so because I respect the Constitution and because the bill remained unchanged. Therefore, abstention was my only method of registering my continued concerns.

The bill, contrary to popular opinion, belief and the government hype, does not get tough on crime immediately, but it does get tough on lawful citizens. If the bill were really tough on crime, I might have had some reason and logic for putting aside my responsibilities to the aboriginal peoples in favour of its passage. I might have been able to put the interests of minorities aside. However, the bill did not, in fact, deal with the issues of crime and violence with which I feel we need to deal.

The Senate must now contemplate how committed it is to the aboriginal community. How committed are we to minorities, one of our three fundamental responsibilities? Of what value is the aboriginal community? Does the Standing Senate Committee on Legal and Constitutional Affairs really deal only with legal and constitutional issues?

Honourable senators, before we face such a situation again, we should reflect on our respective roles and renew our commitment to finding workable compromises.

Hon. Willie Adams: Honourable senators, I wish to explain why I abstained last night on the vote on Bill C-68.

During the debate on this bill, we heard many speeches expressing concern for aboriginal peoples, their rights and their way of life. Following those speeches, 64 senators voted for Bill C-68.

Over the past several months, we heard from approximately 160 witnesses, and we heard consistently that the aboriginal peoples will have to go to court if Bill C-68 is passed. I believe that that is the only way we will win our rights back, and I believe that we will be in court some time after Christmas.

I have been serving on the Standing Senate Committee on Aboriginal Peoples for the last two years, and I have always thought that we were doing a good job. However, after last night, I realized that the Senate is not concerned about aboriginal rights.

Effective immediately, I tender to my whip my resignation as a member of the Standing Senate Committee on Aboriginal Peoples.

[*Translation*]

INTERNATIONAL ASSEMBLY OF FRENCH-SPEAKING PARLIAMENTARIANS

EXCHANGE OF INFORMATION AND SEMINAR HELD IN PORT-AU-PRINCE, HAITI

Hon. Jean-Robert Gauthier: Honourable senators, in July 1994, the United Nations Organization authorized a military intervention in Haiti to unseat a military junta which had forced the elected president, Jean-Bertrand Aristide, into exile in the USA.

I need not go into all of the tumultuous events that have occurred since the return of President Aristide and the arrival of the UN peacekeepers in order to ensure a peaceful transition from a military dictatorship to a democratic presidential regime with a bicameral parliament elected by universal suffrage.

From November 16 through November 29, the Canadian section of the International Assembly of French-speaking Parliamentarians, of which I have the honour to be the head, held seminars at Port-au-Prince to exchange views and information with our parliamentary colleagues in Haiti focussed on issues essential to Parliamentary action in a democracy. Within a few days, I shall be tabling in the Senate a complete report on this Canadian initiative. The seminar was organized as part of the Canadian program of international cooperation and financed through Canadian funding provided by the Cultural and Technical Cooperation Agency which, as you know, is the key organizer of francophone summits and the body which dispenses assistance to development within la Francophonie.

Other, similar seminars for newly-elected parliamentarians were held in Africa recently, involving parliamentarians of a number of fledgling democracies. I am pleased to tell you also that AIPLF Parliamentary Affairs Committee Chairman Senator De Bané chaired most of these seminars. However, this is the first time we have had this kind of discussion and information seminar on parliamentary action in a democracy in the Americas.

The delegation I chaired consisted of three federal members — Raymond Bonin, Michel Daviault and Geoff Regan — and three members of provincial legislatures — Solange Charest of the Quebec National Assembly, Gilles Morin of the Ontario Legislative Assembly and Greg O'Donnell of the New Brunswick Legislative Assembly.

The subjects discussed during the seminar were as follows: the separation of powers, which is the foundation of any democratic system; the relationship between Parliament and the executive, where Canadian parliamentarians stressed the concept of ministerial accountability; the role of the opposition in a parliamentary system, a topic that raised many questions from Haitian parliamentarians and fuelled a lengthy debate.

Canadian delegates pointed out that the presence of an opposition that was well organized and structured according to a well-defined set of rules was fundamental to the effective operation of a parliamentary democracy.

Other topics were the consideration of bills in the House and in committee, administrative structures and services essential to the effective functioning of Parliament, and the relationship between elected representatives and their constituents.

Canadian delegates were impressed by their Haitian colleagues' grasp of the subjects being discussed and by their very active participation in the exchanges that took up two full days. In fact, more than half of Haiti's two Houses of Parliament, about 70 members and senators, took part in these discussions, despite the fact that both Houses were sitting while we were there. The Speakers of both Houses also took an active part in the proceedings.

We found that Haitian parliamentarians were well informed. They are determined to work very hard to establish a strong parliamentary democracy in their country, despite the serious problems they are facing.

Honourable senators, if you have a chance to go to Haiti, I would urge you to take advantage of this opportunity, as we did, to meet and talk to parliamentarians.

NATIONAL ANTHEM

OBLIGATION TO PERFORM BY MEMBERS OF THE HOUSE OF COMMONS— CONSEQUENCES OF DEMAND BY REFORM PARTY

Hon. Marcel Prud'homme: Honourable senators, on January 11, 1967 the Right Honourable Lester B. Pearson tabled a government motion to set up a joint committee on Canada's national and royal anthems.

I will forego the series of events that followed that historic date. As Senator Forrestall said yesterday, only two members of that committee still sit in Parliament. The other members of the Senate and of the House of Commons have left us. Senator Forrestall and I are the two MPs who were present at that historic moment, and we are now in the Senate. We recommended to the Parliament of Canada, that is, to the House of Commons and the Senate that "O Canada" be our national anthem.

Senator Forrestall and I fully agree. We both remember exactly the same thing: it was agreed that a national anthem, like a flag, like the monarchy, is a symbol that must be respected. Loyalty must be total, absolute and voluntary.

Like him, I sincerely regret that, for reasons of base political partisanship — and I underscore these words — and in the hope of embarrassing the official opposition, that is the Bloc Québécois in the House of Commons, the Reform Party committee asked the House committee that looks after procedural matters to kindly allow the members to sing "O Canada" every Wednesday. This, in my opinion, makes a total mockery of the symbol that should unite us.

Honourable senators, I object to this request. I have so informed the people concerned. They ignored it. I heartily regret that they politicized the national anthem for reasons of base partisanship, in the hope, perhaps, of embarrassing the members of a party by obliging them to sing, or not to sing, the national anthem, whereas in Quebec like everywhere else in Canada, spontaneously, at all major events where "O Canada" is sung, even those who do not have my federalist faith politely rise and sing, or at least rise. If we have to politicize our national anthem starting today, I predict that people will politicize it. I state publicly that the blame falls squarely on the members of the Reform Party who decided that, starting yesterday, they should sing the national anthem.

I must also congratulate — and do not take offense — Mr. Plamondon of the Bloc Québécois on his intelligent attitude. He said:

> We will not rise to the bait. We will be polite. We will rise. If we are present, we will rise out of respect for those who wish to sing this fine song.

You see: "this fine song."

Honourable senators, I would like to remind you of a point of history. Perhaps I should congratulate the members of the Reform Party for wanting to honour the Quebec City Saint-Jean-Baptiste Society, because "O Canada" was not

written to be sung on July 1, but was composed and written at the request of the president of the Saint-Jean-Baptiste Society of Quebec City in 1880. At that time, the president decided that it would be nice in Canada to have a fine song, and made the appropriate request of Félix Calixa Lavallée and Sir Basile Routhier, whose great grandson was Mrs. Tremblay's husband.

I must congratulate the Reform Party. Perhaps they wanted to honour the Saint-Jean-Baptiste Society of Quebec City. Each time they sing "O Canada," I will thank them on behalf of this society, which, in Quebec City, remains federalist.

Therefore, on behalf of the Saint-Jean-Baptiste Society, let us hear it for the Reform Party.

[*English*]

ROUTINE PROCEEDINGS

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, November 28, 1995, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1430)

FIREARMS BILL

NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 57(1)(2) and 58(2), I give notice that I will call the attention of the Senate to the speech I had intended to give yesterday, Wednesday, November 22, 1995, during debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, for the adoption of the sixteenth report of the Standing Committee on Legal and Constitutional Affairs on Bill C-68, respecting firearms and other weapons, with amendments, presented in the Senate on Monday, November 20, 1995; the speech that I was unable to give due to time limitations imposed by the Senate Order to conclude debate by 5:15 p.m. and vote at 5:30 p.m. on Wednesday, November 22, 1995.

NATIONAL FINANCE

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

Hon. Lowell Murray: Honourable senators, I give notice that on Tuesday next, November 28, 1995, I will move:

> That the Standing Senate Committee on National Finance have power to sit at four o'clock in the afternoon on Tuesday, November 28, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

QUESTION PERIOD

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—DEPARTMENTAL LETTER TO SWISS AUTHORITIES—MINISTER'S INVOLVEMENT

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. It is with regard to yesterday's news reports that the Minister of Justice is investigating how the media became aware of the fact that the Department of Justice had made an official representation to Swiss authorities regarding certain numbered accounts. We now know that Mr. Roger Tassé, a former Deputy Minister of Justice, now acting on behalf of former Prime Minister Mulroney, called the minister on November 4. Mr. Rock has publicly acknowledged this. We also know that Mr. Tassé wrote to Mr. Rock on November 8.

Media people have confirmed to me personally that Liberal operatives were trying to peddle this story for at least a week before the story broke on the CBC news on November 12, and in the newspapers on November 13 — in other words, from November 5 or 6 until November 12.

After Mr. Rock discussed this matter with Mr. Tassé on November 4, what did he do? With whom in his department, the Prime Minister's Office and/or his political staff did he discuss this matter?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, obviously, I have no knowledge of those specific details. I will take the honourable senator's question as notice. Also, I have no knowledge of the honourable senator's comments concerning operatives peddling a story.

Senator LeBreton: Perhaps the Leader of the Government should talk to those who will give her that information.

Honourable senators, if Mr. Tassé had made a phone inquiry on behalf of Mr. Chrétien, Mr. Turner or Mr. Trudeau, would the Minister of Justice have treated this matter in such a cavalier way?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Minister of Justice has said quite openly, and repeatedly, that he did not respond to the request by Mr. Tassé because it would not have been proper, nor would it have been appropriate.

HUMAN RESOURCES DEVELOPMENT

REFORM OF UNEMPLOYMENT INSURANCE SYSTEM—GUARANTEED ANNUAL INCOME AS PART OF PACKAGE—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It is regarding an announcement that is expected next week by her colleague the Minister of Human Resources Development regarding unemployment insurance reform. I should like to refer to a statement made by the same minister in the House on November 2 in response to a question, in which he said:

> — I will tell the hon. member that one of the most important elements we are putting together as part of the new unemployment insurance package is what the Prime Minister talked about in his speech last night. He said that we will provide basic protection for families on low income with children. It is something we have been talking about in this country for a long time, and we intend to do it.

The minister seemed to imply that this basic benefit will be part of the UI reform package. Can the leader clarify her colleague's statement? Is he suggesting that a guaranteed annual income would become part of the UI package?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as my friend noted at the beginning of his question, the Minister of Human Resources Development will be bringing forward legislation soon. If my honourable friend would wait until the legislation appears, his questions may be answered.

TRANSPORT

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—STATUS OF EH-101 CONTRACT—NATURE OF MILESTONE PAYMENTS

Hon. J. Michael Forrestall: Honourable senators, I have a brief supplementary to a question I posed yesterday regarding the final EH-101 contract. While the leader is endeavouring to get the information I requested yesterday, which I believe is necessary, could she check into and obtain for this chamber the amounts of the other payments which have been made? I refer to those payments which were described as "milestone" payments.

Together with the amount of these so-called milestone payments, I am anxious to know whether or not they were being made under the guise of compensation. I ask this question to ensure that the amount of money paid out under the milestone arrangements will be added to the total amount which will be paid to cancel this particular contract.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will add my honourable friend's questions to the questions he asked yesterday.

NOVA SCOTIA

INDUSTRIAL MARINE PRODUCTS—RELOCATION OF PLANT FROM NORTH SYDNEY TO AMHERST—POSSIBLE DELAY IN IMPLEMENTATION OF DECISION—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I am forced to ask this question today because apparently none of the Cape Breton members of Parliament are sufficiently concerned about employment in North Sydney to bother to respond to urgent requests from IMP employees. Industrial Marine Products took over an $18-million to $20-million federally-funded plant, for which it paid $4 million to $5 million. It now intends to move its machinery out of North Sydney to Amherst. That is fine. They are moving from an area heavily burdened by unemployment to a relatively burdened area with respect to long-term unemployment of this nature. That is a decision which a corporate body can make. Surely, before taking such a decision, there is a responsibility on the part of the government, either provincially or federally, or perhaps both, to ensure that all the options are considered, and that they are considered in conjunction with meaningful consultation with the unions involved.

Will the minister approach her colleague in cabinet, the Minister of Public Works, the senior minister from Nova Scotia, and ask if he might intervene with a view to seeking a 30- to 60-day moratorium to ensure that unionized and other employees at that plant have every opportunity to make their case known before IMP pulls out the machinery and moves it to Amherst, causing the loss of all those jobs?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will be pleased to take Senator Forrestall's representations to my colleague. I am not aware of the context of the question, but I shall refer it to the minister.

• (1440)

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—RANK OF RCMP OFFICERS ENGAGED IN INVESTIGATION

Hon. Richard J. Doyle: Honourable senators, my questions are supplementary to questions asked by Senator LeBreton and are directed to the Leader of the Government in the Senate.

Minister, you have been at pains to convince this chamber that no member of the cabinet or no ranking officer of the Department of Justice had any early knowledge of your government's approach to the Government of Switzerland to ferret out any stuff that might be used to indict a former prime minister of Canada for secret crimes against his country.

The Leader of the Government, like the cabinet colleagues with which she runs, takes no responsibility for what was done, or said, or leaked, or what was intended to be the terrible result of that secret letter to Switzerland.

My question is: If the Royal Canadian Mounted Police were given total responsibility for the hunt for such a villain, why was no officer above the rank of sergeant found to take charge of the posse?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would like to read that question before I attempt to respond. I will seek information for my honourable friend on this matter. As I have said repeatedly, no member of the cabinet was aware of the investigation, nor of the contents of the letter.

Hon. John Lynch-Staunton (Leader of the Opposition): I do not believe that.

Senator Fairbairn: You may not believe it, but it is a fact.

Senator Lynch-Staunton: I do not. Did you go after a former prime minister without at least one cabinet minister knowing about it?

Senator Fairbairn: That is precisely what I have said.

Senator Lynch-Staunton: But you are happy to go after him in letters, and call him a crook!

Senator Fairbairn: Honourable senators, I will follow up on Senator Doyle's question.

Senator Doyle: There are 1,710 sergeants presently in the RCMP force. How did they decide which one of them would get the job? Why were all of the 1,390 Mounties above the rank of sergeant left behind to restart the burglar alarms at 24 Sussex Drive?

HEALTH

CONTROL OF SALE OF TOBACCO PRODUCTS—NEED FOR LEGISLATION—GOVERNMENT POSITION

Hon. Stanley Haidasz: Honourable senators, will the Leader of the Government in the Senate inform this chamber as to whether the government will bring in legislation controlling the sale of tobacco products in Canada, in view of the fact that the Supreme Court has ruled on the constitutionality of the Tobacco Control Act with regard to advertising and found it lacking, and in view of increasing representation from the anti-tobacco lobby for control of tobacco products, which cost 41,000 Canadian lives annually, and a loss to our economy of about $15 billion?

Senator Lynch-Staunton: Tobacco kills more than guns. That is where their priorities are.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Minister of Health is actively looking into this question. I do not have an answer for my honourable friend now, but I will endeavour to obtain for him whatever information I can. Naturally, Ms Marleau is deeply concerned about this issue and will be trying to find the most appropriate way to deal with it.

INDUSTRY

SCIENCE AND TECHNOLOGY RESEARCH—CUTS TO BUDGET—TIMING FOR RELEASE OF STUDY—GOVERNMENT POLICY

Hon. Noël A. Kinsella: Honourable senators, the research and technology community in Canada is anxiously awaiting this government's policy in the area of science and technology research. In the last budget, honourable senators will recall that this government cut $77 million from the budgets of the National Science and Engineering Research Council and the Social Science and Humanities Research Council. They did that notwithstanding recommendations to the contrary by the Finance Committee in the other place. As well, last year's budget slashed some $10 million from the budget of the Medical Research Council. We can understand, therefore, the concern under which the research community in Canada is labouring. Some suggest there has been an abdication of promises, which are easy to find in the infamous Red Book, and that there be stable funding in the area of research.

In a letter to the Canadian Association of University Teachers dated this month, the Minister of Industry Canada states that the federal government remains committed to making science and technology a top priority.

Honourable senators, my question to the Leader of the Government in the Senate is this: Is priority being given by her government to establishing a well-articulated and well-defined policy for Canada in the area of science and technology research?

Hon. Joyce Fairbairn (Leader of the Government): In general terms, honourable senators, the answer to that question is yes. A high priority is being given by the government to the area of science and technology. That was evident in the review carried out by the Minister of State, Dr. Gerrard. The results of that cross-country process are now being studied for possible future action.

It is true that there are budget constraints. However, science and technology research is an area which is considered very seriously, and is a high priority with this government.

Senator Kinsella: Honourable senators, perhaps the honourable minister can tell us when she expects the government to be in a position to release that study, which is known in the research community to have been undertaken? They are anxious to see what that study will say. Does the honourable minister have any indication as to when it will be released?

Senator Fairbairn: I will talk to my colleagues, honourable senators. I do not know personally at this moment what the intention is vis-à-vis a release, or a date, or the timing on a follow-up to that study, but I will attempt to obtain that information for my honourable friend.

Senator Kinsella: Honourable senators, the minister may recall that an indication was given that this blueprint of policy would be out this fall. We are now getting towards the end of the fall. Is that the type of time line the research community can count on?

Senator Fairbairn: I will try to find that out for you.

DELAYED ANSWERS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 8, 1995, by the Honourable Senator Comeau regarding firearms legislation funding arrangements.

FIREARMS BILL

FUNDING ARRANGEMENTS WITH GOVERNMENT OF NOVA SCOTIA—AVAILABILITY TO OTHER PROVINCES OF SIMILAR ARRANGEMENTS—COSTS TO TAXPAYERS—GOVERNMENT POSITION

(*Response to question raised by Hon. Gerald Comeau on November 8, 1995*)

In the document entitled a Financial Framework for Bill C-68, An Act Respecting Firearms and Other Weapons tabled by the Minister of Justice with the House Justice Committee on April 24, 1995, anticipated costs and revenues were identified.

The Federal Government has every confidence that the Financial Framework document reflects the anticipated revenues and expenses entailed in the design, development and implementation of the registration system.

As for responsibility for costs incurred, the federal government has made it clear throughout that the provinces will not be called upon to pay for the design, development or implementation of the registration system.

A letter was sent to the Government of Nova Scotia May 24, 1995 from Justice Minister Allan Rock on the issues of costs. Similar letters were also sent to the Governments of all the provinces and territories.

Its continuing costs of administration will be funded by revenues paid as fees by firearms owners.

The actual amounts will be set by regulations that will be subject to Parliament's review, and Federal-Provincial/Territorial Firearms Financial Agreements.

The administration of the Canadian Firearms Registration System will be fully funded by the federal government and costs recovered through fees.

Similarly, the actual issuing costs of all Firearms Licences, Registration Certificates, and Authorization Permits will be recovered by the provinces and territories through fees set in regulations to be reviewed by Parliament and included in the Federal - Provincial/Territorial Firearms Financial Agreements.

The objective of the Government is to make the entire Firearms Program cost-neutral. Furthermore, it is the Government's intention not to remove the front line police officer from their duties in protecting the Canadian public.

PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before I proceed to call Orders of the Day, I wish to give my ruling on a matter of privilege raised by the Honourable Senator Cools. I would ask that my ruling be distributed to all honourable senators so that they may follow the text of my comments.

Honourable senators, on November 6, 1995, the Honourable Senator Cools raised a question of privilege to challenge whether a certain kind of point of order can properly be raised, and whether it is within the power of the Speaker to rule on such points of order. In her submission, Senator Cools stated that:

> A point of order cannot be used to compromise the Speaker or the position of the Speaker, or to limit the powers and privileges of the Senate. No point of order may ask the Speaker to adjudicate on the competence of the Senate to pass legislation.

Honourable senators will find that quote at page 2202 of the *Debates of the Senate*.

[*Translation*]

By way of background, honourable senators will recall that on October 17, Senator Cools presented to the Senate Bill S-11, an Act concerning one Karla Homolka. On October 19, following the Table Officer's reading of the Order of the Day for the second reading of Bill S-11, Senator Kinsella raised a point of order to the effect that the matter contained in Bill S-11 was out of order and not properly before the Senate. Following a discussion involving a number of senators, and in which some interesting points were raised, the Speaker *pro tempore* reserved his decision. I refer honourable senators to the *Debates of the Senate* of that day at pages 2139 to 2143.

[*English*]

• (1450)

In her question of privilege Senator Cools stated:

> ...the Speaker of the Senate has no power or authority to adjudicate the substance and intention of Bill S-11 or of any other bill. He has no power to settle questions regarding the judicial result of Bill S-11 or regarding the Senate's pleasure to pass or not to pass Bill S-11 or the appropriateness or righteousness of the Senate's actions in this regard. The settlement of these questions belongs to the Senate institutionally, and the manner in which the Senate usually settles such questions is by consideration and debate of the bill.

The accepted definition of parliamentary privilege, based on Erskine May, and stated in Beauchesne, 6th edition, at citation 24 explains that:

> Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of...Parliament, and by Members of each House individually, without which they could not discharge their functions...

Among these collective privileges, Beauchesne states, at citation 33:

> The most fundamental privilege of the House as a whole is to establish rules of procedure for itself and to enforce them. A few rules are laid down in the *Constitution Act*, but the vast majority are resolutions of the House which may be added to, amended, or repealed at the discretion of the House.

Citation 26(1) of Beauchesne defines a point of order as a "question of order" which "concerns the interpretation to be put upon the rules of procedure...."

Since the concern expressed by Senator Cools is about how this chamber is to proceed when conducting its business, it seems clear to the Chair that she is not questioning the fundamental right of the Senate to lay down procedural rules. Rather, she is questioning the interpretation of our rules and their application to a particular fact situation.

The essence of her question appears to be whether the point of order raised with respect to Bill S-11 is in order, and how the presiding officer should act when asked to rule on such a point of order.

[*Translation*]

With respect to the substance of Senator Cools' concern, there are many examples where senators have raised points of order and asked the Speaker to make a ruling as to the procedural acceptability of a bill or of amendments proposed to a bill. I refer honourable senators to the following precedents in the *Debates of the Senate*: 1977-78, at pages 464-5, concerning a motion in amendment to a bill proposed by Senator Forsey; 1986-87-88, at pages 2720-22, concerning a motion by Senator Graham with respect to Bill C-103, the Atlantic Canada Opportunities Agency Bill; and 1989-90-92, at pages 156-157, concerning two bills, S-3 and S-4, dealing with veterans allowances. In this latter example, the Speaker was asked to rule whether the bills "were in order and form suitable for the Senate to consider." The Speaker ruled that the bills infringed the financial prerogative of the Crown and ruled them out of order.

[*English*]

There are other precedents as well which clearly establish that a senator may ask the Speaker to rule whether a certain bill or amendment is in order according to our rules and practices. In the present case, Senator Kinsella has raised a point of order because, as he maintained, Bill S-11 should not be considered by the Senate since, in his opinion, the bill is not one which falls within the traditions, customs and rules of this chamber. To support his position, he cited a precedent from the other place. By raising a point of order, Senator Kinsella was invoking rule 18, whereby the Senate has authorized the Speaker "to enforce the rules of the Senate."

At this point, I wish to digress from my written ruling, which you have before you, and refer directly to our Senate rule book.

Rule 18(2) says:

> The Speaker shall decide points of order and when so doing shall state the reasons for the decision together with references to the rule or other written authority applicable to the case.

I refer you as well to rule 4(13) which says:

> "Shall" is to be construed as imperative, and "may" as permissive.

Under this rule, not only does the Speaker have a right, he has an obligation.

In my opinion there was nothing improper in what Senator Kinsella did, nor did Senator Ottenheimer or Senator Lynch-Staunton act improperly.

Accordingly, I rule that there is no prima facie case of breach of privilege with respect to the matter raised by Senator Cools.

Finally, I am still considering Senator Kinsella's point of order raised on October 19. I will give my ruling soon.

ORDERS OF THE DAY

NATIONAL UNITY

RESULTS OF QUEBEC REFERENDUM—DEBATE ADJOURNED

Hon. Donald H. Oliver rose pursuant to notice of Wednesday, November 1, 1995:

> That he will call the attention of the Senate to the results of the Referendum of October 30, 1995 in Quebec.

He said: Honourable senators, I rise today to speak to an inquiry that I put on the Order Paper to permit honourable senators an opportunity to express their views and concerns on the future of a united Canada, in view of the troubling results of the recent referendum in Quebec.

The Canada that I know and love includes Quebec. The Canada that the United Nations has a habit of calling "the best country in the world" includes Quebec. The country that makes us proud to flash our Canadian passports when abroad includes Quebec.

Why am I, a unilingual politician from Nova Scotia, so concerned about Quebec's separation? It is because Quebec's contribution to our daily lives, our unique culture, is quintessential Canada. To lose Quebec is to lose a bit of ourselves or what we have become.

You are all well versed in the Quebec Act, the tradition of the Roman Catholic religion, the French language and the civil law traditions in Quebec, but as background for my comments on the Meech Lake Accord, let me say a few things about culture.

My wife and I are attempting to become bilingual by immersing ourselves in French-language training at St-Jean, Quebec. Our professors teach us not only grammar and syntax, but have opened the doors for us to the richness of the cultural traditions of Quebec.

Canada has been elevated in the eyes of the world by the creative contributions of French artists, painters and artisans. The artistic genius of a multiplicity of Quebec artists is at the heart of what many around the world love and respect about Canada. These artists explain, in one way or another, what it means to be Canadian. They discuss that we have emotions, sensations and instincts that determine our actions and reactions, and they put it in such a way that they speak to all mankind. However, I do not for a moment rule out our liberal democratic traditions of liberty and freedom that distinguish us from so much of the world.

• (1500)

I have time only to touch briefly upon the influence of French culture. I am referring to writers, architects, poets, authors, composers, dancers, visual artists, pop and operatic vocalists and sculptors. The more I read and study the cultural traditions and the influences of Quebec in Canadian culture, the more I appreciate what being Canadian means. I am aware that today we have new artistic geniuses of such descents as Chinese, Japanese, American, African and other new Canadians, but let us not forget about the awesome contribution of the French from Quebec.

I have always subscribed to the view that artists, philosophers, poets, painters, writers, and so on, see where the world is going before most of us do. It has always taken time for cultural developments to reach people at large. You could, for example, see the French Revolution on canvass and in verse long before the actual storming of the Bastille!

Have we in English Canada immersed ourselves deeply enough in the works of contemporary Quebec artists to understand the soul of the French people in Canada? Art is a necessary and normal means of human expression. Revolutions in attitudes and values, unlike political revolutions, proceed mostly below the surface of man's actions. I am not surprised, therefore, when people near my farm ask me: "What do the people of Quebec really want?"

It may be instructive for we English-speaking Canadians to go back to Rousseau, Voltaire and Montesquieu. They encouraged us to have a new look at old institutions. Maybe there is a hope for a better social order by rethinking and restructuring some of our federal institutions. Is that not the lonely cry that we hear from Quebec, and is that not similar to the cry we are hearing from Canada's western provinces?

There are several things we of this body of sober second thought can and should do to help restructure Canada for the twenty-first century, the new millennium, that would not only be a modern symbol for world democracies but would also probably have the effect of creating a new united Canada.

Here are some of my ideas, for what they are worth:

At an appropriate time, an all-party committee of senators should be established to go to Quebec and to meet with Quebecers. All Quebecers who wished to express an opinion on Quebec within Canada could then be heard. The committee should then meet with opinion makers from all other provinces and territories. It should meet with senior political figures in Quebec City and also with other Quebecers — that is, executives, business people, entrepreneurs, artists, artisans — who continue to paint Quebec society within Canada. It will be from these people that senators will learn what it means to be a Quebecer and to be part of a cultural and linguistic minority both within Canada and in North America. It will be through meetings with the working people of Quebec that senators will discover the hopes and dreams of "this people" — hopes and dreams fashioned over hundreds of years, now exhibiting themselves in the movement for sovereignty.

[*Translation*]

Senators will know the answer to the following question: What does Quebec want? They will be able to pass on this information to all Canadians.

As senators know, this kind of mission would normally be carried out by a special joint committee that would include members of the House of Commons. However, this is not appropriate under the present circumstances.

There are in the House of Commons two political parties whose prime objective is not to keep Quebec within Canada. At least the Bloc Québécois does not hide its intention to get Quebec out of the federation. As for the Reform Party, judging by its position on the issue of the referendum, it is clear that it would love to kick Quebec out of the federation.

[*English*]

In my view, it would be completely counter-productive to involve the other place in such a fact-finding mission within Quebec. The Honourable Jean Charest, the leader of the federal Progressive Conservative Party, has shown, by his willingness to do whatever was required of him during the referendum, that the Progressive Conservative Party stands for a united Canada. Mr. Charest's support for the Prime Minister, both before and after October 30, illustrates that partisan party politics can be put aside when the future of the country hangs in the balance.

Much more, however, must be done in the weeks ahead than the establishment of this committee to ensure that the people of Quebec understand the love and affection that exists for them in the rest of Canada.

On Friday, October 27, the demonstration in the streets of Montreal was effective and impressive. As the editor of *Maclean's* magazine, Robert Lewis, has stated, "It was the silver lining for federalism in the outcome of the referendum." Canadians stood up to be counted. The Quebec referendum aroused a passion for Canada not seen in many years. Mr. Lewis pointed out that parents took their children out of school to attend pro-Canada rallies, and citizens by the thousands called and wrote to Quebecers, urging them to vote "No." He believes that the Quebec referendum illustrated for us the powerful lesson that no nation can ever take itself for granted. These efforts could have been much more effective if they had begun earlier. If the Montreal demonstration had been held earlier, it could have been followed by other demonstrations. The Friday demonstration would not have been an isolated incident that allowed separatists to question the sincerity and motives of those who took part.

Efforts to let Quebecers know the positive feelings from those outside Quebec must be greatly increased. This increase must take place between now and the next time Quebecers go to the polls in either a provincial election or the next inevitable referendum on sovereignty. Who should make this effort? It must be a concentrated effort made by all Canadians. It must include our political leaders from all levels of government in Canada. In fact, it must be broader than that. It must include schools and universities from across Canada, those in senior citizen residences — all Canadians who believe that they can reach out and who believe in a united Canada.

Letters should be written, visits should be undertaken to Quebec and, ideally, Quebecers should go to other parts of Canada to experience the deep concern and love all of us feel. Canadians should keep up the pressure on Quebec through meetings, travel, letters to the editor and magazine articles that concentrate on the benefits of a united Canada.

As Peter C. Newman has stated:

> If Canada, outside Quebec, continues to ignore the province's dreams and aspirations, there is now no doubt that the next time around will truly be the country's last chance.

If we are to win the hearts and minds of Quebecers, the virtues and benefits of a united Canada must be emphasized. I would hope that if we have learned anything from October 30, it is that negative scare tactics are not only ineffective but also may prove to be counter-productive.

I believe that those who have received the Order of Canada owe a special duty to this country to spread the good news of the future of a united Canada. They can reiterate, as citizens of a united Canada, that we all benefit from the critical mass of the Canadian economy, which has given us membership in the world's most exclusive club, the G-7. Canada is a founding member of NAFTA, APEC, the Asia-Pacific Economic Cooperation organization, and it also plays a strong leadership role in La francophonie.

As Jean Monty, President and CEO of Northern Telecom stated recently:

> Canada is both an Atlantic and a Pacific Rim nation with unusually privileged access to the North American market. Canada's future lies in reaching outward, not looking inward, and by building on the strengths of the Canadian brand name, one of the most recognized and respected in the world.

Quebecers must be convinced that they, too, benefit from Canada's place in the world because of its trading alliances, the strengths of its economy, and its place in the community of nations, as evidenced by the high respect accorded to it in such organizations as NATO and the United Nations.

It is my hope that, through the vehicles which I have outlined, Canadians who live outside Quebec will begin to know and appreciate the hopes, the dreams and the fears of a Quebec society.

What form should this take? There are those who would shy away from constitutional change, intent on resolving our problems through administrative agreements. I believe that if we are to make changes that will ultimately result in Canada and all of its component parts functioning more effectively and efficiently, we might as well open up the Constitution; as has been stated by a noted constitutional scholar, Professor Max Cohen, "the revered script of our national passion play."

When determining what prescriptions may be utilized to resolve the differences within our country, one need look no further than the Meech Lake Accord and certain parts of the Charlottetown Agreement. Before discussing the sections of the Meech Lake Accord which may benefit us, let us in this chamber reflect on the fact that it was initiated by Prime Minister Mulroney, supported by the Right Honourable John Turner, as Leader of the Opposition, as was the Charlottetown Agreement supported by Mr. Chrétien when he was opposition leader.

• (1510)

The section of the Meech Lake Accord which attracted the most comment, both negative and positive, was the distinct society/linguistic duality section. The Constitution Act 1867 was to be amended to include a new rule of interpretation whereby the Constitution could be interpreted so as to recognize linguistic duality as a fundamental characteristic of Canada, and Quebec as a distinct society. More than a million francophones live outside of Quebec.

Controversy swirled around the question of what was meant by this clause for Quebec and for the rest of Canada. The distinct society clause articulated in the Constitution a political and sociological effect. Its effect was best described by Senator Beaudoin, prior to being summoned to the Senate, when he appeared as Professor Beaudoin before the Special Joint Committee on the Meech Lake Accord.

> In my opinion, as in the opinion of a good number of lawyers, the recognition of a distinct society ... is an explicit and important interpretive clause but it does not change the distribution of powers or the Canadian Charter of Rights and Freedoms. But it can, in certain cases, in particular under section 1 of the Charter and in grey areas concerning the distribution of powers, give more weight to certain arguments.
>
> ... it is an express rule of interpretation. It is important. It is fundamental. It may influence the interpretation of the courts under section 1 of the Charter or the interpretation of the division of powers, but it is not more than that and it is not less than that. It is a rule of interpretation.

The Right Honourable Robert Stanfield also expressed an opinion on the distinct society wording when he said:

> It is true it recognizes something special about Quebec — not for the first time, by the way — and a role for Quebec in connection with that identity. But it is a very limited thing. There are no specific powers given to Quebec in that connection. I find it very difficult to see how that puts the country on any kind of a slope, and I do not have any difficulty living with that degree of asymmetry in the Constitution.
>
> On the other hand, I think that we have been on a very slippery slope following 1982. That is the slippery slope. If the accord that has been negotiated is rejected, I think we are on a very slippery slope indeed. To me, that is the slippery slope we should be watching.

The accord went on to deal with immigration, giving constitutional recognition to federal-provincial immigration agreements such as those negotiated between Quebec and Canada since 1971. It constitionalized Quebec's traditional veto over major constitutional change. It also dealt with the Supreme Court of Canada. It set out in the Constitution Quebec's right to have three judges from Quebec on the court, and established a procedure whereby provinces would nominate judges and the federal government would appoint them from the list of nominees.

The accord also contained a mechanism for governing the establishment of new shared-cost programs between the provinces and the federal government. This clause attempted to regulate the use of the federal spending power in areas of exclusive provincial jurisdiction. It obligated the federal government to provide reasonable compensation to the government of a province "that chooses not to participate in a national shared-cost program" if the province carries on a program or initiative that is "compatible with the national objectives."

While the accord went on to deal with changes in the method of appointing senators, and constitutionalizing federal-provincial conferences, I believe that both of these matters will have to be addressed anew later on.

Such matters as education, health care, and manpower job training can be dealt with through administrative agreements or through constitutional changes, if the parties so desire. As well, it is possible that negotiations would touch on areas of overlapping jurisdiction such as environmental regulation, forestry, tourism, mining, and regional development. The view here would be to eliminate federal participation.

The genius of our federal form of government is that it can respond to various stimuli for change. It offers us the structure within which we can reform and renew our system of government.

As I said at the beginning, before we embark upon this journey of change, we must determine what is in the hearts, minds and souls of Quebecers. We must immerse ourselves in their culture, because only in that way can we truly begin to understand the sense of frustration, alienation and grievance which has led us so recently to the brink of splitting up this great country.

Therefore, I conclude, honourable senators, with a plea to our leadership; a plea to establish an all-party committee of senators to go to Quebec, and in particular to Quebec City, to look into the real needs of Quebec and to explore them with a view to resolving those needs.

On motion of Senator Gauthier, debate adjourned.

SUPREME COURT OF CANADA

DECISION ON PRIVILEGES OF THE COURT—
INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of Thursday, November 2, 1995:

> That she will call the attention of the Senate to a decision of the Supreme Court of Canada, privileges of the Court, and the learned judgment rendered by the distinguished Justice, the Honourable Mr. Justice Peter Cory.

She said: Honourable senators, for generations, Canada was governed by persons of high moral standing and high personal moral fibre, many of whom learned these moral standards through Christianity. Canada's national propensity for this high standard was internationally renowned and respected. A notable example was the late Right Honourable Lester B. Pearson, whose success during the Middle East crisis in 1956 was largely attributed to the exceptional regard and esteem held by all sides for Mr. Pearson's personal moral stature and strength of character. Sir Lyman Duff, Chief Justice of Canada from 1933 to 1944, was another example of a Canadian with such well-regarded personal character.

Honourable senators, for some years now, much public evidence has highlighted the enormous problems within the legal profession and within the Law Society of Upper Canada. These problems have their origins in the collapse of the moral and professional standards of an earlier age and are largely centred in the abuse of process, abuse of legal and judicial privilege, and the commercialization of their positions as officers of the court.

Today I wish to draw the attention of the Senate to the Supreme Court of Canada's decision in the case of Casey Hill versus the Church of Scientology and Morris Manning. This case is an appeal from the Ontario Court of Appeal, and the civil litigation lasted eleven years, from 1984 to 1995, and involved many prominent lawyers from Toronto. The distinguished Mr. Justice Peter Cory, in an exhaustive judgment, dismissed the Church of Scientology and Mr. Manning's appeal, affirming the judgment of the Court of Appeal. In addition, Mr. Justice Cory declined to adopt the "actual malice" rule, as in the *New York Times v. Sullivan* decision, upholding the adequacy and sufficiency of Canadian common and statute law.

To summarize, Casey Hill was a Crown attorney in Toronto involved in investigating the Church of Scientology. The lawyers for Scientology were Clayton Ruby, Michael Code, and Morris Manning. The issues to be determined by the court were solicitor-client privilege, privilege relating to documents in judicial proceedings, occasion of privilege, libel, slander, defamation, and the Charter of Rights and Freedoms.

Barristers Clayton Ruby, Michael Code, and Morris Manning endeavoured to destroy Casey Hill in a style and manner common in the practice of law and litigation currently. The technique is the employment of false statements to deliver hurt and injury, to impair an adversary, both personally and legally, and to deter him from proceeding. To this end, Barristers Ruby, Code, and Manning made certain false allegations about Casey Hill's reputation and instituted contempt of court proceedings against him, seeking his imprisonment.

To promote this court proceeding, the Church of Scientology and their lawyers held a press conference on the steps of the courthouse. Fully gowned in his lawyer's robes, Morris Manning read to the media from a court document, a notice of motion not yet filed with the court, announcing some poisonous and untrue allegations about Mr. Casey Hill. The media coverage was extensive.

Scientology's — and Mr. Manning's — contempt of court proceedings against Casey Hill was heard by Mr. Justice Cromarty in late 1984. Casey Hill was exonerated, the matter was dismissed, and the allegations by the Church of Scientology and its lawyers about Mr. Hill were judged to be unfounded and untrue. The evidence was overwhelming that the allegations of Scientology, Mr. Ruby and Mr. Manning against Mr. Hill were false, and Mr. Justice Cromarty's judgment was unequivocal.

Subsequently, Casey Hill sued the Church of Scientology and its lawyer, Morris Manning, for damages caused to Mr. Hill's reputation by their impugning his character, competence, and integrity. Scientology and Mr. Manning argued the defence of privilege, claiming that the court documents, their utterances, and

the occasion of these words were protected by judicial privileges which sheltered them from liability. Moreover, Scientology and Mr. Manning were supported by the media in their initiative as they urged the Americanization of Canadian law through the adoption of the United States' "actual malice" rule of the *New York Times v. Sullivan* decision in defamation cases.

Honourable senators, the problem is a profound one, and is at the heart of the crisis in civil and criminal justice in Ontario. The problem is the use by barristers of the court process for harassing and injuring others, that is, for civil molestation. The technique is the utilization of false accusation, untruth and falsehood in court documents and the subsequent shielding of these words and actions behind judicial privilege. It is their use of the courts, court documents, court privileges and proceedings as instruments of malice and injury. The entire field of judicial privilege, including solicitor-client privilege, begs clarification. The abuse of legal and judicial process by the legal profession compels attention and examination.

Regarding Scientology's attitude to Casey Hill as a Crown attorney, Mr. Justice Cory in his judgment states:

> Long before he gave advice to the OPP in connection with a search and seizure of documents which took place on March 3 and 4, 1983, Casey Hill had become a target of Scientology's enmity. Over the years, he had been involved in a number of matters concerning Scientology's affairs. As a result, it kept a file on him. This was only discovered when the production of the file was ordered during the course of this action. The file disclosed that...Scientology closely monitored and tracked Casey Hill and had labelled him an "Enemy Canada." Casey Hill testified that from his experience, persons viewed by Scientology as its enemies were "subject to being neutralized."

Despite the fact that Casey Hill was cleared of the allegations, and Mr. Justice Cromarty had made a judicial determination to this effect, the Church of Scientology and Mr. Manning persisted in their attack on Casey Hill. Mr. Justice Cory states:

> Scientology continued its attack against Casey Hill throughout the trial of this action, both in the presence of the jury and in its absence. More than once, it reiterated the libel even though it knew that these allegations were false. Clearly, it sought to repeatedly attack Casey Hill's moral character....Counsel for Scientology subjected Casey Hill to a lengthy cross-examination which the Court of Appeal correctly described as a "skilful and deliberate attempt at character assassination."

Mr. Justice Cory continued:

> The day after the jury's verdict on October 4, 1991, Scientology republished the libel in a press release delivered to the media. A few weeks later, it issued another press release attacking the verdict of the jury as "outrageous" and "so exorbitant..." Shortly thereafter, it proceeded with a motion before Carruthers J. to adduce evidence which, it contended, would bear "directly on the credibility and reputation of the plaintiff S. Casey Hill."

Mr. Justice Cory cited the Ontario Court of Appeal about barristers Manning and Ruby's insistence saying:

> What the circumstances of this case demonstrated beyond peradventure to the jury was that Scientology was engaged in an unceasing and apparently unstoppable campaign to destroy Casey Hill and his reputation. It must have been apparent to the jury that a very substantial penalty was required because Scientology had not been deterred from its course of conduct by a previous judicial determination that its allegations were unfounded nor by its own knowledge that its principal allegation...was false.

About defamation and the Charter of Rights and Freedoms, Mr. Justice Cory said:

> Certainly, defamatory statements are very tenuously related to the core values which underlie s.2(b). They are inimical to the search for truth. False and injurious statement cannot enhance self-development. Nor can it ever be said that they lead to healthy participation in the affairs of the community. Indeed, they are detrimental to the advancement of these values and harmful to the interests of a free and democratic society.

Mr. Justice Cory condemned false allegations saying:

> False allegations can so very quickly and completely destroy a good reputation. A reputation tarnished by libel can seldom regain its former lustre. A democratic society, therefore, has an interest in ensuring that its members can enjoy and protect their good reputation so long as it is merited.

Mr. Justice Cory outlined the religious and legal history of the affirmation of truth and the punishment of untruth. He referred to the Roman era, the Bible, the Mosaic Code and the Talmud. He traced the history of the common law action for defamation to the efforts of the Star Chamber to eradicate duels and blood feuds, the favoured method of vindication for injured parties. Mr. Justice Cory upheld the time-honoured principles on false allegations saying:

> To make false statements which are likely to injure the reputation of another has always been regarded as a serious offence.

Mr. Justice Cory, though pressed by Scientology's lawyers and the media's lawyers, declined to adopt the American rule of "actual malice." Mr. Justice Cory pointed out that, in the United Kingdom and in Australia, this rule has been refused. Moreover, he noted that a number of jurists in the United States have advocated a reconsideration of this rule, and quoted American Justice White that:

> ...these First Amendment values are not at all served by circulating false statements of fact about public officials. On the contrary, erroneous information frustrates these values....As the Court said in Gertz: "There is no constitutional value in false statements of fact. Neither the intentional lie nor the careless error materially advances society's interests in 'uninhibited, robust, and wide-open' debate on public issues."

Finally, on the issue of judicial privilege as a protection from liability, Mr. Justice Cory ruled that the court's privileges are not to be abused, that wrongdoing can oust privilege and that barrister Manning's behaviour defeated any privilege, saying:

> ...it is my conclusion that Morris Manning's conduct far exceeded the legitimate purposes of the occasion. The circumstances of this case called for great restraint in the communication of information concerning the proceedings launched against Casey Hill. As an experienced lawyer, Manning ought to have taken steps to confirm the allegations that were being made....In those circumstances he was duty bound to wait until the investigation was completed before launching such a serious attack on Hill's professional integrity. Manning failed to take either of these reasonable steps. As a result of this failure, the permissible scope of his comments was limited and the qualified privilege which attached to his remarks was defeated.
>
> The press conference was held on the steps of Osgoode Hall in the presence of representatives from several media organizations. This constituted the widest possible dissemination of grievous allegations of professional misconduct that were yet to be tested in a court of law. His comments were made in language that portrayed Hill in the worst possible light. This was neither necessary nor appropriate in the existing circumstances...it was certainly high-handed and careless. It exceeded any legitimate purpose the press conference may have served. His conduct, therefore, defeated the qualified privilege that attached to the occasion.

About the negative effect of the defamation, Mr. Justice Cory said:

> The written words emanating from the news conference must have had an equally devastating impact. All who read the news reports would be left with a lasting impression that Casey Hill has been guilty of misconduct. It would be hard to imagine a more difficult situation for the defamed person to overcome....A defamatory statement can seep into the crevices of the subconscious and lurk there ever ready to spring forth and spread its cancerous evil. The unfortunate impression left by a libel may last a lifetime. Seldom does the defamed person have the opportunity of replying and correcting the record in a manner that will truly remedy the situation.

Mr. Justice Cory noted the planned nature of the barristers Manning and Ruby's defamatory statement, as well as the location of the defamation. He said:

> The publication of the libelous statement was very carefully orchestrated. Members of the press and the television media attended at Osgoode Hall in Toronto to meet two prominent lawyers, Morris Manning and Clayton Ruby. Osgoode Hall is the seat of the Court of Appeal and the permanent residence of the Law Society. The building is used as the background in a great many news reports....In the minds of the public, it is associated with the law, with the courts and the justice system. Manning went far beyond a simple explanation of the nature of the notice of motion. He took these very public steps without investigating in any way whether the allegations made were true.

Mr. Justice Cory revealed the deliberate nature of barristers Manning and Ruby's action saying:

> The existence of the file on Casey Hill under the designation "Enemy Canada" was evidence of the malicious intention of Scientology to "neutralize" him. The press conference was organized in such a manner as to ensure the widest possible dissemination of the libel....It pleaded justification or truth of its statement when it knew it to be false.

The Hon. the Speaker: Senator Cools, I am sorry to interrupt, but your speaking time has expired.

Senator Cools: Honourable senators, I would be happy to adjourn my remarks until Tuesday.

The Hon. the Speaker: It is not a question of adjourning your remarks. Your time has expired. Unless leave is granted, it is not possible for you to adjourn your remarks.

• (1530)

How much time does the honourable senator need?

Senator Cools: Five minutes. I would be happy to carry on. It is not a problem.

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

Hon. Senators: Agreed.

Senator Cools: Mr. Justice Cory spoke firmly to malicious injury, saying:

> In summary, every aspect of this case demonstrates the very real and persistent malice of Scientology. Their actions preceding the publication of the libel, the circumstances of its publication and their subsequent actions in relation to both the search warrant proceedings and this action amply confirm and emphasize the insidious malice of Scientology.

About the conduct of Scientology and its barristers, Ruby and Manning, Justice Cory said:

> Scientology's behaviour throughout can only be characterized as recklessly high-handed, supremely arrogant and contumacious. There seems to have been a continuing, conscious effort on Scientology's part to intensify and perpetuate its attack on Casey Hill without any regard for the truth of its allegations.

Honourable senators, Toronto's newspapers report daily on the enormous problems of the Law Society of Upper Canada and the legal profession in Ontario. The new Attorney General of Ontario, the Honourable Charles Harnick, has vowed to mend the myriad problems which have developed and hardened over several years. No doubt Mr. Harnick will meet resistance from members of the profession and the Law Society itself. I encourage Mr. Harnick to meet this challenge, to stand firm, and not to back down in the face of opposition, detraction or resistance from the lawyers. At risk are the proper administration of justice in Ontario, the elimination of unjust practices and offensive and dishonourable initiatives in the administration of justice and in the practice of law. Mr. Harnick's initiatives as Attorney General are timely and necessary.

Honourable senators, this judgment by the Supreme Court of Canada, rendered by the distinguished and learned Mr. Justice Cory and concurred in by Mr. Justice La Forest, Mr. Justice Gonthier, Madam Justice McLachlin, Mr. Justice Iacobucci, and Mr. Justice Major, is a benchmark decision, not only because of the legal principles and statements, but especially because of the moral position adopted. Justice Cory, in his judgment, upholds the position that moral ground and moral principles must found the basis of judicial action and the practice of law. He upholds the Aristotelian maxim that moral principle and moral ground must be inherent in the exercise of power in the courtrooms and in Parliament. He upholds the principle that lawyers, because they are officers of the court, have a duty to the administration of justice, to justice itself and to truth itself.

The barristers in this case, representing the many interveners, included Brian Finlay, Q.C., Christopher Tzekas, Marc Somerville, Q.C., Ross Wells, Robert Armstrong, Q.C., Kent Thomson, Lori Sterling, Hart Schwartz, Robert Sharpe, Kent Roach, Edward Morgan, Peter Hogg, Brian MacLeod Rogers. The interests were numerous and financially enormous. About their intervener status, the pecuniary interests and their interventions, Mr. George Bain, in a *Maclean's* article dated August 28, 1995 called "The Pressure to Change Libel Law, writes:

> By their demonstrated interest in the case, the media have encouraged Scientology in arguing that Canadian libel law contradicts the 1982 constitutional guarantee of freedom of expression....The media also encouraged the notion that the time has come to make Canadian libel law more American...

Mr. Bain notes that:

> ...of the 11 bodies that had standing as interveners at the appeal, only two — the Canadian Civil Liberties Association and the Attorney General of Ontario — had no discernable interest in the commerce of putting words on paper or on the air. The others were; the Writers Union of Canada; the Canadian sprig of the international writers-and-rights organization, PEN; the Canadian Association of Journalists; the Periodical Council; the Canadian Daily Newspaper Association; the Canadian Community Newspapers Association; the Canadian Association of Broadcasters; the Radio-Television News Directors Association of Canada; and the Canadian Book Publishers Council jointly with the Canadian Magazine Publishers Association.

On recognizing the media intervention in the case, and pointing directly at the commercial interests and profitability fuelling these interventions, George Bain goes to the heart of the matter with his question:

> What was such a nice bunch of nationalist publishers doing in the Supreme Court arguing for the Americanization of Canadian Law?

Honourable senators, many commercial interests are at work in this country, not the least of which is that of the legal profession and the Law Society of Upper Canada. The Law Society of Upper Canada is governed by the benchers. Justice Cory points out in the judgment that Mr. Ruby, during this unconscionable and mean-spirited legal offensive, was simultaneously a bencher of the Law Society. About Mr. Ruby's harsh letter to Mr. Hill of September 6, 1984, Mr. Justice Cory said:

> It should be noted that at the time this letter was written, Clayton Ruby was a Bencher of the Law Society and Vice-Chairman of the Law Society's discipline committee.
>
> The letter implied that there could be disciplinary proceedings brought before the Law Society of Upper Canada....

The conclusion is self-evident. Mr. Ruby exercised his powers as a barrister recklessly and then compounded the wrongdoing by using his position as a bencher and vice-chairman to threaten Casey Hill with disciplinary action from the Law Society. I am told, honourable senators, that such threats by benchers to their adversaries are not uncommon. Honourable senators, ruminate on this situation and the result, had Casey Hill complained to the Law Society about Mr. Ruby's conduct and activities.

Honourable senators should also note that during these events, Clayton Ruby's partner and friend, Michael Code, Casey Hill's other adversary and detractor, was appointed by Premier Rae to be Casey Hill's boss, to wit, to be the Assistant Deputy Attorney General of Ontario. These situations are troubling and need discussion and examination.

Honourable senators, in conclusion, this travesty of justice lasted eleven years and ended in July 1995 when Mr. Justice Peter Cory delivered his judgment. His judgment asserted that judicial privilege cannot shelter wrongdoing, that lawyers shall not rely on judicial privilege to shield them from responsibility and personal liability, that lawyers shall not use court processes and judicial proceedings to commit slanderous behaviour, and that the administration of justice and the practice of law cannot be founded on untruth, mean-spiritedness or wrongdoing.

Honourable senators, it truly was, I believe, an outstanding judgment. It is an outstanding piece of thinking by Mr. Justice Peter Cory. I recommend it to all for reading and study. Also, honourable senators should know that Casey Hill is today a judge of the Ontario Court (General Division).

On motion of Senator Gauthier, debate adjourned.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government) for Senator Kirby, pursuant to notice of Wednesday, November 22, 1995, moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at two o'clock in the afternoon, Thursday, November 30, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

STATE OF CANADIAN FINANCIAL SYSTEM—NOTICE OF MOTION TO EXTEND DATE OF FINAL REPORT WITHDRAWN

On the Order:

That, notwithstanding the order of reference adopted by the Senate on Wednesday, November 30, 1994, the Standing Senate Committee on Banking, Trade and Commerce be authorized to continue its examination into the present state of the financial system in Canada;

That, in conducting this study, the Committee pursue, in particular, its examination into Crown financial institutions, corporate governance, and the 1992 reform of financial institutions;

That, notwithstanding usual practices, if during the winter adjournment the Senate is not sitting when the Committee's report on its review of Crown financial institutions is completed, the report may be deposited with the Clerk of the Senate and it shall thereupon be deemed to have been presented to that Chamber; and

That the Committee present its final report no later than September 26, 1996.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, on behalf of Senator Kirby, I ask that Order No. 115 be withdrawn.

The Hon. the Speaker: Is there unanimous consent, honourable senators, to withdraw Order No. 115?

Hon. Senators: Agreed.

Order withdrawn.

The Senate adjourned until Tuesday, November 28, 1995, at 2 p.m.

THE SENATE

Tuesday, November 28, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence of a distinguished group in our gallery today. I refer to a parliamentary delegation from Romania.

[*Translation*]

I am pleased to present to you the leader of the group, Mr. Valeanu, a member of the Romanian parliament and the chairman of its foreign affairs commission, as well as vice-president of the Romania-Canada Parliamentary Friendship Group. Accompanying him are a number of members and senators from the Romanian parliament, as well as the Romanian chargé d'affaires in Canada.

[*English*]

We welcome you to our gallery and to our country.

Hon. Senators: Hear, hear!

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you two House of Commons pages who have been selected to participate in the exchange program with the Senate for the week of November 20 to 24.

[*Translation*]

Julie Bazinet of Sudbury, Ontario is studying at the Faculty of Commerce, University of Ottawa.

[*English*]

Jeremy LeBlanc is studying political science at the University of Ottawa and is originally from Eastern Passage, Nova Scotia.

We welcome both of you to the Senate.

SENATOR'S STATEMENT

UNITED NATIONS

PERMANENT SECRETARIAT ON BIOLOGICAL DIVERSITY TO BE LOCATED IN MONTREAL

Hon. Peter Bosa: Honourable senators, a few days ago we were delighted to learn that the Permanent Secretariat of the United Nations Convention on Biological Diversity will be located in the city of Montreal. The Government of Canada had made an official offer to have Montreal selected, and the Conference of the Parties to the Convention voted in favour of Canada at a meeting in Jakarta earlier this month.

Four cities were proposed: Geneva, Madrid, Nairobi and Montreal. We faced stiff competition, but the Canadian bid, which was supported by three levels of government, was a strong one. Canada has a solid scientific, technological and industrial base, and a wealth of experience and expertise in this area of biological diversity.

The successful conclusion of this bid was the result of hard work in many quarters. The preparation of the proposal itself took cooperation and planning by officials in the federal, provincial and municipal governments. Then there was the big sales job undertaken by officials, diplomats and politicians.

One of the reasons I am raising this subject today is to speak about the role of the Inter-Parliamentary Union as a forum where we can promote Canadian interests. Earlier this fall, I informed honourable senators of a special session of the Inter-Parliamentary Union to celebrate the fiftieth anniversary of the United Nations which was held at the United Nations headquarters in New York at the end of August. This event was attended by 253 parliamentarians from 74 countries.

The timing of this IPU conference was especially propitious, for we used this occasion to speak to our colleagues from other countries about the advantages of locating the permanent secretariat in Montreal. The Deputy Leader of our delegation, Mr. Maurice Dumas, MP for Argenteuil-Papineau, and I divided the workload, with Mr. Dumas meeting the leaders of the francophone delegations while I spoke to the others. This special meeting, which brought us all together for three days, provided us with the opportunity to speak to other delegates and to advance the Canadian bid.

I can tell honourable senators from first-hand experience that the Canadian proposal was well received by other parliamentarians, and several asked for further details about our bid. I should like to pay tribute to the tremendous staff of our mission in New York who assisted us throughout this exercise.

We are all delighted that Canada has been recognized internationally for its strong infrastructure and scientific achievements. It is gratifying to me personally that, as a member of the Canadian IPU delegation, I could help to advance this worthwhile and important cause. We rejoice in having succeeded in our bid to establish the Permanent Secretariat of the United Nations Convention on Biological Diversity in Canada.

• (1410)

ROUTINE PROCEEDINGS

AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES BILL

REPORT OF COMMITTEE

Hon. Dan Hays, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, November 28, 1995

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-61, An Act to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act, has, in obedience to the Order of Reference of Tuesday, November 7, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DANIEL HAYS
Chairman

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

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

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until Wednesday, November 29, 1995, at one-thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

COMMONWEALTH PARLIAMENTARY ASSOCIATION

FORTY-FIRST COMMONWEALTH PARLIAMENTARY CONFERENCE, COLOMBO, SRI LANKA—REPORT TABLED

Hon. P. Derek Lewis: Honourable senators, I have the honour to table in both official languages the report from the Canadian Branch, Commonwealth Parliamentary Association, concerning the Forty-first Commonwealth Parliamentary Conference held in Colombo, Sri Lanka, from October 3 to 14, 1995.

BANKING, TRADE AND COMMERCE

STATE OF CANADIAN FINANCIAL SYSTEM—NOTICE OF MOTION TO EXTEND DATE OF PRESENTATION OF FINAL REPORT

Hon. Michael Kirby: Honourable senators, I give notice that tomorrow, Wednesday, November 29, 1995, I will move:

That, notwithstanding the order of reference adopted by the Senate on Wednesday, November 30, 1994, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine the present state of the financial system in Canada, be empowered to present its final report no later than Tuesday, December 10, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when an interim report of the Committee is completed, the Committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.

[*Later*]

AGRICULTURE

RESPONSE OF MINISTER TO REPORTS OF STANDING SENATE COMMITTEE—NOTICE OF INQUIRY

Hon. Dan Hays: Honourable senators, I give notice that, on Wednesday next, I will call the attention of the Senate to the response of the Honourable Ralph Goodale, Minister of Agriculture and Agri-Food, to the Standing Senate Committee on Agriculture and Forestry's ninth report, "Farm Machinery: Lost Lives, Lost Limbs," and its eleventh report, "Agricultural Trade, Report of the Standing Senate Committee on Agriculture and Forestry's Fact-Finding Mission to Washington and Winnipeg."

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Order No. 116 (Notices of Motions):

Hon. Lowell Murray, pursuant to notice of Thursday, November 23, 1995, moved:

> That the Standing Senate Committee on National Finance have power to sit at four o'clock in the afternoon, Tuesday, November 28, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

QUEBEC

PRIME MINISTER'S PROPOSALS—MEANS OF GAINING NECESSARY CONSENT OF PROVINCES—GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, my question arises from the statement made by Prime Minister Chrétien yesterday concerning measures to be placed before Parliament, measures of a non-constitutional character but touching upon the Constitution. In particular, I draw the leader's attention to the undertaking by the Prime Minister that Justice Minister Rock will table a bill in the House of Commons on Wednesday that will require the consent of Quebec, Ontario, and the Atlantic and western regions before any constitutional amendment can be proposed in Parliament by the Government of Canada.

There are many questions which arise from that, but my question is, how will that consent be obtained? Is it to be obtained in consultation with the governments of those provinces, through the legislative assemblies of those provinces, or by way of referendum?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have asked myself this question: What does "direct consent" mean? The Prime Minister has outlined the three obvious options, and, as I understand it, it would be up to the federal government to decide which route would be chosen.

I need to get more information on that point myself, but the options laid out were the three that the honourable senator has mentioned, these being a direct executive-provincial government approach, a legislative assembly approach, or referendum.

Senator Murray: Honourable senators, I presume, however, that the bill will not be silent on the matter. I presume the bill will state how the federal government would obtain that consent. It would not be left to some future discretion of the federal government, would it?

Senator Fairbairn: Honourable senators, I have not seen the detailed bill. It will be out tomorrow.

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—REQUEST FOR TABLING OF STATEMENT OF REQUIREMENTS AND REPORT ON SEARCH AND RESCUE CAPABILITY REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, my question for the Leader of the Government relates to the purchase of the 15 new search and rescue helicopters. There appears to be somewhat of an air of secrecy surrounding the details of the purchase of this new equipment. Apparently the Statement of Requirements, which includes pertinent information on performance capability requirements, is not readily available from the Department of National Defence.

Given the difficulties we are having in obtaining this document, could the Leader of the Government please give us an undertaking to obtain and table that particular document for us?

• (1420)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I can give my honourable friend an undertaking that I will attempt to do that.

Senator Forrestall: Honourable senators, given that the government has indicated that there is no secrecy regarding the requirements for this new equipment, could the Leader of the Government in the Senate also provide us with a copy of the Search and Rescue Capability Requirements Report prepared by the Director of Air Operational Requirements in June of 1990? Perhaps the honourable leader could also advise this chamber whether that document was, in fact, updated in conjunction with the purchase of this new equipment, and if so, could she provide senators with the updated document?

Senator Fairbairn: Honourable senators, with respect to all of those questions, I will be in touch with the Minister of National Defence. I will see what I can find out on behalf of my honourable colleague.

Senator Forrestall: Honourable senators, the reason for the importance of having these documents tabled is to ascertain the priorities of the government in terms of what these search and rescue helicopters will be equipped to do. The 1990 Statement of Requirements states very plainly:

> Some inherent subjectivity exists in quantifying SAR requirements; speed, range and capacity are examples where any decision for greater or lesser capability would undoubtedly result in lives saved or not saved in the future.

The Minister of Defence indicated that this equipment would have 15 per cent less capability than the EH-101. Given the serious implications of any reduction in capability, as I have now cited from the 1990 document, would the Leader of the Government in the Senate please ensure that all relevant documents, including the 1995 Statement of Requirements, are tabled in this chamber? What we want to see is the difference between the 1990 report and the 1995 Statement of Requirements.

Senator Fairbairn: Honourable senators, I will do what I can for my honourable friend.

[*Translation*]

LEGAL AND CONSTITUTIONAL AFFAIRS

SCHEDULE OF WORK OF THE COMMITTEE— POSITION OF CHAIRMAN

Honourable Jean-Robert Gauthier: Honourable senators, my question is directed to the chairman of the Standing Committee on Legal and Constitutional Affairs.

Could the chairman inform us of the schedule of his committee's meetings for the next few days, so that it may terminate its task and report to the Senate on Bill C-22, an act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport, as well as on Bill C-69, an act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries?

My question is a simple one: When can the Senate expect to have a report from the committee, or news of what is going on in committee?

Honourable Gérald-A. Beaudoin: Honourable senators, to begin with Bill C-22, we have reached the conclusion that the amendments that had been proposed by the government do not fully comply with the principles of the primacy of law and the rule of law. Our objections and arguments in this connection are based on the following principle: with these amendments, the bill does not completely re-establish access to the courts, and thus we do not consider that the principle of the "rule of law" has been respected.

I am fully prepared to call the committee again to consider Bill C-22 and report on it if you wish, but I must tell you immediately that the report will state that the bill does not adhere to the principles of the primacy of law and the rule of law, which are part of the Canadian Constitution.

As for Bill C-69, only a few days ago we heard the testimony of Professor Hutchinson of Toronto, a constitutionalist. We have also heard from two jurists representing Mr. Kingsley, the Chief Electoral Officer, and our conclusion is still the same. If we accept Bill C-69 as worded, the next federal general election will probably be based on the 1981 census, rather than the 1991 one.

We consider that section 51 of Canada's Constitution requires Parliament to hold the next elections on the basis of the 1991 census.

The Senate has every right to cite a principle in the Constitution in not voting in favour of a bill that infringes the Constitution. If we had to make a quick report on the subject, this is what I would say. We will discuss the matter in committee.

In both cases, however, our position is based on a principle of constitutional law. I think the House of sober second thought is perfectly entitled to reject a bill or two that infringe the Canadian Constitution. That is my answer for the moment.

Senator Gauthier: Honourable senators, you will note that my question did not concern the substance of the bills, but the committee chairman is answering me as if it did. This bothers me a bit. It is not up to the committee to decide for the whole of the house what should take place here.

I therefore put my question again: What is the committee's agenda for the coming week or until the Christmas holidays? Can we expect a report, or at least that the committee will sit between now and Christmas?

Senator Beaudoin: I am perfectly prepared to have the committee sit to hear other witnesses and prepare a report before Christmas, if you like.

For the moment, committee members are studying Bills C-45 and C-7, and we have plenty to do. We will return to the other two bills later.

Senator Gauthier: Honourable senators, is the chairman of the Standing Committee on Legal and Constitutional Affairs telling us that they have a veto on this committee, allowing them to suspend work on Bills C-22 and C-69? Am I to understand that the committee has decided not to proceed any further, that the committee has absolutely vetoed a question that concerns the Senate?

Senator Beaudoin: We have not decided not to go any further. I can tell you that, if there is a vote in committee, the bill will be defeated.

Senator Gauthier: How can you anticipate that?

Senator Beaudoin: I tell you, our position rests on two principles of constitutional law: The first is the rule of law and access to the courts, and the other is section 51 of the Canadian Constitution. We have heard witnesses and we can hear more. They will come and confirm what the others have said. At some point, we will have to have a vote in committee.

Senator Gauthier: That is what I want to know — when?

Senator Beaudoin: I am ready to take it at any time.

Senator Gauthier: That is my question. Can the chairman assure us that these bills — C-22 and C-69 — will be reported to the house within 24 hours, given that the situation is such that the chairman himself expects a negative vote. Let the committee chairman take the vote and report to the Senate that there was dissidence on the committee. That is all.

[*English*]

HEALTH

REORGANIZATION OF BLOOD SUPPLY SYSTEM—TIMING OF FINAL REPORT OF KREVER COMMISSION—GOVERNMENT POSITION

Hon. Richard J. Doyle: Honourable senators, some weeks ago I received answers to questions that I had asked of the Leader of the Government in the Senate last June about the reorganization of the blood supply system. The text of the reply, some 700 words — longer than most of my questions — was strong on assurances and short on details. Special attention was given to the interim report of Justice Krever, who:

> ...recognizes that the system today is dynamic and undergoing changes at a rapid rate.

The reply then continues:

> Where practical and warranted, the government is prepared to apply its expertise to assist others in implementing Justice Krever's recommendations relating to their jurisdictional authorities.

The reply continues further:

> General questions about the national blood supply system would best be served by referring to Justice Krever's advice in his final report which is due to be submitted to the government by December 31 of this year.

Many senators share my concern that without evidence of action in preparation of a contingency plan, only delay will follow the submission of the report; delay in response to the terrible neglect of the 1970s and 1980s; neglect that resulted directly in the spread of AIDS through the blood supply that the Red Cross, government agencies and other interested parties had reason to believe was contaminated.

Honourable senators, we are told that Justice Krever has applied for a further delay in the submission of his final report. Could the Leader of the Government tell us how far down the road that report might be?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am aware of the application for a further extension. I will check with my colleague to see if any decision has been made on that, and reply promptly to my honourable friend's question.

Senator Doyle: When that time comes and we know what date we might expect to hear from Justice Krever, will the government then have an answer for the suppliers who have resolutely refused to apologize for their part in the contamination of the blood supply more than a decade ago?

Senator Fairbairn: Honourable senators, I share my honourable friend's concerns, and I will try to find a response to that question.

INTERNATIONAL TRADE

REPRIEVE FROM PLANNED EMBARGO ON CANADIAN FURS—POSSIBILITY OF BANNING LEG-HOLD TRAPS—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, as *The Globe and Mail* reported on Friday, Canada has won a one-year reprieve from the European Union's planned embargo on Canadian furs, but the victory will be wasted unless the government now turns to helping trappers give up, within that year, the leg-hold traps that Europeans find so objectionable.

That is the opinion of Brian Craik of the Grand Council of the Crees of Northern Quebec. The vast majority of Cree trappers already use the Conibear trap, which is acceptable to the EU.

What steps will the government take within the next 12 months to ensure that trappers have shifted to more humane traps, and that this reprieve is not wasted?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I join with my honourable friend in expressing satisfaction that we have a year in which to try to resolve this long-standing dispute that is of particular concern to the aboriginal people in relation to their livelihood in the north. It would be the intention of the government to use that year to try to find a solution which meets the concerns of our aboriginal people, as well as the concerns of the European Community, and I can assure her that I will try to obtain any details that I can. This is a matter which the government takes very seriously, and I can assure my honourable friend that we will be using this reprieve, as she terms it, to address this concern.

Senator Spivak: Can the Leader of the Government in the Senate tell me which is the lead ministry on this question? Of course, while it is primarily the trappers who are concerned, there are also manufacturers, some of whom are based in Winnipeg, who would very much like to know under whose jurisdiction this matter will be dealt with.

Senator Fairbairn: I would imagine, Senator Spivak that, because of its very nature, there will be a cooperative effort on this matter, but the lead department will be the Department of International Trade.

NATIONAL DEFENCE

MARITIME AND AERIAL SURVEILLANCE AND CONTROL—
ENHANCEMENT OF ARTIC CAPABILITIES—
GOVERNMENT POLICY

Hon. Gerald J. Comeau: Honourable senators, I should like to quote from the 1993 Liberal Foreign Policy Handbook, which promised that:

> A Liberal defence program will include a continued role in maritime and aerial surveillance and control, with particular emphasis on enhancing Arctic capabilities.

I have done some research, and I have been unable to find that any action has been taken to enhance Arctic research. As we know, and as was raised by my colleague the Honourable Senator Forrestall, there has even been a 15 per cent reduction in capability of the new search and rescue helicopters. Therefore, would the leader agree that her government's promise to enhance Arctic capabilities has been, in fact, another broken promise?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I certainly would not agree with the honourable senator. However, I will try to find some information for you on the status of that commitment.

HUMAN RIGHTS

IMPOSITION OF EMBARGOES AND SANCTIONS AGAINST
TRANSGRESSOR COUNTRIES—GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, the government has indicated consistently that it is not in favour of either sanctions or embargoes against countries, since it does not wish to isolate them on matters of differences in policy. On October 17 of this year, we were informed by Senator Graham that Canada was not comtemplating imposing an embargo on any country in the world at present. However, soon after, at the Commonwealth conference, we learned that the government was contemplating sanctions against one country, that being Nigeria.

• (1440)

Could the leader explain what processes or factors are now being considered when preparing a decision to impose an embargo against another country? Are there any other countries upon which the government is contemplating the imposition of sanctions or embargoes? What does the Minister of Foreign Affairs mean when he states that he is looking at this matter very carefully?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will be pleased to speak with my colleague the Minister of Foreign Affairs. As Senator Andreychuk will know, the country under consideration at the moment is Nigeria. The Canadian government is working not only within the Commonwealth but also the United Nations to find the best multilateral approach to dealing with the tragic and unacceptable situation which has developed in that country.

Senator Andreychuk: If the leader is bringing in an answer at a later date, perhaps she could also bring in the reply to the following: The Honourable Minister Ouellet stated on November 9 that the Liberal government ought not to isolate any person or any leader of any country or any government because we do not share their policies. However, he also stated that, in extreme cases, Canada could scale back development assistance to countries which persist in abusing the rights of its citizens. Do we need to wait until there is an execution before contemplating such matters, as in the case of Nigeria, or will the government begin its considerations once it becomes evident that there is persistent abuse?

In the case of Nigeria, for example, the rule of law was not present. Democratic principles were not present. The person in charge of the country was there by military means only. The repression and degradation of the people had existed for quite a considerable time. Is it only after an execution that Canada begins to consider scaling back its development assistance?

[*Translation*]

FISHERIES AND OCEANS

TIMELINESS OF ANNUAL DEPARTMENTAL REPORT—
GOVERNMENT POLICY

Hon. Roch Bolduc: My question is for the Leader of the Government in the Senate. I received this morning the 1994-95 report of the Department of Fisheries and Oceans.

Is it normal for Parliament to receive a departmental report 18 months after the end of the fiscal year? In your opinion, did the minister responsible for this report follow up as he should have done?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will certainly look into Senator Bolduc's question.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 11, 1995 by the Honourable Senator Prud'homme regarding lobbyists involved in the acquisition of submarines.

DEFENCE

REASONS FOR ACQUISITION OF UPHOLDER CLASS SUBMARINES—LOBBYISTS INVOLVED IN ACQUISITION—REQUEST FOR PARTICULARS

(Response to question raised by Hon. Marcel Prud'homme on May 11, 1995)

The proposal to acquire four Upholder class diesel-electric submarines from the United Kingdom in support of Canada's defence policy is currently being considered by the Government. It will take a decision on the merits of this proposal and in conjunction with the other defence-related proposals that it is currently assessing. It has communicated this position to the British government and will complete any negotiations that may be necessary if it decides to proceed with this project.

BILL CONCERNING KARLA HOMOLKA

POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I am prepared to give my ruling on the admissibility of Bill S-11, concerning Karla Homolka.

On Thursday, October 19, when the order for second reading of Bill S-11, an act concerning one Karla Homolka, was called, Senator Kinsella rose on a point of order. The purpose of his point of order was to object to proceeding with the bill because, in his view, the bill is not one that falls within the traditions, customs and rules of this house.

[*Translation*]

In stating his case, the senator explained that there are only two kinds of bills considered in our Parliament: these are either public or private bills. Assessing the nature and scope of Bill S-11, Senator Kinsella concluded that the bill is in the nature of a bill of attainder falling into a special category of public bill for which our practices do not provide.

[*English*]

To substantiate his position, Senator Kinsella referred to a ruling made by the Speaker of our House of Commons in May 1984 on a bill that had sought the execution of a specific criminal. The Speaker determined that the bill was unacceptable. Consequently, it is Senator Kinsella's opinion that:

> ...the matter contained in this bill is out of order and not properly before this chamber.

Speaking on behalf of the bill, Senator Cools pointed out that the bill is not, in fact, a bill of attainder but, rather, one of pains and penalties, and that our Parliament has the power to enact such bills. After describing the objective of such a bill to redress an injustice and impose a suitable penalty to a terrible crime when the courts have failed to exact one, Senator Cools went on to explain that Parliament and its individual houses have the power of judicature.

[*Translation*]

Senator Stewart then intervened to suggest that the procedural issue for the Speaker to resolve was whether there might be "any prohibition, as a matter of order, against this house, dealing with a bill which is, in effect, retroactive in a criminal matter."

[*English*]

• (1450)

I wish to express my appreciation to the honourable senators who participated in the discussion on this point of order. I have read the arguments that were made on October 19 and I have reviewed the authorities cited, as well as the precedent of 1984 that took place in the House of Commons. Before proceeding with my ruling, I wish to make it clear that I am not commenting in any way on the substance of the bill itself. My task is to answer the point of order raised about the procedure on the proceedings of the bill, not its content.

First, let me begin by saying that I agree with Senator Cools that Bill S-11 is of the nature of a bill of pains and penalties and not a bill of attainder. The distinction between the two, as I understand it, is that the penalty provided in the bill of attainder is execution, whereas a bill of pains and penalties inflicts a lesser punishment. Nonetheless, the special procedures that are traditionally used in the consideration of either a bill of attainder or a bill of pains and penalties are the same, and so the point of order raised by Senator Kinsella is not affected by this distinction.

The real issue to be decided is the objection of Senator Kinsella that Bill S-11 is a species of public bill that is not known to our practice. Aside from the precedent of 1984, when a member of the House of Commons sought to introduce a bill to secure the execution of Clifford Olson, I am not aware of any other similar bill of attainder or of pains and penalties presented to our Parliament for consideration. As Senator Kinsella pointed out, in 1984 the Speaker of the House of Commons ruled the bill out of order. In his decision, the Speaker noted that the procedure regarding bills of attainder or bills of pains and penalties had been obsolete in Britain for many years, and that "it has never existed in Canada."

In the absence of any precedents or of substantial evidence to the contrary, I feel bound to take note of the provisions of rule 1 of the *Rules of the Senate*, which stipulates:

> In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall...be followed...

Accordingly, I accept the decision that was made by the Speaker of the House of Commons in 1984 and rule that, for similar reasons, Bill S-11 is out of order. The order for the second reading of this bill should be discharged and the bill struck from the Order Paper.

In conclusion, I might add that there are other means available to Senator Cools to respond to public opinion brought to the senator's attention, and she may wish to consider them.

ORDERS OF THE DAY

INTER-PARLIAMENTARY CONFERENCE

NINETY-FOURTH CONFERENCE HELD IN BUCHAREST, ROMANIA

Hon. Peter Bosa rose pursuant to notice of Wednesday, November 8, 1995:

> That he will draw the attention of the Senate to the 94th Inter-Parliamentary Conference, held in Bucharest, Romania, from October 7 to 14, 1995.

He said: Honourable senators, it is my privilege to present the report of the Ninety-fourth Inter-Parliamentary Conference held in Bucharest from October 7 to 14. I attended this conference in company with my distinguished colleagues Senators Bacon and Comeau, and with three other members of the House of Commons: Ms Sue Barnes, Ms Brenda Chamberlain and Mr. Derrick Wells.

Before speaking about the deliberations at the conference, I should like to mention a few points about our host country. Since 1989, Romania has made considerable progress in moving toward a more democratic and market-oriented system. The current government coalition of Prime Minister Nicolae Vacaroiu has been hampered by several votes of non-confidence which have delayed the passing of additional political and economic reforms. Much needed privatization is proceeding, though at a slow pace.

Canadian parliamentarians observed the elections in May of 1990 and in September of 1992. Bilateral trade and political consultations were held in November and December of 1992, and in May of 1994 a memorandum on economic cooperation between Canada and Romania was signed.

Romania is Canada's third largest trading partner in Eastern Europe, after Russia and Poland. In 1993, Canada-Romania two-way trade reached $85 million, and increased by 50 per cent in 1994. Since 1989, Canadian companies have invested over $60 million and set up over 400 joint ventures with Romania.

The Canadian Technical Assistance Program for Romania began in 1991. Since then, over $11 million has been disbursed or committed to some 50 projects. The program has budgeted expenditures of $3 million to $3.5 million for fiscal year 1994-95. Notable successes of the program include: the first full MBA course delivered in Eastern Europe, the first loan guarantee fund for small businesses established in Eastern Europe, and the first stock market entirely established by Canada.

The Cernavoda nuclear plant is Canada's largest capital project in the region. Since 1978, the plant has generated nearly $500-million worth of Canadian exports to Romania. Last year, AECL and the Romanian utility, RENEL, signed a five-year lease for heavy water.

Our visit to Romania enabled us to learn more about the transition process, and to see at first hand developments in Eastern Europe. October 1985 was a busy month for our Romanian hosts, since the week following our conference the Speaker of the Senate, the Honourable Gildas Molgat, participated in an official visit.

I turn now to the conference itself. At the outset, I should like to express our thanks and appreciation to the officials from Foreign Affairs and International Trade Canada, the Canadian International Development Agency, the Department of Justice and the Office of the Ethics Counsellor who briefed our delegation prior to our departure, as well as to the researchers in the Library of Parliament who provided background papers.

I would also pay tribute to the Canadian Ambassador, Mr. Gilles Duguay, and his colleagues for their assistance and support during the conference. At the beginning of our work, Mr. Duguay and other staff members provided a comprehensive and informative briefing on Romania. Our ambassador also hosted a reception during the conference at which we met some Romanian business people who were interested in Canada. Throughout the conference, Mr. Donald Banks, a counsellor, assisted the delegation. We want to express our thanks and appreciation for their hard work.

Before speaking about the topics on the agenda of the conference, I want to refer briefly to the work of the women parliamentarians at these inter-parliamentary conferences. During the 1985 IPU conference in Ottawa, a decision was made that the women delegates would meet prior to the opening session to discuss matters of mutual interest, as well as ways of increasing the participation of women parliamentarians within the union and its various activities.

As part of its ongoing work to correct the imbalances in the participation of men and women in political life, last year the union decided to review the IPU's statutes and rules to ensure that the vocabulary used could in no way be construed as suggesting the superiority of one sex over the other. This task was undertaken by a small working group composed of representatives from one country whose language is English, one country whose language is French, and two bilingual countries.

Canada agreed to be a member of this working group together with Cameroon, India and Egypt.

The Canadian group worked extensively on this subject and has submitted guidelines currently in use in Canada. In Bucharest, our colleague Senator Bacon was elected as chairperson of this working group. Throughout the week, she and Ms Barnes worked on a text that was presented to the Inter-Parliamentary Council. The adoption of the proposed text will take place at the next Inter-Parliamentary Conference in April 1996.

• (1500)

The first topic on the agenda of our conference was "Parliamentary action to fight corruption and the need for international commitments in this field." At this conference, we were using a new format whereby the debate on the specific subjects took place at committee meetings rather than in plenary. Accordingly, Ms Barnes spoke on this subject in the Committee on Parliamentary, Juridical and Human Rights Questions.

Fourteen countries, including Canada, submitted draft resolutions for consideration. Canada was one of 12 countries nominated to serve on a drafting committee. I am pleased to report that Ms Barnes was selected chairperson. Most of the Canadian draft resolution was included in the final text. I would like to report that there was considerable interest in the mechanisms developed by Canada to handle questions relating to codes of conduct and conflict of interest, both by other delegates and by the Romanian journalists.

The second topic on the agenda was "Strategies for effective implementation of national and international commitments adopted at the World Summit for Social Development in Copenhagen." Again, the debate occurred at a meeting of the Committee on Economic and Social Questions, where Ms Chamberlain presented a joint statement on behalf of herself and Mr. Wells. Canada was one of 19 countries that submitted a draft resolution for consideration.

At each conference, there is an opportunity to vote on a supplementary item to be included on the agenda. Subjects are selected because they are topical and of international concern. This is one activity where the IPU carries out valuable work. An examination of the voting patterns on those supplementary items is a useful guide in plotting shifts in parliamentary attitudes and, ultimately, policy decisions.

Following our last IPU conference, I reported on the voting patterns concerning the Iraqi proposal for a debate on lifting the economic sanctions imposed on that country. At seven of the past eight conferences, the Iraqi group has submitted this subject, and the Bucharest conference was no exception. However, the Iraqi group withdrew its proposal in favour of a proposal made by the Arab group for a debate on the status of the Holy City of Jerusalem.

On this occasion, there were seven proposals for the supplementary item, but several countries withdrew or combined their proposals. Votes were held on three subjects: the rights of minorities, Jerusalem, and nuclear tests. "To comprehensively ban nuclear weapons testing and halt all present nuclear weapons tests" was the subject selected as the supplementary item. Our colleague Senator Comeau represented Canada at these meetings and spoke about the need for parliamentarians to request strongly that a stop be put to nuclear testing.

There was also a plenary debate on "the general political, economic and social situation in the world." I used this opportunity to speak about land mines. On a couple of occasions this subject had been proposed as a supplementary item but had not been selected. This subject was especially timely, since the first formal review of the Convention on Certain Conventional Weapons was under way in Vienna. This meeting focused our attention on the gravity of the problem, and the thousands of innocent victims who die or are injured each year.

I would also like to mention the report of the IPU Committee on the Human Rights of Parliamentarians. As you are aware, the Canadian group has been very active in the work of this committee. Our colleague retired Senator Joan Neiman, who was instrumental in its establishment, was a member for a number of years. During the Bucharest conference, the violations of the rights of 69 members or former members of Parliament in 12 countries were brought to the attention of the delegates. The 69 cases involved one from Albania, one from Bulgaria, five from Burundi, six from Cambodia, six from Colombia, one from Honduras, one from Indonesia, two from Maldives, 17 from Myanmar, formerly Burma, seven from Nigeria, three from Togo and 19 from Turkey.

In conclusion, I want to speak briefly about the achievements of the Inter-Parliamentary Union. Sometimes we wonder whether the work at these conferences is significant and whether our participation is worthwhile. The response of our Romanian colleagues and their overwhelming enthusiasm for the support of the union during the transition from a communist state to a multi-party democracy reinforced my belief in the value of such international gatherings.

At the inaugural ceremony, the President of the Romanian Senate, Mr. Olivu Gherman, expressed his appreciation for the Inter-Parliamentary Union, noting that it was a "real school of modern democracy" for Romanian parliamentarians. He said:

> Many of the steps forward made by the Parliament of Romania in the past few years are the fruit of our participation in IPU activities and a consequence of the constant support we have received.

This statement, made by a prominent Romanian parliamentarian of an emerging democracy, speaks volumes about the importance of the Inter-Parliamentary Union.

The Hon. the Speaker: If no other honourable senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until Wednesday, November 29, 1995 at 1:30 p.m.

THE SENATE

Wednesday, November 29, 1995

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

Prayers.

[*Translation*]

SENATOR'S STATEMENT

LEGAL AND CONSTITUTIONAL AFFAIRS

SCHEDULE OF WORK OF THE COMMITTEE—
RESPONSE OF CHAIRMAN

Hon. Gérald-A. Beaudoin: Honourable senators, yesterday, in response to a question from Senator Jean-Robert Gauthier regarding the agenda of the Standing Committee on Legal and Constitutional Affairs, I said that committee members were currently reviewing Bills C-45 and C-7. That is what has already been decided. We have a lot of work to do before the Christmas break. We have given priority to these two bills.

As for Bills C-22 and C-69, I wish to make a correction: These two bills are still in committee for the reasons stated yesterday, and a report is out of the question for now. As recently as last week, on Tuesday night, a majority of senators defeated a motion to report on Bill C-69 by November 23.

As for Bill C-22, the experts who came to testify have clearly established that the bill remains unconstitutional. In the absence of new amendment proposals from the government, the bill is still in committee.

[*English*]

ROUTINE PROCEEDINGS

CUSTOMS ACT
CUSTOMS TARIFF

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Wednesday, November 29, 1995

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-FIFTH REPORT

Your Committee, to which was referred the Bill C-102, An Act to amend the Customs Act and the Customs Tariff and to make related and consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, November 2, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

• (1340)

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT
LEGAL AND CONSTITUTIONAL COMMITTEE
TO TABLE FINAL REPORT

Hon. Sharon Carstairs: Honourable senators, pursuant to rule 58(1)(*f*), I give notice that on Thursday next, November 30, 1995, I will move:

That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Monday, December 11, 1995 it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995 and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries, and

That in its report, the Committee recommend to the Senate that it not insist on its amendments to which the House of Commons has disagreed on June 20, 1995.

POINT OF ORDER

Hon. Orville H. Phillips: Honourable senators, I rise on a point of order. We voted on this subject last week. I believe that the rules forbid a vote on the same subject twice in a session.

The Hon. the Speaker: Honourable senators, I believe that there is a difference between this particular motion and the one of last week. I will attempt to ascertain that this is so, and I would ask that this matter be left until later this day so that I can compare it to the specific motion of last week. Is it agreed?

Hon. Senators: Agreed.

AUDITOR GENERAL ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-83, to amend the Auditor General Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Tuesday, December 5, 1995.

BRITISH COLUMBIA TREATY COMMISSION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-107, respecting the establishment of the British Columbia Treaty Commission.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Tuesday, December 5, 1995.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Anne C. Cools presented Bill S-13, to amend the Criminal Code of Canada (abuse of process).

Bill read first time.

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

On motion of Senator Cools, bill placed on the Orders of the Day for second reading on Tuesday, December 5, 1995.

QUESTION PERIOD

ATLANTIC CANADA OPPORTUNITIES AGENCY

CORNWALLIS PARK DEVELOPMENT AGENCY—
SUPPORT FOR INVESTIGATION BY AUDITOR GENERAL INTO
ALLEGATIONS OF MISMANAGEMENT—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, as you may be aware, my colleague Senator Forrestall had written to the Auditor General requesting an investigation into the activities of the Cornwallis Park Development Agency. Given that serious questions have been raised about the management of the agency, or should I say the mismanagement of taxpayers' money at the agency, and the recent allegations regarding the removal of assets from the base, would the Leader of the Government in the Senate consider lending her support to my colleague in his request for an investigation?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would prefer to await the Auditor General's response to Senator Forrestall.

Senator Comeau: Honourable senators, given that there have been delays due to certain questions, given the urgency that this matter be resolved, and given the Prime Minister's promise during the last election that the base would not be closed, would the honourable leader not consider it timely that this investigation be conducted as quickly as possible so that the agency can get on with providing jobs for the people of this community who badly need jobs? By lending her support, I suggest that the investigation might be completed more quickly.

Senator Fairbairn: Honourable senators, as we discussed in Question Period a while back, there have been investigations through ACOA. I have a great deal of confidence in the Auditor General's position and judgment on issues of this nature. I would prefer to await his response to my colleague's request.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to some visitors in our gallery representing the Arab Canadian Women's Association of Canada.

Hon. Senators: Hear, hear!

BUSINESS OF THE SENATE

POINTS OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, before Orders of the Day are called, our rules provide that points of order can only be raised following Routine Proceedings. Nevertheless, the Speaker did accept that Senator Phillips raise a point of order and that Senator Carstairs reply to it during the proceedings.

However, we do not have a copy of Senator Carstairs' motion before us. Our objection is based only on what we have heard. We would want to discuss the point of order after we have seen the text of her motion.

The Hon. the Speaker: Honourable senators, I believe that copies are being made, and will be distributed.

Senator Lynch-Staunton: Before you come to a decision, Your Honour, will you allow us to debate the point, at the appropriate time today or tomorrow, once we have had a chance to reflect on the significance of the motion?

The Hon. the Speaker: That is certainly in order. Normally we ask for opinions on points of order. When the Speaker has heard enough opinions, he can either rule or take the matter under advisement.

We had agreed that we would return to this matter later this day. Once the hard copy of the motion has been distributed, we will address the issue.

• (1350)

ORDERS OF THE DAY

AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES BILL

THIRD READING

Hon. B. Alasdair Graham, Deputy Leader of the Government moved the third reading of Bill C-61, to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act.

Motion agreed to and bill read third time and passed.

AGRICULTURE AND FORESTRY

CONSIDERATION OF REPORT OF COMMITTEE ON FARM SAFETY—DEBATE CONCLUDED

On the Order:

> Resuming the debate on the consideration of the Ninth Report of the Standing Senate Committee on Agriculture and Forestry (special study of farm safety), tabled in the Senate on Friday, June 30, 1995.—(*Honourable Senator Spivak*).

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, on this particular item I have consulted with both sides of the house. If no other senator wishes to speak on this order, we could consider it debated.

Hon. B. Alasdair Graham (Deputy Leader of the Government): We are agreeable to that.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

FIREARMS BILL

INQUIRY

Hon. Anne C. Cools rose pursuant to notice of November 23, 1995:

> That she will call the attention of the Senate to the speech that she had intended to give on Wednesday, November 22, 1995, during debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Grimard, for the adoption of the sixteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-68, An act respecting firearms and other weapons, with amendments) presented in the Senate on Monday, November 20, 1995; the speech which she was unable to give due to time limitations imposed by the Senate Order concluding debate by 5:15 p.m. and votes at 5:30 p.m. on Wednesday, November 22, 1995.

The Hon. the Speaker: Honourable senators, before Senator Cools proceeds with this inquiry, I should like to put a statement on the record.

I am somewhat troubled by the terms used by the honourable senator in stating her inquiry. The notice makes it explicitly clear that the speech which the senator intends to make was originally to be given as part of the debate on the consideration of the report of the Standing Senate Committee on Legal and Constitutional Affairs respecting Bill C-68. By order of the Senate, debate on this report and the third reading of the bill concluded last Wednesday, and the matter has been decided by a vote of the Senate.

My reservations about the terms of this inquiry stem mainly from the long established practice mentioned in Beauchesne 6th Edition, at citations 479, 480(1) and (2). The citations make it clear that:

> 479. A Member may not speak against or reflect upon any determination of the House, unless intending to conclude with a motion for rescinding it.

Then 480(1) says, in part:

> ...Members...cannot revive a debate already concluded...

nor should they refer to debates of the current session —

> ...even if such reference is relevant, as it tends to reopen matters already decided.

At the same time, I do not wish to unduly restrict the senator from raising a matter which is important to her. I would suggest, therefore, if the senator is agreeable, that she reconsider her notice of inquiry and rephrase it in more general terms so as to minimize any specific reference to the proceedings on Bill C-68.

Senator Cools: Honourable senators, I would be happy to rephrase the inquiry. However, it was my clear understanding that inquiries request no conclusion of the Senate; they are largely instruments of exchange. Perhaps His Honour can suggest for me a better articulation?

The Hon. the Speaker: I am afraid I could not do that now, but I would be prepared to discuss the matter with the honourable senator outside of the chamber.

The facts are that even an inquiry would be resuming debate on an issue which has already been settled, and that is against the rules.

Senator Cools: In any event, as I said before, if it is the wish of the chamber that I rearticulate the inquiry, I will do that.

Senator Kinsella: Let us hear your speech.

The Hon. the Speaker: Honourable Senator Cools, if you are asking leave of the Senate to proceed in this way, of course, any senator can do that. That is not for me to decide.

Are you asking for leave to proceed with the order as it is structured?

Senator Cools: Yes.

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

Hon. Senators: Agreed.

Senator Cools: Honourable senators, as I was about to say, the intention of my inquiry today is to call attention to what I had intended to say last week.

Honourable senators, spousal violence is an age-old problem. Men and women connected by sexual relationships, upon the breakdown of those relationships, are known to inflict hurt on each other. Some even kill one another. Folk music is dotted with examples. The famous folk song "Frankie and Johnny" relates an experience of lovers and of lethal violence.

> Frankie and Johnny were lovers,
> Oh, Lordy, how they could love.
> They swore to be true to each other...
>
> Johnny went by, 'bout an hour ago,
> With a girl named Nellie Blye...
>
> Frankie got out at South Clark Street,
> Looked in a window so high
> Saw her Johnny man a-lovin' up
> That high brown Nellie Blye...
>
> But Frankie took aim with her pistol
> And the gun went root-a-toot-toot.
> He was her man, but he done her wrong.

She, Frankie, shot Johnny dead.

Honourable senators, the Minister of Justice, the Honourable Allan Rock, holds that spousal and domestic violence is a major reason for this initiative, Bill C-68. Mr. Rock told the Ontario Women's Liberal Commission on April 12, 1995:

> There are women who are at risk in their homes and police didn't have the information or the tools to protect them.

On other occasions, he has maintained that the firearms issue is a women's issue. The Honourable Sheila Finestone, Secretary of State for the Status of Women, agreed. In a news release of December 6, 1994, Mrs. Finestone stated:

> Firearms control is a life-and-death issue for women in Canada.

Feminist groups repeatedly told the Standing Senate Committee on Legal and Constitutional Affairs that women live in a constant state of threat and fear of death inflicted by men with firearms in their homes, and that children live in a constant state of threat and fear of death inflicted by men with firearms in their homes.

Honourable senators, domestic violence is insufficiently understood. We are just now beginning to gain some comprehension of the terrible tragedy of spousal violence. Comprehension is also required of feminine aggression.

Family violence is deeply troubling. My life's work has been in the area of spousal and family violence. In many relationships, there are tangles of pathologies, coercive patterns and numerous dynamics which reinforce one another.

Many gender feminists interchange the term "domestic violence" with "domestic homicide." This is not a true picture. Most spousal violence will never reach the state of spousal killing. The essential element that must be present if spousal conflict is to become spousal homicide is murderous intent. I have seen several relationships where murderous intent was present. Often, couples do not recognize its presence, and have no insight into its workings. Murderous intent is the key element. When present, there is a probability that the situation could escalate to spousal killing, but spousal abuse has no escalating spectrum. A spousal slap does not inevitably become a spousal homicide.

• (1400)

Common spousal abuse is a different social problem from spousal homicide. Spousal homicide remains a largely misunderstood and tragic social program. Some bold initiatives are required to probe the darkness that lurks in violence, sexual interaction and impulses to hurt and to kill.

Honourable senators, I am disquieted that much testimony before the Senate committee was either incorrect, inadequate, misstated, manipulated, exaggerated or loaded as a gender issue. Some confounded the issues. Their techniques include playing with percentages and combining the unrelated, and are obvious to those knowledgeable in the field.

Honourable senators, various feminist groups appeared before the committee to support Bill C-68. Ms Arlene Chapman of the Alberta Council of Women's Shelters insisted that:

Almost half of the women killed by their husbands are shot.

Ms Jill Hightower of the B.C. Institute on Family Violence stated that:

> Front-line transition house staff report that women are frequently threatened by their partners, and many of these threats involve firearms.

Ms Virginia Fisher of the Provincial Association of Transition Houses Saskatchewan said that "...46 per cent of women killed by their husbands are killed with guns" and that, "There are 50,000 women living in households with guns who feel their lives to be in danger."

When asked about the number of women served by them who have been killed by husbands using firearms, they declined to give numbers, stating such reasons as, "I do not have that figure off the top of my head" or "We do not have funding to do follow-up work on what happens to women after they leave the shelter." These individuals never supply hard, precise or accurate data to support their assertions because supporting data does not exist.

Further, most of these individuals know little about spousal homicide. Spousal homicide is a terrible occurrence, the understanding and treatment of which eludes most agencies and helping professionals. Moreover, the data collection mechanism at many shelters is indeed questionable, since many shelters view data collection and research compilation as male-dominated preoccupations. Many gender feminists are resistant to scientific inquiry and investigation. Moreover, imagination and fantasy have resulted in profit and lucrativeness, rather than reason.

Some gender feminists told the Senate committee that children are at risk of abuse with firearms in the home. I note that among the numerous witnesses before the committee, there was not one witness from child protection agencies or children's aid societies. I spoke to child protection agency officials in Toronto. Metro Toronto's Children's Aid Society, the largest children's aid society in Canada, informed me that they have no concern that children in Metro Toronto are at risk of abuse with firearms in the home. I spoke to executive director Bruce Rivers. If children were at risk, child protection agencies would have been active in appearing before the Senate committee.

I also observed that not a single witness appeared from community crime prevention agencies in Toronto, and I also note that not one witness was black. The illicit use of firearms by certain black criminals in Toronto is commanding attention and intervention.

The frolics and caprices with data and statistics were revealed when one particular witness, Dr. Katherine Leonard, gave testimony stretching credulity and scientific inquiry. On conclusion of her testimony, another witness, Dr. Judith Ross, herself a psychologist and a target shooter, overheard Dr. Leonard say to someone, "How did you like the science fiction?" Dr. Ross, on September 27, 1995, wrote to me as follows:

> I find it appalling and disgraceful that a witness at a Senate committee would knowingly present material that was a fiction cloaked in a pretence of scientific validity.

I read Dr. Leonard's testimony. I pondered about the reliance on such testimony by any minister of the Crown.

Honourable senators, certain gender feminists insist that firearms are a gender issue; that firearms are a vehicle for male violence and aggression. Central to the belief system of radical gender feminism is the maxim that firearms constitute the phallic symbol of male violence, and are symbols of the patriarchal society. In a patriarchal and heterosexist society, the allowance of guns is a sign of misogyny.

Honourable senators, this is patriarchal nonsense; it is patriarchal rubbish, and supports the notion that women should live in fear and trembling, not only of men but of men's instruments — guns. Needless to say, they view heterosexuality as an oppressive state for women.

Gender feminist theory is an example of intellectual fraudulence and is a theory based on philogyny, tribadism and misandry. This theory currently stalks the social and political life of this country. It is predatory, and seeks to dominate and terrorize. It is a personality disorder in the body politic of this nation.

During the Senate committee hearings on Bill C-68, the Manitoba Attorney General, the Honourable Rosemary Vodrey, testified. I asked her:

> I should just like to know how many wives were killed by husbands in your province last year by firearms, and how many children in your province alone?

She replied:

> I can just tell you women on homicides by firearms. I gather the figure is zero.

Ms Vodrey gave more detail. She said:

> The statistics I have are for 1994, and they relate to deaths due to domestic violence: Three by stabbing; three by strangulation; two by beating; one by asphyxiation; none by firearms.

Honourable senators, it is no simple task to identify the actual and precise number of women killed by spouses using firearms. I have studied this question using Statistics Canada's published data on homicides. In 1994, the actual number of women killed with firearms by conjugal intimates was 23. I repeat: The precise number of women killed by spouses using firearms was 23.

Statistics Canada defines "conjugal intimates" as including spouses — legal, common-law, separated, divorced — boyfriends, extramarital lovers or estranged lovers. Neither feminist groups nor the Minister of Justice have placed the number of 23 on the table in this debate. I am unsympathetic to the act of toying with or exaggerating the true numbers.

Please be clear that Minister Vodrey's answer that no woman in her province had been killed by the use of a firearm in a conjugal-intimate relationship in 1994 surprised the committee.

In 1994, the actual number of children under the age of 12 years killed with firearms by a parent was two. The favoured weapon of murder in Canada is bare hands and feet — the human body. For example, in 1994, 27 babies under 12 months of age were killed, most with bare hands. In 1994, the total number of homicides was 596, of which 196 were by the use of firearms. Of these 196 with firearms, 157 of the victims were men and 39 were women. Consistently, more men are killed with firearms than women; in fact, four times as many. The tragedy of domestic homicide is too horrific to be trivialized by numerical manipulation.

Honourable senators, in the murders of three teenaged girls in Toronto, Karla Homolka and Paul Bernardo used their hands, the favoured weapon of murder. The brutal absurdity of this discussion was made manifest at the Homolka trial. The Crown and the judge significantly forgave Ms Homolka in relation to two murders, and totally forgave her in relation to her sister's murder, and gave her a 12-year sentence. As part of her 12-year sentence for killing with her hands, Mr. Justice Kovacs imposed an order prohibiting Homolka from possessing a firearm.

• (1410)

Honourable senators, time does not permit me to speak to the extraordinary measures of this bill. Millions of men and women in this country come from cultural backgrounds of hunting, target practice, marksmanship and precision shooting. This heritage of marksmanship is a Canadian phenomenon. Young people learned from their parents how to shoot as part of their heritage. Canada's World War I hero, Billy Bishop, learned to shoot as a boy in Owen Sound, Ontario, with a rifle given to him for Christmas by his father. It is a similar situation for young women. Linda Thom, at age 8, learned to shoot with her father. She won a gold medal in the 1984 Olympic Games. In gun sports, men and women compete as equals. There is even a group of women shooters called the "Gun Grannies."

Canada's heritage of marksmanship and mastery of the instruments of force is legendary. In 1914 and in 1939, the Canadian military met its responsibility. The marksmanship training of many Canadians by various rifle and gun associations assisted Canada's wartime efforts. A proud example is the Dominion of Canada Rifle Association, founded in 1868, which has trained generations of Canadians in the responsible use and care of firearms. Canadians consistently win international competitions.

Those who engage in the recreational and economic use of firearms are persons who are law-abiding citizens, who abhor the illegal and illicit use of firearms. They see that crime and the illegal use of firearms bedevils Canada's big cities, especially Toronto. In Toronto, aggressive and successful initiatives are required in the area of crime prevention, including initiatives in law enforcement, criminal judicial processes, plea bargaining, sentencing and, most important, in race relations, to solve Toronto's enormous crime problems.

The Hon. the Speaker: Honourable Senator Cools, I am sorry to interrupt, but your time has expired.

Senator Cools: Honourable senators, I need exactly one minute or so to complete my remarks. I would be happy to have leave to continue.

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

Hon. Senators: Agreed.

Senator Cools: These law-abiding citizens feel violated when they are likened to criminals because of the mere possession of their firearms or, worse, they are criminalized. Moreover, they resist the persistent invasiveness of governments into their lives. In fact, they view the government's initiative, Bill C-68, as creating a thought process which some will promote as the new Canadian morality: to wit, firearms are inherently evil and so are their owners.

I note how conveniently this concept falls into the gender feminists' maxim that men are harmful to women, and that all firearms are symptomatic of this harmfulness and should be discouraged and, ultimately, destroyed. Legitimate gun owners believe that when firearms are outlawed by governments, only outlaws will have firearms.

Honourable senators, gender feminist theory based on the innate evil of men and the innate virtue of women is seriously flawed. Social policy based on flawed theory is flawed social policy. Legislation based on flawed social policy is flawed legislation.

The Minister of Justice as a minister of the Crown, is no ordinary minister. This minister has a duty to be less worldly and less obviously political than other ministers. The Minister of Justice also has a duty to find accommodation among disparate interests.

Honourable senators, I am a senator from Ontario, the former Upper Canada. In the early 1800s in Upper Canada, there was something that was locally known as "stump law." Stump law was legislation passed by the then Tory government as a compound of arrogance and force. Liberal reformer members like Dr. William Baldwin were brutalized by the use of such legislative power. Bill C-68 is reminiscent of old Upper Canadian stump law.

I hope my Inuit colleagues, Senators Willie Adams and Charlie Watt, are not too damaged. I hope my support of their just cause has brought them a measure of comfort.

The proposition that Bill C-68 addresses the problem of domestic violence, that it is a bill to protect women, is not supported by the information put before the Senate. The premise and foundation for Bill C-68, we are told, is the good of women. Those who attempt to demonstrate this do so insufficiently. In fact, the research points in a different direction.

Honourable senators, I reject the premise that firearms ownership and use is a women's issue. This bill is begging for amendment. Since my side will accept no amendments, I am prepared to support the amendments to Bill C-68 as put forward in the committee's report, and by Senator Sparrow.

Honourable senators, that was the speech I had prepared and was quite ready, willing and able to deliver last week. I thank you for your indulgence, and for the opportunity to have made my speech. For myself, I would have found it somewhat discomfiting and a little disquieting not to have had the opportunity to give my speech, to the extent that I had put time and trouble into composing it.

I should also like to say, honourable senators, that I look forward to an opportunity when I can rise and speak uninterrupted in the Senate. It seems to be a very difficult proposition for me to do so in this chamber.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—POINT OF ORDER

The Hon. the Speaker: Honourable senators, before we proceed to the adjournment motion, which is the next item, I am prepared to consider any advice that honourable senators can give me considering the point of order raised by the Honourable Senator Phillips on the motion proposed by the Honourable Senator Carstairs.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we have a number of valid objections to this motion being placed on the Order Paper. First, Senator Carstairs introduced it under the rubric "Government Notices of Motion." If we have any respect for the rules, it is that we follow in order, and respect the significance of the headings within Routine Proceedings. The only senators who can introduce motions under the rubric "Government Notices of Motion" are the Leader of the Government in the Senate, the Deputy Leader of the Government, or one of their designated replacements whose name is known to the Senate before proceedings begin. For that reason alone, I urge the Speaker to declare this motion out of order.

It may seem a trivial, technical argument, but the success of our deliberations is impossible without a respect for the rules. If this motion is accepted then it means that, at any time, any honourable senator can get up under any chapter heading and suggest anything that he or she wants.

I support the point of order on the fact that the notice of motion was presented under the wrong chapter heading, and consequently, the rules were not respected. I urge His Honour to rule with that in mind.

Hon. Noël A. Kinsella: Honourable senators, I wish to follow through on what Senator Lynch-Staunton has said, while not wishing to detract from the points he has made, which I think are sufficient to dispose of the matter at this point. However, should His Honour wish to hear some arguments concerning the propriety of the order, and whether or not there is any respectful order in the motion brought forward by Senator Carstairs, I wish to draw the attention of honourable senators to rule 63 of the *Rules of the Senate*. Rule 63(1) provides:

> A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

Honourable senators, what follows next is very telling. Rule 63(2) says, in effect, that yes, a chamber may rescind a decision that it had taken previously, but the test that must be met to do the extraordinary — that is, to rescind a decision that had already been taken — requires at least two-thirds of the senators present to vote in favour of the decision to rescind a motion that had been previously passed.

• (1420)

The rule I just read is not arbitrary. It speaks directly to the question of the sanctity of a deliberate decision of the chamber. That decision, once taken within a Parliament, cannot be rescinded arbitrarily, or on a whim. It requires that a very heavy test be met. Two-thirds of the senators present must agree to rescind.

This speaks a bit to the extraordinary argument made by the leader of the Reform Party in the other place during the referendum last October. He argued that all you needed was 50 per cent plus one to break up the country. What an extraordinary, distorted view of democracy and the sanctity of the parliamentary system. It operates on deliberation in the ordinary course of events, such as we have here where the decision was made. However, if you are then to rescind or do something extraordinary, you must meet a much more serious test.

If the government side is serious about proposing that this chamber rescind a decision that it had already taken, then the test that is provided for in rule 63(2) comes into play.

No doubt His Honour will take guidance from the procedural literature. Erskine May, at page 326, speaks to matters already decided during the same session and to the fact that a motion or an amendment, which is the same in substance as a question which has been decided during a session, may not be brought forward again during the same session. The same position is articulated in Beauchesne at page 172, paragraph 558. On page 178, there is another reference.

This is a serious matter, as I have attempted to underscore. The procedural literature on this matter leans to the side of caution on this matter, to not allowing this motion. There is not much of a question to be explicated or explored in terms of whether or not the substance of this motion is substantially the same or different from that which was decided by the house a few days ago. I think it is a prima facie case, and that it is the same, by the plain language in which the motion is couched.

I urge His Honour to accept the point of order that has been raised, and to rule this motion out of order.

Hon. Sharon Carstairs: Honourable senators, I wish to address the three issues raised by the honourable senators on the other side.

First, Senator Lynch-Staunton raised the question of whether a member other than the leader or deputy leader could indeed introduce such a motion under Government Motions. It is very clear that I am a government member of this chamber.

Senator Berntson: You are a supporter, not a member.

Senator Carstairs: In addition, I have been the sponsor of Bill C-69 and first addressed it in this chamber at second reading.

Second, I would argue that this motion is, indeed, substantially different because, in its second paragraph, it orders the committee to report back without amendments. That is very different from the original motion proposed earlier in this chamber.

Third, it is clear that rule 63(1) and (2), which I have read carefully, refer to substantive motions. This is a procedural motion, clearly, asking for a committee of this chamber to report. It does not, quite frankly, affect anything of a substantive nature, other than the report of a committee. It is procedural in the same way that a motion to adjourn is procedural, and that can be done every single day in this chamber.

Hon. Orville H. Phillips: Honourable senators, I checked the original motion in the *Debates of the Senate*. The only difference in the wording is that it states that the committee will report no later than Monday, December 11. Everything else in that part of the motion is identical to the one we voted on last Tuesday.

Senator Carstairs has stated that this motion gives instruction to the committee. I question whether the Senate has the authority to direct the committee on how it should report.

In making your decision, Your Honour, I ask you to look up a decision made by His Honour Jean-Paul Deschatelets. I remember well that decision because I moved the motion, and it was seconded by the Honourable Senator Grosart. His ruling is to the effect that the Senate cannot instruct a committee.

This is an instruction to the committee. What would be the purpose of having a committee do a study if a motion by an individual senator, who may or may not be a member of that committee, can instruct the committee what to write? Therefore, it is completely against our normal procedure.

Our committee reports are made up by the members of the committee in committee sessions, not in this chamber. They report to the chamber. The chamber does not instruct the committee what to report.

Hon. John B. Stewart: Honourable senators, I had not planned to intervene on this discussion, but a point just made by Senator Phillips seems to me to be so wrong that one feels compelled to rise to refute it.

Senator Phillips is advancing the proposition that the Senate, once having referred a matter to a committee, abandons any right to attempt to retrieve that matter.

Senator Murray: No, he is referring to the content, to the second part of the motion.

Senator Olson: That is why Senator Phillips is wrong.

An Hon. Senator: Pay attention!

Senator Stewart: There are two things running together here. One relates to the view, implied by Senator Phillips today and put forward previously by Senator Beaudoin, that a committee, having decided that the content of a bill is unconstitutional, has the right to pigeon-hole that bill. That device used to be used — perhaps is still used — in Washington, D.C., and it is deplored by all so-called parliamentarians. I hope that we will not go that route.

• (1430)

Surely when the Senate has ordered a committee to examine a bill that the Senate wishes to amend, the Senate can follow the practice which is used continuously at Westminster, and even in Ottawa; that being rather than attempting to change the bill at third reading, instructing the committee to make that change.

I do not remember the precedent to which Senator Phillips has referred, but if there is such a precedent, we should not follow it because it will take us down a path which I think is procedurally quite dangerous.

Hon. Lowell Murray: Honourable senators, what follows may not help Your Honour reach a resolution of this matter, but I cannot help but comment on the statement that Senator Stewart has made objecting to the idea that a committee could, as he put it, "pigeon-hole" a bill.

In a previous Parliament, there was at least one example that springs readily to mind in which a committee pigeon-holed a bill for far less substantive reasons than that it posed constitutional problems. The bill had been passed by the House of Commons and related solely to that body in that it dealt with the pay and

perks of committee chairmen. It came to this chamber, was sent to committee and when I, in my usual mild way, protested about the lack of progress by the committee, I was told, plain and plumb by the then Leader of the Opposition, Senator MacEachen, that I would not see that bill again at any time, that it would stay in committee because the opposition objected to its content.

As I say, that is no help to Your Honour in reaching your decision on this matter, but I thought I should place it on the record lest Senator Stewart's version of what the proprieties are go unchallenged.

Senator Stewart: Honourable senators, I must say that it is surprising to discover that one statement by Senator MacEachen is sufficient to make Senator Murray change his mind.

Senator Doody: They are both Cape Bretoners, you know!

Senator Lynch-Staunton: I am sure that Senator Carstairs is not the only one who aspires to being Leader of the Government in the Senate.

Senator Kinsella: It is that obvious.

Senator Lynch-Staunton: To declare that she is a representative of the government is, unfortunately, not recognized by our rules. She is a supporter of the government. There is only one representative of the Government of Canada in this chamber, and she happens to be the Leader of the Government in the Senate. There is no other representative of the government in this chamber. There are many who aspire to becoming so.

Senator Phillips: Watch your back, Senator Fairbairn!

Senator Lynch-Staunton: Only the Leader of the Government, or her delegate in her absence and in the absence of the deputy leader, can move under the rubric "Government Notices of Motions.

Second, to have the gall not only to ask the committee to report, but also to instruct it what to report, demeans the whole committee system of the Senate.

Senator Stewart: That is the substance of the motion now.

Senator Berntson: They are just puppets!

Senator Lynch-Staunton: If the report is unacceptable when it comes to the chamber, it can be amended. However, if we tell the committee ahead of time, "This is what we want you to say," we might as well look again at the value of the committee system. Presently, in our eyes, it is such that we have a lot of respect for it. That is another reason why we feel this motion should be declared out of order.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there may well be a valid point with respect to the point that the Leader of the Opposition has raised with regard to the individual senator who put forth this motion. That is a matter of judgment and certainly one, I believe, of flexibility in this chamber, given the way we have operated.

Senator Lynch-Staunton: No. It is a rule.

Senator Graham: Both sides of the house have allowed debates to proceed. We have reverted to previous orders on the Order Paper with unanimous consent. It might very well be that, if His Honour ruled in favour of the point raised by the Leader of the Opposition — that it was out of order for Senator Carstairs to give a notice of motion on behalf of the government, even though she was the sponsor of the bill — we could ask for permission for leave to revert so the Honourable Leader of the Government or the deputy leader could put the motion.

Senator Lynch-Staunton: That's right.

Senator Graham: In considering your decision and possible precedents, Your Honour, I ask you to note that on September 3, 1987, there was a motion in amendment concerning Bill C-22. We all remember, those of us who were here, the drug patent legislation. That motion dealt with an instruction to a committee and was defeated. I refer honourable senators to page 1801 of the *Debates of the Senate*, September 3, 1987.

As well, honourable senators, on September 15, 1987, another motion was moved on the same bill. Even though objections were raised that the Senate had made a decision several days earlier, it was put to a vote because it was different. It was more limited in scope than the earlier motion.

Senator Berntson: This one is not.

Senator Graham: Indeed, honourable senators, this motion is more substantive and expansive.

Senator Doody: It is totally procedural.

Senator Graham: It is more substantive and certainly different from the original motion.

Senator Berntson: It is identical.

Senator Graham: I submit, honourable senators, that the motion is in order.

Senator Lynch-Staunton: Honourable senators, I should like to make a clarification on our concern with respect to the rules. The tabling of documents cannot take place under "Introduction and First Reading of Government Bills." The first reading of Commons public bills cannot take place under "Inquiries." Petitions cannot be introduced under "Delayed Answers." We have a set, standard form of proceeding prior to the Orders of the Day. That must be respected. If an honourable senator can rise under Government Notices of Motions and move any type of motion, that interpretation of the rules would mean, then, that under "Introduction and First Reading of Government Bills," I can present a petition.

Senator Doody: Anarchy.

Senator Lynch-Staunton: The least we can ask is a respect for Routine Proceedings, which is a tradition in Parliament. The *Rules of the Senate* must be respected.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, this bill is a never-ending story. We know that the longer we wait, the greater the administrative nightmare will be during the next federal elections. The Chief Electoral Officer has said that waffling between two pieces of legislation was quite unacceptable if we really want to have an election system which is the envy of the whole world.

Your Honour, I do not understand the motion. You will explain it in your ruling, which will undoubtedly be very wise, and I will abide by your ruling.

I do not understand how we can tell a committee what it is supposed to report. Each political party, be it Conservative or Liberal, can give its members on the committee instructions regarding policy. Should the motion be adopted, the committee will report on its conclusions. Even though I do not sit on any committee, I always attend the meetings of some committees, including this one. I would find it absurd to be given prior instructions, to be told what to do at a committee meeting.

In its wisdom, the Senate has delegated its authority to a Senate committee. It is up to the committee to decide what it wants to report to the Senate.

I am trying to understand the logic of a Senate commission at this time. Why should we have a Senate committee if it is told ahead of time what its conclusions should be?

We understand the politics behind this motion. I sympathize with members of Parliament who say they are losing their riding; others claim that this piece of legislation is not the business of the Senate.

I did not get involved last time, but I can tell you that if this bill is again referred to the Senate, I will take part in the debate. I find it ludicrous for members of Parliament to hold such views about the senator who, after all, have a constitutional right.

When I was a member of the House of Commons, I used to defend the Senate, even before I knew I might be appointed here. There have been some very acrimonious debates between the Senate and the House. I submit, honourable senators, that this motion is quite out of order.

The Hon. the Speaker: I find you are speaking to the content of the bill and not to the point of order that was raised.

Senator Prud'homme: With regard to these few considerations, honourable senators, I submit that the question has been debated during this session. A decision has been made, and a vote has been taken. According to old British traditions, once a matter has been resolved, it cannot be raised over and over again until one catches people at fault because they are not present in the Senate. The question was examined at length and a vote was duly taken on it.

Unfortunately, it is true that, for all sorts of reasons, some senators were not present at the time of the vote.

We can only wait until the next session of Parliament to study another bill.

Meanwhile, I think that we would place the Chair in an awkward position if we were to ask for reconsideration of an issue which has been decided upon.

[*English*]

• (1440)

Senator Graham: Honourable senators, in a moment I will ask leave to revert to Government Notices of Motion —

Senator Berntson: Do not embarrass yourself!

Senator Phillips: Forget it!

Senator Graham: — so that the notice of motion can be properly given.

Senator Doody: So you concede that it has been improperly given?

Senator Graham: Honourable senators, may I then have leave to revert to Government Notices of Motion?

The Hon. the Speaker: I regret that I cannot entertain the request at this time. There is a point of order before the Senate on that matter, and I must first deal with that point of order.

Are there any other senators who wish to speak to the point of order? If no other senator wishes to speak, I wish to look more closely at the references which have been made to parliamentary authorities and precedents both in the other house and here. I will take the matter under advisement.

Senator Murray: I take it that when Senator Graham intended to ask for leave, he was conceding the first part of Senator Lynch-Staunton's point of order?

The Hon. the Speaker: I did not hear the comments.

Senator Carstairs: Honourable senators, there appears to be some concern that I introduced this matter under the wrong heading. For that, I apologize. That was the information I was given as to the appropriate timing. In order to facilitate the proper reintroduction of the motion by the deputy leader, I will withdraw my motion.

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

Some Hon. Senators: No.

The Hon. the Speaker: I regret that the motion cannot be withdrawn.

Senator Prud'homme: It is not our decision.

Senator Lynch-Staunton: Get your act together!

Senator Kinsella: Who runs the Senate of Canada?

BANKING, TRADE AND COMMERCE

STATE OF CANADIAN FINANCIAL SYSTEM— COMMITTEE AUTHORIZED TO EXTEND DATE OF PRESENTATION OF FINAL REPORT

Hon. B. Alasdair Graham (Deputy Leader of the Government), for Senator Kirby, pursuant to notice of November 28, 1995, moved:

That, notwithstanding the order of reference adopted by the Senate on Wednesday, November 30, 1994, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine the present state of the financial system in Canada, be empowered to present its final report no later than Tuesday, December 10, 1996; and

That, notwithstanding usual practices, if the Senate is not sitting when an interim report of the Committee is completed, the Committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in the Chamber.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, November 30, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATOR'S STATEMENT

MEMBER OF THE GOVERNMENT

DEFINITION

Hon. Sharon Carstairs: Honourable senators, yesterday I was somewhat surprised at the offence taken by Senator Lynch-Staunton to my use of the term "government member." Because I love words and their very usage, last evening I had a wonderful time reviewing old political science texts and dictionaries to refamiliarize myself with the definitions of these words. My study confirmed that the terms are indeed used in a variety of ways.

First, my study told me that the word "government" can be used in a generic manner to refer to a kind of government. For example, it could be a democratic government, a presidential style of government, a parliamentary system of government, or a republican form of government. Thus, we have the generic use of the word.

The second reference I found said that the word "government" refers to a collection of individuals, elected or appointed, who have the majority of seats in a parliament or legislature. They gather together into a caucus for the purpose of discussion and development, and support the initiatives of the executive branch. I found references to such terms as "government members," "government backbenchers," and "the government side of the chamber." The counterparts, of course, to those expressions were "opposition members" or "the opposition side of the chamber." Sometimes I found references to third parties, fourth parties, and even fifth parties, depending on the distribution of seats, and also the term "independent member".

"Government" can obviously mean a member of a legislative body that supports the government or one who is a member of the governing party, and that was the context in which I referred to myself yesterday.

The third definition of "government," and the narrowest one of all, is in the Canadian concept which refers to the executive branch of our system, the cabinet. These are the individuals assigned specific executive authority and administrative functions. The government in this sense is ably represented in this house by Senator Fairbairn who, as Leader of the Government in the Senate, also has responsibility for literacy. Her title is an interesting one. As Leader of the Government in the Senate, she leads government members, of which I am proud to be one. Perhaps Senator Lynch-Staunton thinks she leads all of us, but I think he perhaps would not accept that suggestion.

Senator Lynch-Staunton may not use the term "government member" to refer to a member of Parliament who is not in the cabinet. However, let me assure him that it is used often — and frequently in my Province of Manitoba — by government members, opposition members, and members of the media.

If Senator Lynch-Staunton could refer me to the correct usage of the term "government" in this chamber, I would appreciate it. I am deeply committed to the principle of life-long learning, and I always welcome an opportunity to expand my knowledge.

ROUTINE PROCEEDINGS

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS TO TABLE FINAL REPORT—POINT OF ORDER

On the Order:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Monday, December 11, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.
>
> That in its report, the Committee recommend to the Senate that it not insist on its amendments to which the House of Commons disagreed on June 20, 1995. — (*Speaker's Ruling*)

The Hon. the Speaker: Honourable senators, under this item, "Government Notices of Motions," yesterday a point of order was raised on a motion by Honourable Senator Carstairs. I am ready with the ruling, but there is the matter of having it typed up and translated. I would ask that I be allowed to bring this matter back later this day, provided I get my typewritten and translated report on time.

Is it agreed, honourable senators?

Hon. Senators: Agreed

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, December 5, 1995, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1410)

CHILD ABUSE AND NEGLECT

DEATH OF MATTHEW VAUDREUIL—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1) and 57(2), I give notice that on Wednesday next, December 6, 1995, I will call the attention of the Senate to the child abuse and neglect death — or CAN — of five-year old Matthew Vaudreuil, and to his mother Verna Vaudreuil's role in that child abuse and neglect death, and to the inquiry by the Honourable Judge Thomas J. Gove, called the Gove inquiry into Child Protection, being an inquiry into the state of child protection services in the Province of British Columbia as they relate to the apparent child abuse and neglect death of Matthew Vaudreuil.

QUESTION PERIOD

NATIONAL UNITY

INDIAN AFFAIRS—DOCUMENT ON POST-REFERENDUM POLICY PURPORTEDLY PREPARED BY OFFICIAL—GOVERNMENT POSITION

Hon. Charlie Watt: Honourable senators, my question is for the Leader of the Government in the Senate, and relates to an article in yesterday's *Globe and Mail*, concerning a document that supposedly was leaked from the Department of Indian Affairs. On the one hand, I guess it is not surprising to read something along the lines of what is stated in that leaked document. Is this document a true representation of the views of the administration of the government? Further, does the document come from the administrative level or from the political level of the government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I assume that my honourable friend is referring to the article concerning the Department of Indian Affairs and post-referendum policy. I can say most categorically that that document does not come from the political level. It was a highly speculative piece of paper put together by someone in that department, and had nothing to do with the minister or anyone at the political level. Indeed, I would say its contents were not only naive, but very disrespectful of aboriginal peoples.

PRESENCE OF ABORIGINAL PEOPLES AT QUEBEC ROUND—GOVERNMENT POSITION

Hon. Charlie Watt: Honourable senators, will the aboriginal peoples of this country be involved in the next round of discussions between the Government of Canada and the provincial governments with respect to the distinct society provisions and the veto put forward by the Prime Minister as an offer to the government of Quebec?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the measures currently before the House of Commons are purely legislative in nature. They reflect the commitment or the intent of the Government of Canada to act in a certain manner in relation to the possibility, if any, in the years leading up to 1997, of dealing with the veto and also the commitment of recognizing the reality of Quebec.

Aboriginal peoples are fully protected under section 35 of the Constitution. Absolutely nothing in the two measures currently before the House of Commons in any way infringes or derogates from any of the rights or obligations under the Constitution for aboriginal peoples, including their claims, and the government's commitment within section 35, for recognition of their inherent rights.

Senator Watt: I take it, then, that aboriginal peoples will be invited to the Quebec round of discussions, as opposed to being left out and dealt with separately?

Senator Fairbairn: Honourable senators, the only discussions contemplated in the area of constitutional change will be in 1997 when the Constitution itself says that the amending formula, currently in the Constitution, is up for review and discussion.

However, at this point in time, the only thing being dealt with is what is currently before the House of Commons. As I understand it, this is not a question of engaging in a round of discussion or negotiation.

Senator Watt: Honourable senators, I realize what the Prime Minister is attempting to do. I also understand the reply of the honourable leader to my questions. Nevertheless, even though the proposals from the Prime Minister are merely legislative initiatives, they certainly have a constitutional impact.

My question is this: Even though the Constitution itself is not being dealt with in the Quebec round of discussions leading up to Canadian unity, and even though this is a legislative measure, will aboriginal peoples be involved in these discussions in the future?

Senator Fairbairn: Honourable senators, when those negotiations and discussions do take place in the future — although certainly not at this point in time — aboriginal peoples will have a role to play. I am certainly supportive of that.

Senator Watt: It worries me when the honourable leader says "not at this time." Why can these discussions not take place at this time? Why is it that aboriginal peoples must take a back seat when dealing with the question of unity?

Aboriginal peoples are the basis of this country. The federal government should recognize the aboriginal peoples of this country once and for all, rather than merely referring to only two founding nations. For that reason, aboriginal peoples must be involved in this process.

Senator Lynch-Staunton: The government takes you for granted, that is why.

Senator Fairbairn: I firmly support my honourable friend's position on the importance of the aboriginal peoples in this country, and their role in the debate on national unity. The issues currently before the House of Commons relate strictly to the commitments made during the referendum by the Prime Minister: nothing more and nothing less. In constitutional terms, the position of aboriginal peoples is absolutely secure.

ETHICS COUNSELLOR

DESIRABILITY OF INDEPENDENT COUNSELLOR REPORTING TO PARLIAMENT—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, today's Montreal *Gazette* and *La Presse* contained a propaganda insert from the Liberal Party of Canada, seeking to collect funds. The insert makes reference to Red Book promises that have been kept by the government. One such promise, in particular, was that an independent ethics counsellor would be appointed, after consultation with leaders of all parties in the House of Commons, and would report directly to Parliament.

Honourable senators, while in fact an ethics counsellor has been appointed, he is not independent. He reports to the Prime Minister, not to Parliament.

An October 27, 1994 editorial in *The Toronto Star* called this the most blatant betrayal of the Red Book promises. It observed that the inevitable result would be to have an ethics watchdog loyal to his political master, not to the public.

Honourable senators, to make the ethics counsellor truly independent as was promised, would the government consider changing reporting arrangements so that the counsellor reports to Parliament and not simply to the Prime Minister?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will convey my honourable friend's question to the Prime Minister and others in the government. I would simply say to my honourable friend that the ethics counsellor who was appointed, Mr. Howard Wilson, is a very responsible individual, and carries out his duties with the utmost care.

Senator Comeau: I do not wish in any way to suggest that this gentleman would not apply due diligence to his job, but we must remember that he who pays the piper calls the tunes.

Given that the Prime Minister pays this gentleman's salary, would it not be more appropriate to have someone who is viewed, at least by the public, as being independent? In keeping with the spirit of suggestions which we will be making, I suggest the Auditor General of Canada, Mr. Desautels, be considered for appointment. Certainly no one questions his pursuit of integrity.

Senator Fairbairn: Honourable senators, I will convey that question as well to my honourable colleagues. I am sure that my honourable friend did not intend to imply anything by his comments, but the current ethics councillor is not dancing to anybody's tune but, rather, to the mandate which he has been given.

EXISTENCE OF JOINT COMMITTEE ON CODE OF CONDUCT

Hon. Peter Bosa: I rise on a supplementary question, honourable senators.

Is the Honourable Leader of the Government aware that there is a joint Senate-House of Commons committee studying the code of conduct at the present time, and that members are free to attend those meetings?

Senator Berntson: I would be very surprised if she was not aware.

Senator Bosa: Are you aware?

Senator Berntson: Yes, I am aware.

Don't disappoint us. You are aware, right?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am very much aware of the committee, as I am sure are all my colleagues in this chamber. This issue touches all of us. I know that the joint committee will conduct itself incisively, will not be dancing to anybody's tune and will be concentrating on its mandate.

[*Later*]

JOINT COMMITTEE ON CODE OF CONDUCT—RELEVANCE TO PARLIAMENTARIANS

Hon. Finlay MacDonald: Honourable senators, Senator Bosa has raised a rather interesting point. Every once in a while we must go through a code of conduct operation. I suppose it is like a trade association in that, when it prints its code of ethics, it makes them feel warm all over.

In reading through the transcripts of the joint committee so far, I am somewhat puzzled. I can see them getting into matters involving conflicts of a certain kind. However, I really wonder whether the accumulated experience of these people before they came to this chamber — their upbringing by their parents, their education and their spiritual beliefs — is not enough, in combination with the appropriate sections in the Parliament of Canada Act and the Criminal Code. With that accumulation of experience and those statutes to guide us, if we do not understand what is expected of us, then we should not be here.

Honourable senators, I find that whole process offensive, and I think that, in your hearts, most of you will tend to agree with me. This is a charade. They may come up with a few small things, such as if you have a share in a certain company you should not sit on a certain committee, but on the basis of morality, on the basis of being able to determine what is a bribe and what is not, or how one should behave oneself, do you not find that this whole exercise is useless?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have sympathy for what Senator MacDonald has said. However, I hope it is not a useless exercise. The preface to the honourable senator's question is, in large measure, very true. As the honourable senator will know, over the years, regardless of which party has been in power, this issue has arisen almost cyclically. It arises again and again, demanding to be examined.

I am sure that there are always points which can be re-emphasized and set out with greater clarity, perhaps not for the benefit of those who serve in our chambers but for the reassurance of people outside our chambers.

I have followed this issue for a great many years. I know that the senators and the members of the House serving on that committee are doing so out of goodwill. I am sure that their intent is to reflect in their report anything that would be helpful to us or to the public.

Honourable senators, I agree with Senator MacDonald that in public life, as in private life, the degree to which the standards are reflected is based very much upon what is inside the individual.

Hon. Peter Bosa: Honourable senators, is the honourable leader aware that the teachings of our parents, the ethics by which we try to abide and all the things which pertain to behaving properly, including the Criminal Code, have been taken into consideration in studies conducted in the past? It is not the case that we have suddenly reached a level of ethics such that there is no longer a need to attempt to improve the situation.

Senator Fairbairn: Yes, honourable senators, I am aware of that. I know that members of the committee are finding parts of the study very interesting, even engrossing, and are putting their minds to the task. I emphasize that, in fact, the exercise is a useful one. It is useful for the participants as well as for the reassurance of those in the public who may have a view of our activities which differs from reality.

Ultimately, however, as Senator MacDonald has said, the compliance with all the rules known to humankind which can be put down on paper is within the wills and the hearts of those serving in public life.

ABORIGINAL PEOPLES

RIGHT TO SELF-DETERMINATION—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, further to the questions asked by our colleague Senator Watt, is it the position of the Government of Canada that the aboriginal peoples of Canada have the right to self-determination?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators are aware of the position aboriginal people hold within the Constitution. The aboriginal people have been a fundamental part of the building of this country. They have contributed to the unity of this country. That will continue. In constitutional discussions down the road, whenever they occur, I am sure they will be playing an active role.

Senator Kinsella: Honourable senators, is it the position of the Government of Canada that the aboriginal peoples have the right to sovereignty?

Senator Fairbairn: Honourable senators, I would wish to examine with others the import of the honourable senator's question. In terms of the position of aboriginal peoples in this country, their inherent right to self-determination is protected under section 35 of our Constitution, as the honourable senator well knows.

RATE OF ILLITERACY AMONG NATIVE YOUTH— GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, those questions were motivated by the questions raised by Senator Watt.

Independently, I wanted to question the minister on the development of aboriginal communities across Canada. I would like to draw attention to aboriginal youth in Canada. The Minister of Human Resources Development announced some time ago that 16 new programs, aimed at 17,500 Indian youths on reserves, would start this month.

Statistics cited by the minister indicated that 60 per cent of the people on reserves are illiterate. As minister responsible for literacy, what percentage of native youth is classified as illiterate? How big is that problem for which you are responsible, Minister?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would not wish to put a statistic on that question. Because of the nature of gathering statistics in this country, any number would probably be understated.

One issue which has always been in the forefront of the minds of aboriginal peoples is their inherent right to self-government. Another fundamental issue for aboriginal communities is the education of their people. As my honourable friend knows, the reach of the programs in which I am involved is, of necessity, limited. However, I can assure honourable senators that there are aboriginal programs in place through the National Literacy Secretariat and also through cooperative efforts with the provinces. We support these aboriginal programs to the fullest extent possible. We also support the literacy efforts of the Assembly of First Nations. I only wish we had more resources to give them for their work.

I know that my colleague the Minister of Indian Affairs is also concerned with this issue. This is a fundamental issue for aboriginal people, and any development, opportunities and solutions must begin with their youngest people. I wish I could do more.

Senator Kinsella: Some native leaders with whom I work at the university in my province held a seminar on this issue. This question arose: In the last two years, how many new programs have begun, directed specifically to combat illiteracy with native youth?

Senator Fairbairn: I will have the officials at the National Literacy Secretariat provide me with that information as we have it. Again, my honourable friend will know that we are restricted in what we can do. Some of the efforts that exist in this area also exist at the provincial level. I will try to get as much information as I can for my honourable friend.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on October 17, 1995, by the Honourable Senator Spivak regarding the bovine growth hormone.

HEALTH

BOVINE GROWTH HORMONE—EVALUATION OF HEALTH RISK—REPRESENTATIONS FROM UNITED STATES—GOVERNMENT RESPONSE

(Response to question raised by Hon. Mira Spivak on October 17, 1995)

Neither the Minister of Health nor Health Canada have any knowledge or evidence of high level pressure tactics being applied at any governmental level by multinational companies to influence the evaluation and licensing decision of rBST by Health Canada.

This position is substantiated by the fact that Health Canada scientists, in their evaluation of rBST from the Monsanto Company, have requested further scientific information with regard to animal safety and efficacy. The evaluation of this additional information cannot commence until the manufacturer has forwarded it to Health Canada, a process which could take many months.

ANSWER TO ORDER PAPER QUESTION TABLED

EMPLOYMENT

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 108 on the Order Paper — by Senator Oliver.

ORDERS OF THE DAY

CUSTOMS ACT
CUSTOMS TARIFF

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-102, to amend the Customs Act and the Customs Tariff, and to make related and consequential amendments to other acts.

Motion agreed to and bill read third time and passed.

EMPLOYMENT EQUITY BILL

CONSIDERATION OF REPORT OF STANDING SENATE COMMITTEE ON SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY—REFERRED BACK TO COMMITTEE

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Social Affairs, Science and Technology regarding Bill C-64, respecting employment equity, presented in the Senate on November 22, 1995.

Hon. Rose-Marie Losier-Cool: Honourable senators, I move the adoption of the report.

MOTION IN AMENDMENT

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, after some discussion with my counterpart, it has been determined that there may be some deficiencies in this bill. In any event, there may be some interest in calling further witnesses before the committee.

For that reason, in amendment I move, seconded by my honourable friend Senator Lynch-Staunton:

> That the report be not now adopted, but that it be referred back to the Standing Committee on Social Affairs, Science and Technology for further consideration.

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

Motion agreed to.

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH (CANADA WEST DISTRICT) BILL—SECOND READING

Hon. Leonard J. Gustafson moved the second reading of Bill S-12, to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District.

He said: Honourable senators, I should like to take this opportunity to make a few short remarks on the amalgamation of two churches: the federal corporation, known as the Evangelical Missionary Church, Canada West District, and the Alberta corporation, known as the Missionary Church. They are continued by this enactment as one corporation under the name Evangelical Missionary Church, (Canada West District).

Honourable senators, I have been a member of one of these churches which are amalgamating. There are several very positive reasons for the amalgamation of these two churches. They both have their roots in the Wesleyan movement of many years ago, originally out of Great Britain.

I want to quote from some of the recommendations that were put forward by the churches as reasons for amalgamating. Under "Values of Merger" it states:

> Considering merger is an appropriate response to scripture. In the book of John, Jesus prays, "May they be brought to complete unity to let the world know that you sent me and have loved them even as you have loved me."

Basically, they are saying that unity is very important. These churches are amalgamating. There are times when churches separate, but unity is better than separation. That is the main reason that the churches put forward for unity. They go on to state:

> Merger would give us a stronger national identity and voice. Besides being larger, both present denominations would gain churches in areas where they currently do not have any.

I will touch on a few points to bring senators up to date on exactly what is happening under this bill. The networking that churches would develop through this merger is significant. They would retain more people who move to new locations, instead of losing so many who have learned to appreciate and support the program of their local churches and denominations. Church planning would be given a stronger boost in the networking of churches, especially in Western Canada.

Pastor placement would be enhanced by a larger pool of churches and pastors. We always work towards excellence in fitting pastors to congregations. A broader range to select from increases the possibilities of ministers serving in a situation appropriate to their gifts.

The process of merging gives us an opportunity to re-examine denominational, district and local church structure and policy, and to effect positive changes that will make us more effective in carrying out the work of the Kingdom.

Merger would result in better stewardship for western conference costs. Instead of having two conferences and two district conference offices, there would be one office. Further, by combining the present number of salaried positions, we could provide greater specialized ministry to our pastors and churches.

Honourable senators, I ask for your support in this matter, and move that this bill be sent to the Standing Senate Committee on Legal and Constitutional Affairs.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

UNITED NATIONS

FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Pearson, calling the attention of the Senate to the Fourth World Conference on Women, held in Beijing, from September 4 to 15, 1995, which she and Senator Cohen had the privilege to attend as parliamentary observers on behalf of the Senate.—(*Honourable Senator Cohen*)

Hon. Erminie J. Cohen: Honourable senators, I was privileged to have been asked to attend the United Nations Fourth World Conference on Women as a member of the official Canadian delegation and as a parliamentary observer. This was the first opportunity I had had to participate in a United Nations forum, and I found it an exhilarating experience, greatly enhanced for me, both personally and professionally, by the company of my colleague Senator Landon Pearson, from whom I learned a great deal.

On November 8, my colleague spoke of the tremendous achievements made at the conference in bringing to world attention the plight of the girl child. I will highlight some of the other issues addressed, and Canada's leadership role in moving some of them forward.

Some of the Western media reports claimed that there was a sense at the conference of preaching to the converted. However, when you consider that many women came from countries where they have no legal rights toward their own children, let alone any property or inheritance rights, it is easier to see what an achievement it was for many just to be there. In a setting where political dissent of any kind is not tolerated, it was impressive to see women demanding social, economic and political change.

To draw the contrast more sharply, I refer to a story reported by CTV's Diana Bishop on what it means to lose face in China. As in many Eastern cultures, it is imperative that one not be embarrassed in public. Great pains are taken to ensure that this does not happen. In China, if a woman causes a man to lose face, her punishment is to be permanently disfigured by having sulphuric acid thrown in her face. Upon hearing about this, the only remote Western parallel I could think of might be the 17th century custom of forcing adulterous women to wear the letter "A" to remind the public of their transgression. This gives you some idea, honourable senators, of how far Chinese women have to go before they achieve real equality.

That the conference went forward at all may have served to open the eyes of Chinese authorities, and perhaps provided some measure of hope, not only to Chinese women but to all those in that country who are struggling for human rights, and the world acceptance that comes with respecting those rights.

In China, even informal women's groups are subject to surveillance. That applied to us, as well. We had to show our hotel registration cards every time we entered the elevator, and no visitors were allowed in the hotel rooms. If they saw a "Do Not Disturb" sign on a door, they would ask why. There was a real concern among the Chinese security officials that we would engage in subversive activities.

Between August 30 and September 15, there were over 30,000 women in Beijing and Huairou attending the NGO forum and the UN conference. Of these, 17,000 registered delegates from 189 countries participated in the conference, making it the largest UN conference ever held.

The official government delegation was made up of parliamentarians, federal officials, and representatives from provincial and territorial governments, youth, labour, business, churches, academia, and non-governmental organizations.

Five hundred Canadians participated in the NGO forum. They brought with them the experience of their local realities, and kept the discussion of issues grounded in the real and the possible. Now, NGOs have another role to play: Holding governments accountable for implementing the agreements reached, and for ensuring that cultural excuses do not stand in the way of women's equality rights.

As Suzanne Mubarek, the first lady of Egypt, so eloquently put it:

> We are not here so that some of us may impose certain values or beliefs, which others may consider to be against their religion or their morals. If you have the right to believe in what I reject, I also have the right to reject what you believe in, or believe in what you reject. Without this type of understanding, relationships would be based on oppression and submission, and not on equality or justice.

During the course of the 10 days we were there, we met with the All China Lawyers Association — the equivalent of the Canadian Bar Association — the Chinese Ministry of Health, the All China Women's Federation and many others, including Ken Sundquist, the chargé d'affaires and Acting Canadian Ambassador in Beijing.

• (1450)

As parliamentarians, we held private meetings with our Chinese counterparts. The Chinese cabinet includes three women ministers out of a total of 32, all three of whom were part of the official Chinese delegation. It became obvious very soon that they were not speaking for themselves as women but more as representatives of the state.

We also met with the Chinese YMCA and YWCA. Although it has been around for most of this century in China, the "Y" had to go underground during the cultural revolution and has been active again only since 1980. It now has over 700,000 members in Shanghai alone.

The "Y" is neither independent nor autonomous. Like all women's groups in China, it is closely affiliated with the government-run All China Women's Federation. The federation is governed by a national congress of Chinese women that meets every five years to decide policy. In reality, the congress merely acts to publicly affirm policies already decided upon at the top levels of the Communist Party and of the government.

Through the course of previous UN preparatory meetings, 12 areas emerged as primary considerations for the future of women in the world: poverty, education, health, violence, armed conflict, economic structures, power sharing and decision-making mechanisms to promote the advancement of women, human rights, the media, the environment, and the situation of the girl child. I will not go into detail on all of these issues today, but I would like to touch on a few.

To demonstrate the progress that has been achieved through these world conferences, we have only to look at the issue of violence against women. The issue was introduced internationally by Canada at the Nairobi conference in 1985. Now, 10 years later, a consensus has been reached that violence against women will not be tolerated anywhere, no matter what cultural excuses a country might use.

Canada again led the way in negotiating the inclusion of very strong wording on this subject. The Beijing declaration asks governments to be responsible for protecting women from violence in the home and in society. It recognizes that the terrible effects of violence reverberate throughout society, and cannot be written off as a private issue.

The Canadian team was instrumental in achieving a number of other major changes. Our delegation sponsored a resolution calling for worldwide recognition that rape in armed conflict should be considered a war crime. Canada also won support for our initiative to promote the development of guidelines for accepting refugees based on gender-related persecution, an initiative that had its genesis under the previous federal government.

Some of us in the parliamentary delegation left the confines of the conference site to visit Shanghai, a city where Canada maintains a consulate. While there, we meet with the Shanghai Women's Federation. A tour of their facilities included a women's credit centre that receives some of its funding from CIDA. It is one of many examples of how women are being encouraged to help themselves.

Micro-credit programs such as this one are aimed at giving small loans to the poor so that they can run their own small businesses. They can rarely get such loans from conventional banks, even though a study by the World Bank shows the clear success rate of these programs. In Third World countries, these programs have a full repayment rate of 93 per cent or more in one year.

Micro-banks, such as the Grameen Bank in Bangladesh, started by lending as little as $10 to poor rural women. Gradually, the women began to apply for loans of $200 to $300. Grameen lends $1.5 million each day in loans that average $140. The on-time repayment of loans by the Grameen Bank's poor women borrowers is 98 per cent.

Muhammed Yunus, director and founder of the Grameen Bank, also referred to as the "barefoot bank," was in Toronto last week to receive an honourary doctorate from the University of Toronto. He believes that:

> Access to credit is a basic human right, not a privilege.

Over the past 20 years, he has helped make that belief a reality for millions of landless poor, most of them women.

The World Women's Banking Organization has enjoyed an outstanding recovery rate of 97 per cent in one year. It has been shown that with a loan as small as $100, a poor woman can, with her own business, double her family income and lift her family out of poverty after five years.

Similar success stories can be found here in Canada, where the Federal Business Development Bank runs micro-credit programs targeting the native community and native women in some cases.

Conventional banks in this country have been chastised repeatedly for their poor lending rates to small business. Their excuse is that they do not make enough profit on such loans because of high administrative costs. Thankfully, the message seems to be getting through to some banks, where an effort is being made to streamline their operations and adjust their priorities to meet the needs of small enterprise. I understand the repayment rate of these loans to women is very high.

CIDA's Canada Mission Fund has funded some 70 small projects that have empowered women in China in very real ways. In one extracurricular foray, Canadians, led by my colleague Senator Pearson, were the first parliamentarians to visit the Ganzu province of China, where they saw how even a small sum of money can empower women to change their lives and those of their families. For $20,000, CIDA brought water to 2,000 people living in three villages — a project, honourable senators, which saved women five hours a day in labour. Needless to say, the entire village came up to welcome this delegation.

Sustainable economic development depends upon educating and investing in women, but the fact is that 70 per cent of the world's poor are women. Governments and financial institutions must be urged to give these women a chance by making more credit available to them.

The benefits of encouraging these women go far beyond increased income. They are better able to take care of their families. They are able to send their children to school, reinvest in the community, and plan for the future. They experience pride and hope.

As Hillary Rodham Clinton noted in her speech, so often when woman come together to talk, the discussion turns to their children. Taking care of the family has always been a priority for women, and that link is the foundation of our society. While some would say the family is falling apart, it is not because that fundamental link has been severed. Women still take care of the children and the elderly, yet most of the work they do is not valued — not by economists, historians, government leaders or the popular culture, and too often not even by the fathers of the children involved.

One of the goals of this conference was to strengthen families within societies by empowering women to take greater control of their own destinies. This cannot be fully achieved unless private industry as well as governments here and around the world accept their share of the social responsibility to protect and promote the physical and economic well-being of women and children.

The reality of world poverty make programs such as micro-lending imperative. James Wolfensohn, the new president of the World Bank, spoke on the last day of the conference as one who needed no convincing of the economic impact of improving the lives of women. He said:

> Transformation ... will require not just the liberation of women, but also the liberation of men — in their thinking, attitudes and willingness to take a fair share of the responsibilities and workloads that women carry on their shoulders. To bring about real improvement in the quality of women's lives, men must change, and action must begin at home. For each of us, change lies in the kind of household we live in, the society we help to build, and the institutions we work for.

This, honourable senator, by the President of the World Bank.

A coalition of NGOs was established in Beijing called Women's Eyes on the World Bank, to ensure that such words are followed up with concrete action. The World Bank is now lending an average of about $5 billion a year for projects which include some specific measures to strengthen the role of women in development. The bank has recognized the need to match economic with social considerations in the programs they support, and Mr. Wolfensohn committed the World Bank to further action.

Prior to the conference, we were told in our briefing that Canada had adopted a plan for gender equality. One of the key elements of the plan is that all future policies and legislation will include an analysis of their impact on women. It was an important breakthrough and a prestigious achievement for Canada, but looked at through the eyes of women from countries where girl children are denied a basic education, it is impossible to be smug about such achievements. The Beijing conference was an achievement for many reasons. That it actually took place after so many obstacles were put in its way is an achievement in itself.

• (1500)

As Gertrude Mangella, the secretary general of the conference, said:

> Women are not guests of the planet. This planet belongs to them too...The decree of solidarity that was achieved...is reflected in one principle, which is not to be compromised. This is the equality between human beings, equality between men and women. The message of Beijing is not further analysis but meaningful action for which we all are accountable.

That a strong and united message of human rights emerged from within a country famous for its disregard of such rights is a remarkable achievement. It is encouraging that the conference got so much media coverage in the West, at a time when the story of women's quest for equality had already been told so often. Now that the conference is over, the challenge is to fulfil our commitment to the Beijing Declaration and Platform for Action. My hope is that Canada will continue to act as a leader in promoting women's equality rights and build on the work of our delegation.

Those of us who have the opportunity to be heard have the responsibility to speak for those who cannot, and I thank you, honourable senators, for the opportunity to do so in this chamber today.

The Hon. the Speaker: If no other senator wishes to speak, this inquiry is considered debated.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS TO TABLE FINAL REPORT— POINT OF ORDER—SPEAKER'S RULING

On the Order:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Monday, December 11, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.
>
> That in its report, the Committee recommend to the Senate that it not insist on its amendments to which the House of Commons disagreed on June 20, 1995. — (*Speaker's Ruling*)

The Hon. the Speaker: Honourable senators, I have received my copy of the ruling. Unfortunately, copies have not been made for the use of the Senate. Is it your wish that I proceed to make the ruling?

Hon. Alasdair B. Graham (Deputy Leader of the Government): Proceed.

Hon. John Lynch-Staunton (Leader of the Opposition): Next week.

Hon. Eric Arthur Berntson (Deeputy Leader of the Opposition): Tuesday.

The Hon. the Speaker: What is the wish of the Senate?

Senator Graham: Proceed.

Senator Lynch-Staunton: Next sitting.

The Hon. the Speaker: It will take about five minutes to have the copies made.

Senator Lynch-Staunton: We will wait. We are cooperative.

Hon. Noël A. Kinsella: Out of respect for the Speaker, we will wait.

Senator Graham: Perhaps we can adjourn for five minutes.

The Hon. the Speaker: Is it your wish, honourable senators, to suspend the sitting for five minutes?

Hon. Senators: Agreed.

The sitting of the Senate was suspended.

• (1530)

The sitting of the Senate was resumed.

The Hon. the Speaker: Honourable senators, during Routine Proceedings yesterday, Senator Carstairs sought to give notice of a motion to require the Standing Senate Committee on Legal and Constitutional Affairs to report on the message from the House of Commons and the motion of Senator Graham of June 28 relating to the Electoral Boundaries Readjustment Bill, Bill C-69, no later than Monday, December 11, 1995. At the same time, the notice of motion also instructed the committee not to insist on the Senate amendments to which the House of Commons has disagreed.

On a point of order, Senator Phillips objected to the notice because, in his view, a similar question had already been proposed and voted on, and that to permit this motion to be debated would be contrary to our rules. Later in the sitting, I sought the advice of this house before considering a ruling.

In the exchanges which took place between the senators just before yesterday's adjournment, three basic issues were contended: The first is that Senator Carstairs does not have the right to propose this motion under the rubric "Government Notices of Motions." The second objection relates to the point of order raised by Senator Phillips, that a motion that has already been decided cannot be raised again. On this issue, specific reference was made to rule 64 and to several citations from Erskine May and Beauchesne.

The third point relates to the ability of the Senate to instruct or guide the deliberations of one of its committees. With respect to this issue, Senator Phillips suggested that I consult a decision of the Honourable Speaker Deschatelets regarding a case where an instruction to a committee had been proposed.

[*Translation*]

I want to thank those senators who participated in the debate on this point of order. I have had the opportunity to review the arguments that were made yesterday and to consult the authorities and precedents that were mentioned, including that of Speaker Deschatelets. In order not to impede the house in its proceedings, I am prepared to rule now on an issue which has proved surprisingly complex. I propose to deal with each of the three objections that were raised.

[*English*]

With respect to the objection that Senator Carstairs, not being the Leader of the Government, the deputy leader or a designate of the government, should not be permitted to give a notice of motion under the rubric "Government Notices of Motions" I find that the objection is well founded.

Before 1991, the daily order of business did not recognize any distinction between government and private senators for the purpose of giving notice to a motion. Since 1991, however, the distinction has been recognized in our rules, and if it is to have any meaning, then it must be to limit the right of those who may give notice under "Government Notices of Motions" to those who are designated to speak for the government in this house.

Consequently, I find that Senator Carstairs does not have the right to propose a government notice of motion. This must be done by either the leader or deputy leader, or a designate in the absence of either. Alternatively, Senator Carstairs can propose the motion under "Notices of Motions."

As to the second objection that a motion ought not to be put to the Senate a second time during the same session, the issue is not as simple as it may seem. The advice provided by the British parliamentary authority Erskine May is not straightforward. While it states that a —

> ...motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again...

Erskine May goes on to explain that:

> Whether the second motion is substantially the same is finally a matter for the judgment of the Chair.

It appears that the Senate's precedents for determining whether a question is the same in substance are not conclusive. I have examined the earlier motion of Senator Fairbairn, seeking to have the Committee on Legal and Constitutional Affairs report on the message of the House of Commons and the motion of Senator Graham that was defeated on division last week. That motion proposed that the committee report no later than Wednesday, November 22. This new motion orders the committee to report no later than Monday, December 11.

Given that we are soon approaching an extended adjournment and a possible prorogation of the parliamentary session, I am persuaded that, on the whole, there is sufficient difference in this motion, in comparison with the one that was proposed last week, to allow it.

The third objection raised has to do with the instruction that is a part of Senator Carstairs' motion. The notice of motion directs the committee to recommend in its report that it not insist on its amendments to Bill C-69, to which the House of Commons has disagreed. I find this part of the motion to be quite troubling. As an instruction, I believe it is out of order. Most instructions are intended to allow a committee to do something it would not otherwise have the power to do.

In this case, the committee already has the power to recommend that it not insist on the amendments to Bill C-69. To order that the committee report with a specific recommendation by way of a mandatory instruction is, I find, quite irregular.

The precedent of the decision of Speaker Deschatelets was mentioned yesterday. In a ruling dated March 10, 1971, the Speaker, faced with a point of order objecting to a similar instruction, noted that:

> Many precedents are referred to by Bourinot...whereby instructions to committees were declared to be irregular because the committee concerned already had the power to take the action indicated.

Furthermore, I would point out that an instruction can be inadmissible if it also proposes an objective which is inconsistent with a decision already taken.

Applying this principle to the present case, it seems to me that the proposed instruction is seeking to nullify the decision of the Senate to authorize the committee to consider the message of the House and the motion of Senator Graham.

For these reasons, I do not find the notice of motion of Senator Carstairs to be in order.

Before I resume my seat, I would like to make a point, because I would not want what happened yesterday to be established as a precedent.

I would refer honourable senators to rule 23, page 24, which reads:

> During the time provided for the consideration of the daily Routine of Business and the daily Question Period, it shall not be in order to raise any question of privilege or point of order.

In other words, the point of order raised yesterday was not raised at the proper time. I simply indicate that, in order that it will not be established as a precedent for the future.

• (1520)

Senator Graham: Honourable senators, now that we have moved back to Government Notices of Motions —

Senator Lynch-Staunton: I beg your pardon? Say that again.

Senator Graham: We are now under Government Notices of Motions.

Senator Lynch-Staunton: No, no. That is stretching it a bit.

The Hon. the Speaker: We reverted to Government Notices of Motions in order that I could make my ruling.

Senator Graham: Accordingly, pursuant to rule 58(1)(*f*) —

Senator Lynch-Staunton: I am sorry to interrupt. I should like some clarification. Your Honour just gave a ruling. Why did we have to revert to Government Notices of Motions in order to give the ruling?

The Hon. the Speaker: When we reached Government Notices of Motions earlier today, I rose and asked that this item be deferred until later in the day because I did not have my ruling ready. The item was deferred at that time in order that I could make my ruling later.

Senator Lynch-Staunton: Do I understand correctly that rulings are only given under the item under which they arise?

The Hon. the Speaker: I normally make my rulings on the item under which the objection was raised.

Senator Lynch-Staunton: I ask this only for clarification. I hope Your Honour will bear with me. Do I understand correctly that when the Speaker's ruling is given, it can only be given under the rubric under which it is challenged? Had the point of order been raised under Inquiries, for example, would the ruling have been given only when Inquiries were called?

The Hon. the Speaker: Yes. I would normally give the ruling when that particular inquiry is called.

Senator Lynch-Staunton: I inquire only for clarification. Thank you.

Senator Kinsella: Honourable senators, it was my understanding, although we would have to check Hansard, that when His Honour interrupted the proceedings, he said that it be agreed that he be allowed to revert to this item for the purpose of delivering the ruling, but we had moved on, as far as that item is concerned, to other matters. The agreement given was on the request to revert to this item for the ruling of the Speaker. Therefore, no other matter can be dealt with without leave.

Senator Graham: Honourable senators, there was a clear understanding on this side that His Honour the Speaker had asked that consideration of Government Notices of Motions be deferred until he could bring his ruling forward and make copies available to all honourable senators.

The Hon. the Speaker: It was my understanding that I had asked for the item to be deferred.

Senator Thériault: That is what you got.

The Hon. the Speaker: I suppose I shall have to see what Hansard says.

Senator Berntson: Review the record and bring it back next week.

Senator Graham: Honourable senators, pursuant to rule 58(1)(*f*) —

Senator Lynch-Staunton: No, no. We want to follow the proper procedure. Senator Kinsella has raised the point which I tried to express, and I thank him for having done so. The agreement was that we would revert to Government Notices of Motions in order to hear the Speaker's ruling, and that that would be the end of our return to that rubric. We never accepted the suggestion which has been presented by the Deputy Leader of the Government, that going back to Government Notices of Motions was for other than receiving the Speaker's ruling. We have now received the Speaker's ruling. Therefore, we go on to whatever else there is on the Order Paper.

Senator Thériault: It was deferred.

Senator Graham: Honourable senators, that is not the understanding of this side. We agreed that it be deferred because we were in a state of paralysis. We could not proceed under Government Notices of Motions because we did not have the ruling of the Speaker, which, under ordinary circumstances and by all precedent and convention, should be distributed to honourable senators so that we may examine it appropriately at that time.

Senator Lynch-Staunton: Rulings of the Speaker can be given at any time during our deliberations. It was only out of courtesy that we agreed to revert to the rubric under which the challenge was originally made. The Speaker can give his ruling at any time.

Senator Thériault: That is what he did, at any time he wants. There is a problem over there. What is the problem?

Senator Lynch-Staunton: The problem is that we are now away from Government Notices of Motions. The purpose for reverting to it has now been accepted and resolved. Therefore, we carry on with the rest of the orders.

Senator Berntson: The adjournment motion is in order.

Senator Graham: Honourable senators, I appeal to the Chair for understanding in this matter. We did not proceed with the item as intended at the clear request of the Chair that we wait until we had copies of his decision before proceeding on this specific item: Government Notices of Motions.

Senator Kinsella: Honourable senators, we have moved into the exception of when agreement is given to move away from the ordinary schedule of business. When Government Notices of Motions is called, it is an opportunity for all Government Notices of Motions available to be brought forward. None were brought forward today. His Honour asked for the consent of the house to come back to this item for the purpose of issuing his ruling which relates to a matter raised during yesterday's sitting under that rubric. That was agreed to. That is all that was agreed to.

The exception to the proceedings, agreed to by unanimous consent, was that the Senate go back to this item for the purpose for which the Speaker had asked. There was no request from the Deputy Leader of the Government to revert for notices of motions which he was intending to bring forward. In order to do that, we would have to have the unanimous consent of the house.

Senator Graham: The notice of motion which I want to move at the present time was entirely dependent upon the Speaker's ruling.

Senator Kinsella: Clearly, if there is a government notice of motion to be brought forward, the appropriate time to do that would be now, if we grant unanimous consent to revert to that item, or at the next sitting of the house.

Senator Graham: We could have agreed at the time for the Speaker to read his decision to all honourable senators. However, it was the unanimous agreement of the chamber, at his request, that we delay and then revert to this specific item: Government Notices of Motions. I appeal to the Chair that, in all fairness, we be allowed to proceed under that particular item.

Senator Kinsella: Honourable senators, chaos will only ensue under the vision advanced by the Deputy Leader of the Government. It is quite common that senators ask for leave to revert to one item or another, and leave is often granted. However, the reversion is always to the specific item requested by the honourable senator, that is, Presentation of Petitions or Notices of Motions. In my experience here, leave has always been granted on a specific matter, as it was in this instance to the Speaker.

Hon. Sharon Carstairs: Honourable senators, with the greatest respect, we have an Order Paper. I clearly violated that Order Paper yesterday, for which I accept responsibility. That may be attributed to my not having as clear a knowledge of the rules as some other honourable senators.

However, when the Speaker called for Government Notices of Motions, before the government could introduce a single motion under that listing on the Order Paper, the Speaker continued. He said, "I wish to defer this motion because I have a ruling under Government Notices of Motions." As a result, that item was deferred in its entirety because no one was given the opportunity to speak — neither the leader nor the deputy leader — because His Honour had asked for permission to defer, and we gave him that permission.

[*Translation*]

Hon. Roch Bolduc: I am not certain just what the senator is saying. To be certain, we would have to look at Hansard as suggested by His Honour the Speaker. Since it is not available today, we will have to wait until Tuesday to see what was said.

[*English*]

Hon. Marcel Prud'homme: Honourable senators, I doubt very much that Senator Carstairs violated the rules yesterday. In my opinion, she was wrongly advised. It will be clearer for me because I doubt very much that she would willingly violate the law. Senator Carstairs, you came prepared and well advised by people who should have known better. Of that I am convinced.

I would hate very much to proceed as Senator Graham is suggesting. I should like to leave the Chair out of this at this time, Senator Graham. Earlier today, the Chair, being unable to give his decision in both languages, asked that it be done so. What would be the net result if anyone — myself included — had said "No"? That would have been the end of the debate for today. We would have received this very well-written advice from His Honour on Tuesday next. Now, we want to revert back — I am sure so that Senator Graham can do today, legally, what was not done yesterday.

I say to Senator Graham, to have a very harmonious Senate, you will not get consent today for anything that may require the unanimous consent of the Senate. In good spirit, you are only delaying everything, and are not placing His Honour in an embarrassing position by delaying until Tuesday what you want to do later on this afternoon.

That could be the end of the debate. Otherwise, we will not give in on this issue.

Therefore, everyone was in error. Who misunderstood His Honour? We do not know yet. We shall know later on. I would not have found myself being ungracious to His Honour by saying "Tough luck. If the translation is not ready, we shall proceed when it is ready" and that would have been it for the day. We would have waited, then, until Tuesday.

We are placing the Chair in an embarrassing position where he is being asked to take sides, in a way, in a debate that is ambiguous for everyone. I make an appeal to Senator Graham and ask: Why not do on Tuesday what you want to do this afternoon?

Hon. L. Norbert Thériault: Honourable senators, there is no taking sides. This is normal procedure. His Honour simply asked to defer "Government Notices of Motions" until he was prepared to give the reasons for making his ruling. In anybody's common sense, it opened up the subject-matter of "Government Notices of Motions." For God's sake, it is very simple. There is no taking sides here. It is common sense. No one is embarrassing His Honour. He knows what he is doing. For God's sake, let us have a little common sense.

[*Translation*]

Senator Bolduc: However, he did not know you intended to present a motion.

[*English*]

Hon. H.A. Olson: Honourable senators, I was not here when all these agreements were being made.

Senator Berntson: That will not slow you down, will it?

Senator Olson: The argument I want to make is that sometimes it is useful to have an objective view of what went on.

Senator Doody: And you are always objective!

Senator Olson: Yes, because I was not involved in this matter.

The opposition cannot have it both ways. We already know that the reason Senator Graham did not get to the business that he wanted to introduce was that there was an agreement to set aside that item until they had the translation and the printed copy. Both sides have agreed that that is what happened.

Senator Berntson: We agreed to wait for the ruling.

Senator Olson: Of course you were waiting for the ruling. However, Senator Graham told you, very frankly and very plainly, that his motion was dependent on what the ruling said.

Senator Berntson: You were not here.

Senator Olson: You admit that?

Senator Berntson: No, I do not.

Senator Olson: You cannot have it both ways. You cannot stop him now when you agreed to set aside that item until the ruling was ready.

Senator Berntson: We got the ruling.

Senator Olson: You now have the ruling, and you also have the reasons for the ruling.

It is perfectly clear to me. It was not to start with, but it is clear now, as a result of what both sides have said. Both sides agreed to set aside that rubric or that item for the purpose of receiving the ruling. Senator Graham told honourable senators that his motion now — and I do not know what it will be, because I was not here — depended upon what that ruling said.

You cannot put the cart before the horse and have it both ways. If you agreed to set aside that item, pending what the ruling said, which Senator Graham —

Senator Berntson: We should invite His Honour to review the record, then.

Senator Olson: Senator Graham said — and you have not disagreed with him — that he required to know before he moved his motion. Do not try to have it both ways.

Senator Berntson: He will move it on Tuesday, then.

Senator Olson: I am sure that is perfectly clear to you, Your Honour.

Hon. Gerald R. Ottenheimer: Honourable senators, I have listened with the usual amazement and great respect to the logic of the Honourable Senator Olson. I am sure it is more a deficiency in my own reception than in its transmission that the logic is not immediately obvious. However, I am sure upon study that it will become so.

It may be that, for the first time in the Senate's history, we are making a mountain out of somewhat of a molehill in the procedural context, not in the substantive context.

In my opinion, the matter can be resolved very simply without embarrassing the Chair. The Senate, apparently, gave leave. That is an action of the Senate; it is not an action of the Chair. However, we are not sure of what we, as a Senate, did. Did we give leave to revert to "Government Notices of Motions," full stop?

Senator Lynch-Staunton: No.

Senator Berntson: No.

Senator Ottenheimer: Or did the Senate give leave to revert to "Government Notices of Motions" for the purpose of a ruling from the Chair?

Some Hon. Senators: Yes.

Senator Olson: Do not stop there!

Senator Ottenheimer: We can only learn that, not by reading one another's minds, not by reading entrails of crows or birds flying south, or by waiting for the ides of March to join in with the Julius Caesar context in reading those entrails. Much easier, less messy, less smelly, less sticky, to read Hansard and leave the entrails to the soothsayers.

Senator Berntson: Call in your soothsayer.

Senator Graham: Solomon, where art thou?

Honourable senators, I listened, as did other honourable senators, with continued confusion and confounded amazement. All honourable senators on this side do not want to embarrass the Chair or cause more confusion in this chamber, because there will be other days and other times between now and the Christmas break when we can debate or prolong matters of this nature.

I should point out, however, that this whole debate arises out of a point of order which was raised yesterday contrary to our rules, as His Honour just explained in his very useful addendum to his judgment. It was alright for Senator Lynch-Staunton to raise his point of order yesterday at the wrong time, but it is not okay to do something similar today.

Further, in the future, honourable senators should remember that to raise a point of order before the Senate, one must have an issue upon which to base the point of order. Yesterday, Senator Carstairs simply gave notice of a motion. Nothing at that point in time was really before the Senate; it was a notice of motion.

In my judgment, and perhaps it is something we should consider in the future, the point of order should properly have been raised when that motion had been moved, in the proper place, at the proper time, by the proper senator. The point of order should be raised when the motion is properly before the Senate, and that can only be at the time the motion is actually moved.

However, I think it would be useful to review Hansard. Accordingly, I move that the Senate do now adjourn.

The Senate adjourned until Tuesday, December 5, 1995, at 2 p.m.

THE SENATE

Tuesday, December 5, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 5, 1995

Sir,

I have the honour to inform you that The Right Honourable John Charles Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 5th day of December 1995, at 4:45 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Anthony P. Smyth
Deputy Secretary, Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call for Senators' Statements, I should like to advise you that we have with us today two House of Commons pages who have been selected to participate in the exchange program with the Senate this week.

I wish to introduce to you Nadine Nickner, who is from Timmins, Ontario. She is pursuing her studies in political science in the Faculty of Social Sciences at the University of Ottawa.

We also have with us Heather Brydon. She is studying at the University of Ottawa and is enroled in the Faculty of Arts. I must make special mention of the fact — and I trust honourable senators will understand this — that she comes from Winnipeg, Manitoba.

SENATORS' STATEMENTS

THE LATE ROBERTSON W. DAVIES

TRIBUTES

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, last Saturday night, Canada lost a great man of letters, a man whom I admired intensely, Robertson Davies. He was one of those very special people who was discussed, argued about, respected and appreciated, not only here at home but around the world. He was, of course, famous for being a novelist, a playwright, teacher, University of Toronto professor, master of Massey College, and as an actor, having "trod the boards" with the Old Vic Company in England.

My own appreciation of Robertson Davies began back in the early 1960s when I was a student at Carleton University, aspiring to a life of journalism. To me, Mr. Davies was a terrific newspaper man, and that was high tribute. He was the lively and outspoken editor and publisher of the Peterborough *Examiner*, and he also wrote a monthly column called "A Writer's Diary." I became an avid fan of his writing then and have remained so ever since.

Using his special gift, Robertson Davies not only told Canadians in writing something about themselves, but he also told the world something about Canadians. Just as important, he educated all his readers about the mysteries and the soul of the human condition, a goal to which every writer aspires, but one that so few are able to reach. He did it with intelligence, with wit and with humour.

Honourable senators, perhaps one of the things you notice most of all when reading a Robertson Davies book is that he wrote with love and depths of insight, empathy and understanding, which I found truly inspiring. He received dozens of awards during his lifetime, and indeed, any new book that he produced always attracted worldwide attention. However, of all the attention and awards and tributes to his talent, he stated:

> I never feel like a success. I always feel that the next book had better be better than the last one. I think that when you begin to think of yourself as a success, you are in danger. Never be satisfied with your own work.

The *New York Times* once said of him:

> He is one of the most learned, amusing and otherwise accomplished novelists of our time. His novels will be recognized with the very best work of this century.

And this about a man, honourable senators, who told his own biographer, "You're wasting your time. I haven't got a story to tell."

Honourable senators, there certainly is a story to tell, and it is a great story. It is a story about a compelling and engaging man who made a very large and lasting contribution to the cultural life of this country, which he loved intensely.

As well, he was a very special human being. Perhaps his wife Brenda expressed it best when she said on Sunday, "He was a very humble human being. Anyone who talked to him genuinely thought so."

Honourable senators, the last time I spoke to Robertson Davies was over a year ago when he was appearing at the National Gallery reading excerpts from his latest book, *The Cunning Man.* I had the privilege of introducing him. He was generously making an appearance on behalf of literacy for the Ottawa Citizen Literacy Foundation. He was delighted to do so, and he enthraled the audience.

Although he is gone, he will never be forgotten. It is unlikely that we will ever see anyone quite like him again in Canada.

Hon. Richard J. Doyle: Honourable senators, there is rarely a Canadian who makes as great an impression on his fellow countrymen without earning their distaste and disownership as Robertson Davies.

I first met Robertson Davies when I went to work at *The Globe and Mail* as a copy reader in the fifties. While Davies was not on the staff of *The Globe and Mail*, as he was busy with the Peterborough *Examiner*, he covered opera for the Toronto paper. That was something which, at that point, the music editor did not do, and the drama editor would not do. No one would concede what kind of glorious entertainment or blasphemy grand opera was. However, Robertson Davies delighted in the opportunity and would come rushing in — late, of course — after each performance of the Canadian Opera Company to put his stamp upon it.

I had the opportunity to be associated with him in a number of enterprises after that. I was interested to read in the last few days, as the tributes came in, how many people spoke of what a quiet, gentle man he was; that he always spoke softly. Well, that was not the Robertson Davies I knew. He spoke quietly; he did not stamp his feet; he did not even make speeches anywhere near the Senate, but he could, in two or three words, put people down or elevate them, as he might choose.

He was the distinguished master of Massey College — the first master — and he was intensely interested in his job as a teacher. That left him lots of time, he felt, to be involved in newspaper politics, the family business, writing the Deptford Trilogy and doing all those other things he did without ever seeming to hurry.

I mentioned the Deptford Trilogy. That, as you know, was written about Thamesville and Dresden in Southwestern Ontario. It will, I think, be a monument in our literary heritage. I rejoice in praising him.

BRITISH COLUMBIA

PROPOSALS ON NATIONAL UNITY ISSUES— UNFAIR TREATMENT OF PROVINCE

Hon. Gerry St. Germain: Honourable senators, as a representative of the province of British Columbia, I am very disappointed with the Prime Minister's proposal for constitutional change and the recent unfair treatment British Columbians have been receiving from this government.

On numerous levels, British Columbians are not getting their fair share from this government. For example, an analysis of federal expenditures and procurement in B.C. prepared by Peat Marwick KPMG Management Consulting on behalf of Business and Industry Development B.C. exposes the fact that federal government spending in B.C. is significantly lower than in any other province or region in Canada. There is a widening gap between B.C.'s contribution to Canada's economy and what the province receives in return through federal government expenditures. It is estimated that B.C. receives as little as 5.2 per cent of major Crown projects. Recent legislation, such as Bills C-18 and C-69, try to deny B.C.'s proper representation in the House of Commons; Bill C-68 is opposed by the western region as a whole; and now we have Bill C-110, which fails to recognize the emerging prominence of B.C. as an important region within Canada.

I understand that today the Minister of Human Resources, the Honourable Lloyd Axworthy, announced that he will reduce transfer payments to B.C. by $47 million as a penalty to the Government of B.C. for trying to address its welfare crisis.

Fellow senators, I do not believe that the people of B.C. are getting their fair share. Nor do I believe that the Prime Minister has a mandate to make such arbitrary decisions in regard to the Constitution. In fact, during the last federal election campaign, he spoke against making changes to the Constitution as such.

By proceeding with Bill C-110 and other legislation recently introduced by this government, the Prime Minister is driving a wedge through this country instead of building a nation.

I call on all senators and members of the other place from British Columbia to put aside their partisanship and join thousands of British Columbians in opposing this unfair and divisive treatment. Let us start standing up for our people, senators and members of the House of Commons from British Columbia. Let us stand up for our province in the face of these vicious attacks against our constitutional rights and unfair treatment in this country.

[*Translation*]

THE LATE BRUNO GERUSSI

TRIBUTES

Hon. Jean-Louis Roux: Honourable senators, it was my intention today to mark the passing of two distinguished representatives of Canada's artistic community. The first of these was Robertson Davies, but after hearing the moving and eloquent words of Senators Fairbairn and Doyle, I shall say no more. I shall speak only of the second great figure whom the arts have lost.

Honourable senators, I did not have the privilege of knowing the great writer Robertson Davies personally, but such was not the case with the second artist to whom I would like to pay tribute today, actor Bruno Gerussi. He died suddenly some two weeks ago, although I learned of the sad event only recently.

[*English*]

The son of an immigrant Italian stonemason who settled in Medicine Hat, Alberta, Bruno won a scholarship to the Banff School of Fine Arts and honed his gifts as an actor with the Seattle Repertory Theatre. He was also part of the Stratford Shakespearean Festival for many seasons, where I saw him for the first time in 1954 playing old Gobbo in the *Merchant of Venice*. Though playing opposite the great German actor Herbert Volk in the role of Shylock, I have kept a most vivid memory of his portrayal of that small part.

I did not know it at the time, but I myself would be part of the Stratford company two years later and would play on the festival stage with Bruno Gerussi. It is still an open question as to who had the idea of asking French-speaking Canadian actors to impersonate the French court in *Henry V*. I thought it might be Michael Langham, since he established the first contacts with us. Recently, Tom Patterson insisted that he was the first to have had the "great" idea. In any event, I do know that I played the French ambassador in the second scene of the first act, and Orleans in the rest of the play.

If memory serves, Bruno played various parts, including Bardolph, formerly a servant to Falstaff who became a soldier in King Henry's army.

[*Translation*]

• (1420)

This meeting of the two groups of actors, anglophone and francophone, was an important milestone in the history of Canadian theatre, culminating later on in the creation of the National Theatre School, among other things. Relationships were quick to develop, quite cordial ones for the most part. The cordiality was more spontaneous with some than with others, but with Bruno Gerussi, it was instantaneous. He was extremely open and friendly with us; this was a man of innate generosity.

[*English*]

• (1420)

We had a great time, drinking, joking, and more often rebuilding the world and reshaping our country, Canada, in a spirit of tolerance, mutual understanding and happiness.

In the late sixties, Bruno Gerussi became a young widower with two children to raise. He began to give them the best in education and comfort and, consequently, had to leave the stage. After being host of that three-hour national celebration, *Morningside*, one of the finest programs on CBC radio, he became the star, for 19 years, of the most successful CBC television series ever, *The Beachcombers*, played in 30 countries from Australia to Germany.

I very seldom saw him in *The Beachcombers*. As a result, the Greek character he portrayed in that program will luckily not be my last memory of Bruno. I much prefer thinking of him as Peer Gynt or Romeo, two of the innumerable characters he portrayed, mainly with the Canadian Players and with the Stratford Shakespearean Festival.

As Peer Gynt, he was capable of all the excesses, fantasies, lies and incredible fables the character borrows from the legends of his country, through which he pretends to have lived. Of all the portrayals by my friend Bruno Gerussi, his portrayal of Romeo is the one for which I most fondly remember him. He brought to Montaigne's young son the bearing of a flippant little punk, the leader of a teenage gang who liked to fight, bully, shout and quarrel. However, once he had met his Juliet, played by Julie Harris, he was transformed into a passionate lover; not a romantic ballad singer, perhaps, but an adolescent full of energy and vital strength, a truly modern lover.

From that image of Romeo, years ago, Bruno had physically turned into a Falstaffian character. Had he not renounced the stage, this part would have suited him famously. This is probably why, on learning of his sudden death, the following words came back to my mind:

> ...He's in Arthur's bosom, if ever man went to Arthur's bosom... A' made a finer end, and went away...at the turning o' the tide...

WORLD AIDS DAY

EFFECT OF PANDEMIC ON YOUTH

Hon. Landon Pearson: Honourable senators, I rise today to speak about AIDS-affected children and youth in conjunction with the Eighth Annual AIDS Day which was last Friday, December 1. This year, the World Health Organization has chosen the theme "Shared Rights and Responsibilities" to emphasize the importance of solidarity in the global response to HIV/AIDS.

Since the onset of the AIDS pandemic, over 1.5 million children and youth, mostly in Africa but increasingly in Asia and even in North America, have been infected with HIV. By the year 2000, it is predicted that this number will increase to between 5 and 10 million children. In addition to these sick and dying children, millions of others under the age of 10 will have lost one or both parents to AIDS. The impact of AIDS on children is devastating, whether or not they are sick. There is the terrible grief caused by the lingering death of their parents and there is physical and intellectual impoverishment.

In Africa and elsewhere, many families remove children from school to nurse their dying parents, to care for younger siblings, or to augment or replace the family's meagre income. Girls are usually the first to have to forego their education. Worse, when one or both parents die, children often find themselves rejected by relatives and other members of the community in which they live because of the stigma associated with AIDS.

Nor is Canada immune to this tragic epidemic: 12,119 cases of AIDS have been reported so far, including 116 paediatric cases of children under the age of 15. Most have died. These cases are full-blown AIDS. The numbers of HIV-infected persons in Canada is much higher, and many of these are teenagers. Those at greatest risk are street kids, gay youth, aboriginal youth and some immigrant youth. However, when we realize that 41 per cent of grade 11 students admit to being sexually active without protection, we need to recognize that the risk is more widespread than we would like to admit.

Honourable senators, it is tempting to turn away from this terrible disease. It seems so intractable. What can we do? Rather than wring our hands, we should join them with others. When we ratified the UN Convention on the Rights of the Child, we undertook to share responsibility for the health of the world's children, including our own.

There is a number of things we can do. First, we must keep ourselves informed. Then we must promote awareness in others and support efforts at prevention. At home and abroad are many organizations on the front line we can help — organizations like UNICEF and Save the Children. In Canada, the Inter-Agency Coalition on AIDS and Development, a network of Canadian NGOs, AIDS service organizations and government agencies seeks to provide greater understanding of how to address the socio-economic and child welfare problems that emerge as the epidemic progresses.

Honourable senators, we must not give up on this issue. The AIDS pandemic is possibly the greatest health crisis the world will be facing as it enters the new millennium. Eventually it will affect us all, as increasing numbers of young people are felled in the prime of life. The World Health Organization has asked us to use World AIDS Day to show solidarity. Let us respond.

ROUTINE PROCEEDINGS

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 5, 1995

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SIXTH REPORT

Your Committee, to which was referred the Bill C-103, An Act to amend the Excise Tax Act and the Income Tax Act, has, in obedience to its Order of Reference of Tuesday, November 7, 1995, examined the said bill and has agreed to report the same with one amendment:

Page 6, Clause 1: Replace line 17, on page 6, with the following:

"on the day this Act is assented to, a particular number of"

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

On motion of Senator Kirby, report placed on Orders of the Day for consideration at the next sitting of the Senate.

THE ESTIMATES, 1995-96

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED AND PRINTED AS APPENDIX

Hon. Lowell Murray: Honourable senators, I have the honour to present the nineteenth report of the Standing Senate Committee on National Finance. This report concerns the Supplementary Estimates (A), 1995-96.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* of this day and that it form part of the permanent record of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix to today's* Minutes of the Proceedings of the Senate.)

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

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, December 6, 1995 at one thirty o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

QUEBEC

RECOGNITION AS DISTINCT SOCIETY—NOTICE OF MOTION

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I give notice that on Wednesday, December 6, I will move that:

> Whereas the people of Quebec have expressed the desire for recognition of Quebec's distinct society;
>
> (1) the Senate recognize that Quebec is a distinct society within Canada;
>
> (2) the Senate recognize that Quebec's distinct society includes its French-speaking majority, unique culture and civil law tradition;
>
> (3) the Senate undertake to be guided by this reality; and
>
> (4) the Senate encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

NOTICE OF MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, pursuant to rule 58(1)(*f*), I give notice that on Wednesday, December 6, 1995, I will move:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

NOTICE OF MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, pursuant to rule 58(1)(*f*), I give notice that on Wednesday, December 6, 1995, I will move:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the motion and the Message referred to it on October 5, 1994, relating to certain amendments to Bill C-22, An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.

[*Translation*]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Hon. Lowell Murray: Honourable senators, with leave of the Senate and notwithstanding rule 59(1)(*f*), I move, seconded by the Honourable Senator Simard:

> That the Standing Senate Committee on National Finance have the power to sit at four o'clock in the afternoon today, Tuesday, December 5, 1995, even though the Senate may then be sitting, and that rule 96(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

GUN CONTROL LEGISLATION

PRESENTATION OF PETITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, although Bill C-68 is no longer before us, I wish to present a petition which I received after the vote on the bill was taken. It is signed by 77 citizens from Northern Ontario who ask that the Senate not support Bill C-68.

[*Translation*]

QUESTION PERIOD

CONSTITUTIONAL AMENDMENTS

DISTRIBUTION OF VETO POWER—
STATUS OF BRITISH COLUMBIA—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, yesterday the House of Commons read for the second time Bill C-110, an Act respecting constitutional amendments, which was referred to the Standing Committee on Justice and Legal Affairs of the House of Commons.

Having always brought to the attention of my friends the importance of Canadian harmony, when I sat in the House of Commons —

[*English*]

Having made many speeches on the unity of Canada, I will not repeat them all during Question Period. However, I have come to the conclusion that to have a better, more harmonious country, there should be a veto for British Columbia. I have always felt that Canada is composed of five regions. Therefore, each of the five regions should have a veto. What is given to one does not take anything away from the others. It is a recognition of facts.

Is it the intention of the government to allow amendments to Bill C-110, the study of which starts today? I have been told that the bill will be given a rather quick study in committee in order to return it early to the House of Commons for third reading, after which it will be sent to the Senate. Of course, when the bill reaches the Senate, we will have more to say about it.

Is it the intention of the government to allow committee members to present amendments at this stage pertaining to a veto for the province of British Columbia?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I understand the concern of my honourable friend. However, he will appreciate that I cannot predict or speculate about what might happen in a committee of the other place. They are just commencing their hearings. I think we will need to keep an eye on that committee as they proceed with their deliberations.

Senator Prud'homme: Honourable senators, the Leader of the Government in the Senate sits in cabinet. She also sits in the national Liberal caucus, which will be meeting tomorrow. Would she kindly relay to her cabinet colleagues, and to her colleagues in the national Liberal caucus, that some members of the Senate would like to see the bill amended during the committee study, adding a veto for British Columbia?

Senator Fairbairn : Honourable senators, I am sure that members in the other place read the *Debates of the Senate*. They will be aware of my honourable friend's views, as well as the views of others. Of course I could not — and would not — comment on anything that might go on in either the cabinet circle or within the Liberal caucus.

Senator Prud'homme: If there were discussion in the national Liberal caucus tomorrow on this issue, would the minister at least relay to her colleagues that this matter was raised today in the Senate?

Senator MacEachen: Why do you not return to the fold, Marcel?

Senator Fairbairn: Honourable senators, as we all know, discussions within caucuses are, perhaps, the most private of all discussions. Parliament Hill is a small community. I am sure that the views of my honourable friend and others are known and noted. We will keep an eye on the issue as it unfolds.

TRANSPORT

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—
PURCHASE OF UNITS WITHOUT TENDER—
GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is for the minister. On Saturday, this past weekend, the urgency of replacing the Sea King helicopters once again became evident during a dramatic rescue off the Atlantic coast. A commendation should go out to our armed forces for the dramatic rescue they accomplished.

We now learn that the federal government is not holding an open bidding process for the selection of the replacement helicopters. Instead, the government is looking to purchase American-built Sikorsky Sea Hawk helicopters without going to tender. The rationale is that the government would get this equipment at under $1 billion, thereby freeing up money to buy four British submarines. Would the minister please confirm to this chamber that her government is actually considering not going to an open bidding process to make such a purchase?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, to my honourable friend, I will take that question as notice.

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—SUITABILITY AND SAFETY OF REPLACEMENT UNITS—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, as a member of cabinet, the minister must also be aware of the safety concerns regarding some of the limitations of this equipment that her government is preparing to purchase. The majority of a shipboard helicopter's flying time occurs over open water. The Sea Hawk has been proven to be unable to stay afloat in the water for three minutes after shut-down. Given these limitations, can the minister confirm that her government has actually minimized that requirement for the new purchase — in other words, downgraded it from essential to desirable to fit the Sea Hawk's limitation? Also, are she and her colleagues in cabinet actually willing to put the lives of our armed forces at risk by purchasing unsafe equipment in order to strike a good deal and to get the submarines?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, to my honourable friend, the answer to the latter part of his question is, "definitely not." Obviously, it is the position of the government that it will be making these purchases with exactly the opposite in mind — that is, to ensure the safety of the people who operate the helicopters and, as well, the best possible results for those who have need of them.

I am a little puzzled by my honourable colleague's comments in that it has been my understanding that the competition for this purchase will be open to any bidder who can meet the specifications required. However, I will check to see if there has been any change. I know that interest in this subject has been expressed in the media but, as far as I am aware, the situation has not changed.

Finally, I would like to express, I am sure, on behalf of everyone in this chamber, very hearty and heart-felt congratulations to the crew of the helicopter and indeed the crew of *HMCS Calgary*, which I had the distinct honour of commissioning last June, for a very successful mission. They have done a splendid job. It is quite uplifting to see the speed and the tenacity with which they handled what could have been an extremely tragic situation. It was a fine job, and I am sure we would all want to congratulate them.

Senator Comeau: Honourable senators, I simply want to be absolutely sure that there will be a completely open bidding process. I want to be absolutely sure that this will not be a non-bidded purchase.

Senator Fairbairn: Honourable senators, to my knowledge, the government has made that quite clear. I will check on that matter but, to the best of my knowledge, bids will be called for and, as I said earlier, are open to any bidder who meets the specifications of the requirements. I do not believe there has been any change on that, but I will check.

EMPLOYMENT

FLUCTUATIONS IN JOB CREATION STATISTICS— SITUATION IN QUEBEC—GOVERNMENT POSITION

Hon. Fernand Roberge: Honourable senators, employment figures for the month of November are quite disturbing. A net total of 64,000 jobs disappeared. Those 64,000 jobs were lost, if you exclude the growth in part-time employment. In the past 12 months, the Canadian economy generated only 41,000 new jobs, compared to an average of 189,000 new jobs per year over the past decade. That is not enough to give jobs to the young people now coming into the labour force. In fact, the number of youths aged 15 to 24 with jobs is down by 69,000 over this past year. The youth unemployment rate stands at 15.2 per cent. While the government likes to talk about the infrastructure program, Canada has 51,000 fewer jobs in construction, less than a year ago.

I find these figures quite disturbing. Does the government have an explanation for what is happening in the job market?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Roberge will know that in the past two years there has been a very high level of job creation in this country. There is no question that the figures that came out just a few days ago were disappointing in terms of the fall in employment in November, which declined in terms of full-time employment but increased in terms of part-time employment. At any rate, the industries that were most affected in this area were goods-producing industries, service industries, as the honourable senator would know. The indicators are that the economy is not moving as swiftly as any of us would wish. Despite the employment decline in November, the average level of employment for the past two months is at 0.7 per cent, which on an annual basis is above its third quarter level — not much, but a bit above. If there is one hopeful sign, it is the increase in the help-wanted index across this country.

Honourable senators, having said all that, the statistics are deeply distressing. Because of the increase on the one hand and the decrease on the other hand, we are not seeing a change in the unemployment percentage in Canada. The rate has to be of great concern to all of us. It certainly is to the government, which is why it is putting a continued emphasis not just on job-creation measures but also on efforts to help Canadians. For example, training, retraining and skill development are in some of the new measures that have been put on the table by the Minister of Human Resources Development. The country is making a distinct effort, and the government along with it, to get Canadians working and to a level where they can be competitive in the job market. This is very much at the heart of the government's agenda.

Senator Roberge: Honourable senators, I have a supplementary question on Quebec, where the figures are even more disturbing. In November 2,000 jobs were lost. Compared to one year ago, employment is up by only 2,000 jobs. Eleven per cent of the labour force is without work, and for young people, the rate is 18.7 per cent. In the last 12 months, 25,000 manufacturing jobs have disappeared in Quebec. In view of those figures, is the government prepared to take new measures to deal with the continuing problem of high unemployment, both in Quebec and the rest of Canada?

Senator Fairbairn: The government is constantly attempting to act in one particular area of which this house is well aware, and that is our economic situation generally, including the control of our deficit, and the keeping down of our interest rates. One of the best ways of increasing jobs for Canadians, and for young Canadians in particular, is to remain very firm on the targets we have outlined.

• (1450)

The question of youth employment, and the entry of young people into the job market, is deeply disturbing. As my honourable friend is probably aware, over recent months special programs have been introduced with a view to training young people for the job market so that they can gain the kind of experience that will permit them to enter and prosper in that market. I am sure continued efforts will be made along that line.

I know when my honourable friend reads the statistics that are in his possession, any words that I could say to him would not be sufficient. However, the fundamental answer I will give him is that, yes, this situation is of incredible concern to the Canadian government. We will be working in every way we can to alleviate this situation, and give our young people the best opportunity to acquire the experience and the background to enable them to enter the job market.

[*Translation*]

NATIONAL FINANCE

GOODS AND SERVICES TAX—STATUS OF INTERGOVERNMENTAL NEGOTIATIONS—GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, I have two questions. The first one is easy. It is my way of sympathizing with the Leader of the Government in the Senate. I am referring to the difficulty she had in responding to the previous question. She quoted two-year-old statistics. She mentioned the job increases of two years ago. She quoted percentages. The fact is that it is very difficult for the government to explain its inaction and the results of its inaction. The measures she mentioned earlier will make it easier for her to provide answers the next time questions dealing with unemployment and employment statistics are put to her. That was my preamble.

A Liberal Party propaganda document was released last week during a Liberal fund-raising dinner. It outlines the policy achievements of the Liberal Party. It did not, however, say anything about following up on the Liberal Party of Canada's promise to eliminate the GST.

My question is this: Can the Leader of the Government report on the status of negotiations between her government and the provinces that could lead, if not to the elimination of the GST, at least to a major change in this tax?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as I have said before in this house, the Minister of Finance has been engaged in such negotiations over a period of time, and his discussions with the provinces on the subject of the GST and its harmonization are a continuing priority. He is still hard at it.

Senator Simard: Do you suppose it will take less than two years?

Senator Fairbairn: I would say to my honourable friend that it might take a little bit of time and a great deal of patience. The Minister of Finance is determined that he will achieve his goals on this particular and very thorny issue, and that he will take the time to get it right. That is what he is attempting to do.

GOODS AND SERVICES TAX—TIMING OF RESIGNATION OF DEPUTY PRIME MINISTER

Hon Jean-Maurice Simard: By way of supplementary, it has been 778 days since Sheila Copps, the Deputy Prime Minister, made the following statement:

> I have already said personally and directly that if the GST is not abolished I'll resign. I don't know how clear you can get. I think you gotta be accountable for the things that you say you're going to do, and you have to deliver on them.

Given that the Liberal government has already broken its promise to Canadians to abolish the GST, when can we expect the Deputy Prime Minister to deliver on her personal commitment to resign? To put it another way, if she will not resign, will Mr. Chrétien undertake to fire her?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I wish to assure my honourable friend that the Minister of Finance is pursuing the question of replacing the GST. He indicates to me that there has been some progress on that issue. That is very encouraging.

I am sure that the Minister of Finance would wish me to assure my honourable friend as well that he will be acting in such a way that no thought need be given of the Deputy Prime Minister having to resign; we will all be celebrating the fulfilment of our goal.

GOODS AND SERVICES TAX—UNDERTAKING OF PRIME MINISTER ON DEADLINE ON REPLACEMENT— GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, by way of supplementary, it is good to know that the Minister of Finance is so encouraged by the progress being made on this matter, because he is facing a deadline. The deadline was set by the Right Honourable Prime Minister quite recently when he undertook that Mr. Martin would bring in a replacement tax for the GST in his next budget, expected in February. Would the Leader of the Government confirm that undertaking now?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would not begin to speculate, even in the broadest way, about what might or might not be in the upcoming budget. Suffice it to say that the Minister of Finance is working away. From the moment that he took on the job, he has been of the view that he had a couple of alternatives with respect to the GST and its replacement. He could either do it fast, or he could do it right. He is working along the latter track. Although an agreement with the provinces is not yet in sight, I would repeat that he is expressing encouraging progression.

Senator Murray: Honourable senators, I was not asking my friend to speculate on what might be in the next budget. I was asking her to confirm the undertaking given by the Prime Minister with regard to the GST. She may wish to consult Mr. Chrétien on this matter.

OLD AGE SECURITY—UNDERTAKING OF PRIME MINISTER DURING REFERENDUM—GOVERNMENT POSITION

Hon. Lowell Murray: While the honourable leader is doing that, would she also confirm the undertaking which the Prime Minister gave during the recent referendum to the effect that, in the forthcoming budget, Mr. Martin would not be taking any action which would negatively affect old age pensions?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have gone as far as I want to go with respect to the progress being made on the GST. I wholeheartedly support the Prime Minister and his views in relation to having a replacement for this tax as quickly as possible.

On the question of seniors, I believe the Prime Minister and others have made it very clear that nothing will be done to cause any concern to seniors currently receiving pensions.

• (1500)

As my honourable friend knows, the five-year review is proceeding on the Canada Pension Plan. The last budget of the Minister of Finance indicated that a public paper would be produced, after public discussion had taken place, on the question of the sustainability of the Canada Pension Plan. We want to guarantee for seniors the future security they deserve. During the referendum, the Prime Minister and others commented on the security of current pensioners. I have no reason to believe that there is any change at all.

Senator Murray: My honourable friend referred to the Canada Pension Plan, which is a separate issue. For greater certainty, when she is asking the Prime Minister's Office for confirmation of this undertaking, my understanding of his commitment is that it was with regard to the recipients of the Old Age Security and Guaranteed Income Supplement.

Senator Fairbairn: I believe my honourable friend is correct.

[*Translation*]

HUMAN RESOURCES DEVELOPMENT

UNEMPLOYMENT INSURANCE REFORM—MEETING BETWEEN REPRESENTATIVES OF FEDERAL AND NEW BRUNSWICK GOVERNMENTS—REQUEST FOR TABLING OF DOCUMENTATION

Hon. Jean-Maurice Simard: Honourable senators, my question is for the Leader of the Government. I am asking her, in fact, to table all documents exchanged between the Government of New Brunswick and the federal government regarding the reform of unemployment insurance or employment insurance, which is the term used in the document tabled last week by the minister, Mr. Axworthy. Could the Leader of the Government undertake to table these documents within a week, preferably before the Christmas break?

I especially request the tabling of the documents submitted and discussed by the New Brunswick government during Premier McKenna's meeting last week with Prime Minister Chrétien and the federal and provincial ministers to address the New Brunswick government's fears relating to the content of the proposed reforms, which, in Mr. McKenna's opinion, would have a negative impact on New Brunswick's seasonal workers in particular, and on Atlantic Canada in general.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have absolutely no knowledge of the documents of which Senator Simard speaks. I can certainly look into his question. The premiers of the Atlantic provinces have been very helpful in expressing their views and offering their advice. If there is anything further I can do to with my friend's request, I will do it.

THE ENVIRONMENT

REVIEW OF CANADIAN ENVIRONMENTAL PROTECTION ACT— REPORT OF COMMONS COMMITTEE—GOVERNMENT POSITION

Hon. Janis Johnson: Honourable senators, on June 20, 1995, the fifth report of the Standing House of Commons Committee on the Environment and Sustainable Development entitled, "It's About Our Health — Towards Pollution Prevention," was presented in the House of Commons by Charles Caccia, the

chairman of the committee. That House committee undertook an extensive review of the Canadian Environmental Protection Act, the results of which are in this report. The report contains 141 recommendations and is the result of 12 months of hearings held in Ottawa and across Canada.

The key to the report is a call for more aggressive control and preventative use of toxins in Canada. The committee also believes that a strong federal role is required in the area of environmental protection for the management of toxic substances and the setting of national standards.

Honourable senators, in the House of Commons on June 20, the minister said that the usual time for the federal government to respond to such reports is 150 days. With regard to a response to the report, Minister Copps also said the following:

> I hope to be able to do that in less than half that time.

We are now well into December and, according to her comments, the federal government should have responded to the report by now. We have heard nothing; at least, I have not been able to find anything. In fact, the standing committee's report should have been answered by November 18.

Does the Leader of the Government have any idea just when the government intends to respond formally to this most critical issue?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot give my honourable friend a date, but I know that the Minister of the Environment is very aware of the need to get the response out and is working very hard on doing that. As my honourable friend noted, the report is fairly massive; it is from a House committee and has 141 recommendations, all of them important. The minister and her colleagues are undoubtedly giving their most careful attention to providing a coordinated response to the report.

Senator Johnson: Would it be possible for the Leader of the Government to find out for me whether they intend to act, once they have responded, on the toxins situation with any kind of legislation?

Senator Fairbairn: I will certainly endeavour to do that.

[*Translation*]

HUMAN RESOURCES DEVELOPMENT

UNEMPLOYMENT INSURANCE REFORM—DIVISION OF RESPONSIBILITY FOR JOB TRAINING—GOVERNMENT POSITION

Hon. Roch Bolduc: My question is directed to the Leader of the Government in the Senate. Mr. Axworthy recently tabled his bill on unemployment insurance reform. Under the present scheme, a 4-per-cent premium is paid by the employer and a 3-per-cent premium is contributed by the employee, for a total of 7 per cent. If we include workers' compensation as well, this amounts to 10 or 11 per cent of the total payroll. This increases production costs by the same amount and deprives employees of a certain amount of money.

Instead of reducing premiums for employers and employees, why does the minister prefer to make the provinces solely responsible for manpower training, while providing that contracts will have to be negotiated between the federal government and the provinces?

Does the minister have an explanation? It seems to me that the issue of manpower training should be straightforward. Why not take this opportunity to deal with the matter once and for all?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, on an issue as important and as complex as this one, there will always be disagreement on the best route for the government. In this case, as he recognizes, there will be premium reduction but it will not be to the level that my honourable friend would wish.

• (1510)

The minister is embarking on a course of employment measures that would involve training, skills development and, in some cases, wage supplements because, over the last two years, he has consulted heavily with the public, the provinces, the private sector and the labour sector and found that one of the most fundamental difficulties in our workforce today is the speed with which the market is changing and the capability to ensure that our workforce has the ability, flexibility and adaptability to change as rapidly.

We have a real problem in Canada. Part of it is in an area which is of concern to me; that is, literacy and all that goes with it. Another problem we have in Canada is that the workforce in place today is the workforce upon which we will be depending for the next 20 years. This government believes that cooperative measures must be taken with other governments, the private sector and individuals in choosing the right kind of training they know they will need. That is an important component of any employment insurance program that is to take this country into the next century.

ATLANTIC CANADA OPPORTUNITIES AGENCY

AUDITOR GENERAL'S REPORT—EFFICACY OF INFRASTRUCTURE JOB STATISTICS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. Last month, the Auditor General said that the Atlantic Canada Opportunities Agency needs to improve the way it measures and reports results. The Auditor General said, in a news release, that his concerns focused on the accuracy of the estimated jobs created and maintained, and the appropriateness of underlying assumptions used by the agency.

My question concerns, not the job-creation record of ACOA, but another program. The government is claiming that its infrastructure program has created 100,000 jobs. This is in spite of the fact that in November, there were 51,000 fewer construction jobs than one year ago. Given the way the ACOA job-creation numbers were called into question, can the government leader assure us that the infrastructure job figure would stand up to the Auditor General's scrutiny?

Hon. Joyce Fairbairn (Leader of the Government): I would certainly hope so, honourable senators. My colleague the President of the Treasury Board, under whom the infrastructure program exists, has been monitoring it very carefully from the day it began. I can consult him for reassurance on the figures which have been published.

MANITOBA

FEDERAL ENVIRONMENTAL ASSESSMENT
OF FORESTRY PROJECTS—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, last May I raised the issue of proposals to cut down large portions of the boreal forest in western Manitoba and eastern Saskatchewan to supply timber for wood products plants. Some of those forests are in the beautiful Duck Mountain Provincial Park. Manitoba allows logging in provincial parks. I also asked whether the federal minister was considering a federal environment assessment review of these projects.

The Minister of the Environment has now said publicly that the government may intervene with its own environmental review. This is good news. However, I am most concerned about the minister's timing because environmental advocates and others are caught in a jurisdictional hiatus, the very thing which the CEAA, in the wake of the Rafferty-Alameda dispute, was thought to prevent.

Will the government leader ask her colleague whether she will soon state the federal government's intent and its timetable on this issue? Also, what is the government's plan for the future, particularly in Manitoba, with regard to joint federal-provincial review panels to prevent duplication and the conducting of proper reviews? Manitobans are concerned that there has not been a proper review.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I shall be pleased to speak to my colleague and to any other colleagues involved in this matter. It may be that the Minister of Natural Resources has an interest in it as well.

Senator Spivak: Could the Leader of the Government convey the reply in a timely fashion? A number of people in Manitoba are concerned about this issue, and I should like to be able to give them some information.

Senator Fairbairn: I will be pleased to do so.

ORDERS OF THE DAY

AUDITOR GENERAL ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Colin Kenny moved the second reading of Bill C-83, to amend the Auditor General Act.

He said: Honourable senators, Bill C-83 has far-reaching implications for how federal government departments will define their business and make their decisions. It explicitly integrates environmental and sustainable development considerations into the work of the Auditor General. It establishes the position of Commissioner of Environment and Sustainable Development within the office of the Auditor General, and it requires federal departments to prepare sustainable development strategies.

This bill goes to the heart of federal government planning and decision making. It will ensure that decisions made by federal government departments are sustainable development decisions, whether they be decisions on the management of buildings and operations or decisions on federal policies and programs. This means that the environment and sustainable development will not be taken into account as an afterthought after the real decisions have been made. Rather, environmental, social and economic considerations will be integrated into all federal planning and decision making.

Bill C-83 fulfils the commitment to establish an environmental auditor general and will be a catalyst for converging environmental and economic agendas across all government departments. Bill C-83 incorporates the environment and sustainable development into the Auditor General Act. It gives the Auditor General the explicit legal mandate to take into account environmental effects, alongside the traditional considerations of economy, effectiveness and efficiency, in his general auditing duties. It will ensure that, regardless of who the Auditor General is, the environment and sustainable development will be integrated into his or her audits of government spending.

Bill C-83 also creates the position of Commissioner of the Environment and Sustainable Development in the office of the Auditor General. By situating the commissioner in the Auditor General's office, the government has shown that it means business, that it is not afraid to be held up to public scrutiny for its performance in integrating the environment and sustainable development into all of its planning decisions.

• (1520)

The work of the Auditor General's office will benefit from the sustainable development presence of the commissioner, and the commissioner will benefit from the auditing expertise within the office of the Auditor General. The environment and sustainable development will be integrated in the work of the office of the

Auditor General. This kind of integration is what sustainable development is all about. In effect, the commissioner will be the Auditor General's right-hand person on environment and sustainable development issues. He or she will assist the Auditor General in performing his general auditing duties, and he or she will be required to report annually on the government's environmental sustainable development performance.

Through the general auditing duties of the Auditor General and through the establishment of the commissioner, this bill will ensure that federal government departments are held up to public scrutiny for their sustainable development performance. It will do more than that. This bill will be instrumental in moving Canada toward sustainable development. The government must be more active and forward looking if it is to make sustainable development a real practice in all its activities.

Bill C-83 addresses this need. It requires departments to prepare sustainable development strategies within two years of this legislation coming into force. These strategies must be pragmatic and results-oriented. They should establish concrete objectives and action plans to achieve these objectives.

In a very real sense, every minister should be a minister of sustainable development. They will also establish benchmarks against which the Auditor General and commissioner can assess the sustainable development performance of federal departments. Departments will be required to update their strategies every three years as they learn from experience and as their understanding of what it means to put sustainable development into practice grows. The commissioner is required to monitor and report annually on how well federal governments are faring on the extent to which they are implementing their sustainable development action plans, and on the extent to which these action plans are effective in achieving departmental sustainable development objectives.

The government is committed to encouraging Canadians in the development of federal policies. Departments will consult with interested parties while developing and updating their sustainable development strategies.

Bill C-83 will also ensure that Canadians continue to have a voice. It will authorize the Auditor General to forward petitions from the public on environmental matters to the responsible ministers. Ministers will be required to respond to these petitions within a specific time frame. If they cannot, they must personally notify the petitioner in writing — a rare provision in law. The commissioner will monitor and report annually on the number, subject-matter and status of petitions received by ministers.

Honourable senators, the concept of sustainable development has been embraced throughout the world. It is not a difficult concept to embrace. Who can argue that social, environmental and economic considerations should not be considered in decisions that will have an effect across society? Who could argue that the synergies between a healthy environment and economic prosperity should not be realized?

What is more difficult is to turn sustainable development into operational practice. This is what Bill C-83 is intended to do. The commissioner created under this bill will hold the federal government up to public scrutiny for its progress in making the shift to sustainable development in all its planning and decision making.

On motion of Senator Spivak, debate adjourned.

BRITISH COLUMBIA TREATY COMMISSION ACT

SECOND READING—DEBATE ADJOURNED

Hon. Len Marchand moved the second reading of Bill C-107, respecting the establishment of the British Columbia Treaty Commission.

He said: Honourable senators, the legislation before us today creates a statutory framework for the British Columbia Treaty Commission. It is a response to a very old question. It helps to complete some of the saddest unfinished business of our country.

As we approach the 21st century, the time has come to complete the work of the 19th century. The time has come to resolve the land question of British Columbia's First Nations. By providing a forum for negotiating a settlement, this bill will do just that.

Honourable senators will know that the province of British Columbia is unique in a number of ways, not the least of which is the historic relationship between First Nations and the governments of that province. Unlike many provinces where ownership of land and resources was clarified through treaties, British Columbia signed very few such agreements. Only a handful of treaties were signed in the pre-Confederation period, and since then, only Treaty 8, covering First Nations in the Peace River area, has been signed. As a result, issues which have long been settled elsewhere remain unresolved in British Columbia. As we often say among ourselves, "We have no treaties; we did not cede the land in any way, nor did we lose the land in any wars."

Few treaties have been signed, honourable senators, because, historically, the Government of British Columbia has taken the view that whatever rights to land and resources First Nations may once have had were extinguished long ago. The consequence of that position was decades of legal acrimony, decades of uncertainty and decades of distraction from other important issues.

That situation began to change in 1990 when the Government of British Columbia reversed its long-held position and opened the way to resolving these issues. Following on the British Columbia government's decision, the Government of Canada acted quickly to advance the process. Later that same year, both governments and the B.C. First Nations agreed to establish a task force to make recommendations on the mandate and process for treaty negotiations. Incidentally, Bill C-107 is essentially the same bill as Minister Siddon of the previous government had ready to present.

By June of 1991, the British Columbia Claims Task Force had released its report. One of its key recommendations was the creation of an arm's length British Columbia Treaty Commission. In the ten months that followed, representatives of Canada, British Columbia and the First Nations Summit negotiated the agreement which established that commission.

On September 21, 1992, both the federal and provincial governments joined with the First Nations Summit leadership in signing the British Columbia Treaty Commission Agreement. One of the terms of that agreement was a commitment to establish the legislation.

In May of 1993, both the First Nations Summit and the province fulfilled their part of that commitment. Now the time has come for the federal government to honour its part of that bargain.

The mandate of the treaty commission is straightforward. It is to facilitate, not negotiate, modern-day treaties. Its main functions are to assess the readiness of parties to negotiate, allocate negotiating funding to First Nations groups, assist parties to obtain dispute resolution services and to monitor and report on the status of negotiations.

The British Columbia Treaty Commission consists of five commissioners. Two are nominated by the First Nations Summit, one by the provincial government and one by the Government of Canada. The chief commissioner is appointed by all three parties.

The First Nations Summit includes all British Columbia First Nations which have agreed to participate in the commission's treaty and negotiation process. The summit provides a forum for these First Nations to meet and discuss treaty issues. Not only did the summit assist in the creation of the British Columbia Treaty Commission itself, it continues to provide direction to the commission together with the Governments of Canada and British Columbia.

Honourable senators, I believe the architects of this process have worked well. It was understood that resolution of these issues could have an impact on those not party to the negotiations. A province-wide consultation process has therefore been established so that interests not represented at the negotiating table will still have their voices heard.

The process will operate at two levels. The first is the 31-member Treaty Negotiation Advisory Committee which brings the perspectives of municipalities, business, labour, fishing, wildlife, agriculture and environmental groups together in the treaty-making process. The second level brings the diverse interests of the various regions of British Columbia to bear on the land claims process. Regional advisory committees are being struck in each treaty negotiation area so that local voices may be heard. These committees will work directly with federal and provincial negotiating teams.

• (1530)

I am pleased to note, honourable colleagues, that in the three years since its creation, the commission has made quite a bit of progress. To date, 47 First Nations, representing over 70 per cent of British Columbia's First Nations, have submitted statements of intent to negotiate. Not all of the bands or First Nations in British Columbia are a part of this process, but the door is open for them to join in.

One of the most celebrated cases, the Calder case — he is a Nisga'a — is outside of the process. However, we are hoping and praying that the Nisga'a, the Government of Canada and the Government of British Columbia will reach an agreement very soon, and that it will set a precedent for the rest of us to follow.

Honourable senators, settling land and resource issues will create an environment for investment and increased economic activity. It will send a clear signal. A treaty settlement will provide a land base for many First Nations and, with that land base, a proper foundation upon which to build strong, self-sufficient communities. It will allow First Nations to become involved in a number of economic activities presently closed to them, such as commercial mining, forestry and fishing. It is hoped and expected that this revitalized aboriginal economy will be beneficial to all British Columbians and Canadians.

Honourable senators, the aboriginal community of British Columbia is very anxious that this bill pass. I ask my colleagues, especially those on the other side, to expedite it as soon as possible. We would be very grateful.

On motion of Senator Andreychuk, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved the second reading of Bill S-13, to amend the Criminal Code of Canada (abuse of process).

She said: Honourable senators, Bill S-13 seeks to remove uncertainties in the use of judicial privilege, its exercise and its extent. It clarifies doubts and upholds the principle that judicial privilege is not available for barristers' use to mislead, obstruct or defeat justice itself, or to commit wrongdoing. It responds to the mounting evidence that certain practices by barristers in judicial proceedings need correction. The proposed correction is a Criminal Code sanction, which will define certain behaviours, activities, conduct and practices of barristers as abuses of process and codify them as criminal offences.

Honourable senators, courts and civil litigation attempt the just resolution of dispute. When, as a last resort, Canadians as litigants turn to the courts in search of a just resolution to their disputes, they must be assured that their causes will be advanced judiciously and truthfully, and that court processes will not be marshalled against them to add greater insult to their already aggrieved status, either by inflicting malicious injury or inflicting bankruptcy upon them.

Honourable senators, for generations, integrity was thought to be an essential element of justice. In the July 1995 Supreme Court of Canada judgment in the case of *Hill v. Church of Scientology of Toronto*, Mr. Justice Peter Cory noted the importance of integrity and barristers' integrity. He said:

> Clients depend on the integrity of lawyers, as do colleagues. Judges rely upon commitments and undertakings given to them by counsel. Our whole system of administration of justice depends upon counsel's reputation for integrity.

He quoted David Hawreluk's essay "The Lawyer's Duty to Himself and the Code of Professional Conduct," citing Lord Birkett that:

> The advocate has a duty to his client, a duty to the Court, and a duty to the State... and he shall be... a man of integrity.

That integrity is an essential plank of litigation, and judicial process is the substance of Bill S-13. Bill S-13 addresses abuses perpetrated by barristers on the courts, on judicial processes and on citizens. It amends the Criminal Code to create provisions aimed at the abuse of process; provisions which will deter barristers and legal counsel from actions that are contrary to the interests of justice.

Bill S-13 addresses the barristers' violation of their privileges and their privileged positions as officers of the court and asserts the duties owed by them to the court as its officers. This bill will create three new offences in the Criminal Code, making it an offence for counsel in judicial proceedings to, first, make public statements outside the tribunal that are known by counsel to be false or that counsel failed to take reasonable measures to ascertain were false; second, institute or proceed with proceedings known by counsel to be brought primarily to intimidate or injure another person; or, third, knowingly to deceive or participate in deceiving the tribunal or to rely on false, deceptive, exaggerated or inflammatory documents.

Honourable senators, the abuses and violations within the conduct of civil litigation and judicial proceedings are commanding parliamentary intervention. Bill S-13 is such intervention.

Our newspapers frequently report on the varied and abundant problems in the legal profession and the bar. In Toronto, the Law Society of Upper Canada's problems are featured daily in the news. On June 24, 1995, a story line in *The Toronto Star* read, "Fraud alleged in legal aid lawyers' bills." A June 1995 Law Society report states that the billings "...are disturbing and in our view suggest serious fraud." These articles report the problems of the Immigration Bar, the Law Society and the Legal Aid Plan. On June 24, 1995, *The Toronto Star*, writing about the newly elected treasurer of the Law Society of Upper Canada, Susan Elliott, said:

> ...she plans a consultative approach to dealing with the legal profession's numerous problems.

Honourable senators, last March, the Civil Justice Review, co-chaired by Mr. Justice Robert Blair and sponsored by the Attorney General's ministry and the Ontario Court of Justice, reported. In their examination of the civil justice system of Ontario, they uncovered enormous problems in the practice of civil justice and civil litigation, one being the use of false affidavits and false allegations in civil litigation. The Civil Justice Review's first report devoted a chapter, "Focus on the Family," to these enormous problems in the practice of family law and civil litigation. Mr. Justice Blair's report said:

> Lawyers were criticized for their drafting of lengthy, damaging, and sometimes unsupportable affidavit material.
>
> The Review was frequently told about... the often poisonous nature of lengthy affidavit materials.

The ugliness of false accusations and falsehood in civil litigation and family law proceedings is stark. Justice Blair reported:

> We were told... that perjury in these affidavits is rampant.
>
> ...it is clearly a perception... that such perjury goes unpunished.

Justice Blair's report addresses the frustration felt by the public on these questions of false allegations, saying:

> Concern and frustration were expressed about the number of allegations made in affidavits that were not capable of being substantiated in any way.
>
> Some contents of affidavits... were reported by members of the public to be damaging forever.

False allegations in child custody and divorce cases now have attained a state of crisis in the civil justice system in Ontario. These abuses are not confined to the province of Ontario. They are bedeviling civil litigation and the courts of every province of this land.

• (1540)

Recently, Manitoba's government launched an inquiry into the matter. On September 3, 1995, the *Winnipeg Free Press* reported that:

> So many parents falsely accuse their former partners of child abuse that the government plans a special probe this fall ...

Two recent judgments, one in the Ontario Court (General Division) and the other in the Supreme Court of Canada, make manifest the mischiefs which this bill seeks to correct. The first, the case of *B(D) and B(R) and B(M) v. the Children's Aid Society of Durham Region and Marion Van Den Boomen*, was judged by Mr. Justice Somers in the Ontario Court (General Division) in 1994. On July 13, 1995, I addressed this chamber regarding this particularly grievous case of *Reverend B.*, an Anglican minister whose estranged wife, supported by the Children's Aid Society, during a child custody proceeding, falsely accused Reverend B. of sexually abusing his two daughters, age 2 and 4.

On exonerating Reverend B., Mr. Justice Somers' judgment stated:

> ... one can certainly understand the frustration the father must have felt in this case attempting to deal with allegations against him which were untrue ...

Justice Somers condemned the treatment of Reverend B., the plaintiff, by the defendants, Durham Children's Aid Society and his ex-wife, saying:

> While as I have said I do believe that much of the damage sustained by the Plaintiff was as a result of the machinations of his former wife, I feel that the Defendants played a strong and at times heavy handed role in the matter.

After nine years and considerable financial and emotional cost, Reverend B. was victorious, but the damage to him and his two little girls is unspeakable. The enormity of this legal and judicial malignancy is driven home by Mr. Justice Somers, who informed that the Children's Aid Society, on realizing that they had, in the society's own words, "backed the wrong horse," and the society, having declared that the girls were not in need of protection, still persisted in their false accusations and litigation against Reverend B. Mr. Justice Somers described this deliberate persistence in false allegations and the society's actions in this regard as "utterly unconscionable."

It is an abuse of process when court processes and judicial proceedings are employed to inflict malicious injury and pain on individuals for the purpose of advancing another's interest or obtaining another's advantage during civil litigation. That some lawyers assist and benefit from such abuses is troubling and a terrible problem that must be remedied.

The second case, *Hill v. Church of Scientology of Toronto* in the Supreme Court of Canada, is a famous libel case involving the use of false allegations by lawyers Morris Manning, Clayton Ruby, and Michael Code to defame and destroy Crown attorney Casey Hill. I addressed the Senate on this case on November 23, 1995.

In his judgment on this case, Mr. Justice Peter Cory articulated the court's position and the common law against the use of false allegations, saying:

> To make false statements which are likely to injure the reputation of another has always been regarded as a serious offence.

Mr. Justice Cory spoke directly to lawyers' responsibility, saying:

> As an experienced lawyer, Manning ought to have taken steps to confirm the allegations that were being made.... Manning failed to take either of these reasonable steps. As a result of this failure ... a qualified privilege which attached to his remarks was defeated.

Mr. Justice Cory spoke strongly to the malicious use of falsehood to inflict injury within judicial proceedings, saying:

> Scientology's behaviours throughout can only be characterized as recklessly high-handed, supremely arrogant, and contumacious. There seems to have been a continuing, conscious effort on Scientology's part to intensify and perpetuate its attack on Casey Hill without any regard for the truth of its allegations.

Wanton disregard for the truth and the perpetration of deceit upon the court is the behaviour that this bill seeks to censure: in short, the behaviour of lawyers Morris Manning, Clayton Ruby, Michael Code, and countless other counsel. Such ruthlessness and malice must not wear the protective cloak of justice and judicial privilege. It must stand naked and be seen for what it is — unbridled, predatory malice and spitefulness intended to ruin its prey, psychologically and financially. It is criminal activity and deserves a place in the Criminal Code of Canada.

On law as a profession, the eminent author Mark Orkin, in his book *Legal Ethics*, quotes the Canons of Legal Ethics approved by the Canadian Bar Association, describing the lawyer as:

> ... more than a mere citizen. He is a minister of justice, an officer of the Courts, his client's advocate, and a member of an ancient, honourable and learned profession. In these several capacities it is his duty to promote the interests of the State, serve the cause of justice, maintain the authority and dignity of the Courts, be faithful to his clients, candid and courteous in his intercourse with his fellows and true to himself.
>
> The Court must have ministers; the attorneys are its ministers.

Moreover, the barrister's oath in Ontario partly reads as follows:

> ... nor shall you promote suits upon frivolous pretences. You shall not pervert the law to favour or prejudice any man, but in all things shall conduct yourself truly and with integrity. In fine, the Queen's interest and your fellow citizens' you shall uphold and maintain according to the constitution and law of this Province.

Lawyers as ministers of justice and officers of the court hold and enjoy privilege. Privilege includes solicitor-client privileges, judicial privilege, both absolute and qualified, that shield statements made in judicial proceedings and court documents from civil liability. Privileges are precisely that: exemptions from the general law.

Parliamentary governance has always recognized the need to ensure the proper conduct of lawyers and has always imposed sanctions for improper conduct. About this, Orkin says:

> From its beginnings in England the legal profession was faced with the problem of maintaining high standards of moral and ethical conduct on the part of its practitioners. In the face of ... serious abuses the First Statute of Westminster, enacted in 1274, imposed sanctions on lawyers who perpetrated "any manner of deceit or collusion in the King's Court."

Deceit and fraud upon the court is an old dilemma. It was commonly held that no lawyer was to resort to false delays or false witnesses and was never to allege, prefer, or consent to any corruption, deceit, lie or falsified law. Orkin said:

> Not only is a lawyer required affirmatively to uphold the law; he is also under a duty not to subvert the law.

Honourable senators, the Criminal Code must take cognizance of the improper conduct of barristers and must uncloak the shield that this improper conduct uses to shelter itself from scrutiny, accountability, responsibility, and sanction. Bill S-13, first, addresses the problem of public statements made by barristers which are false, and, second, it addresses the problems of deceit and fraud perpetrated upon the court by barristers.

Previously, the legal profession claimed to be non-commercial and claimed that the practice of law was a public service. These claims have foundered. Currently, the practice of law, like most financial interests, is a commerce, a commercial interest competing in the marketplace for success, dominance, and commercial supremacy. Parliament has an obligation to be as vigilant in its superintendence of this interest as it is of any other commercial interest. Government and Parliament owe no obligation to the bar and to barristers guaranteeing them enormous profits or enormous legal fees.

Moreover, we are told that the profession is self-regulatory and independent, yet it is well known that the elections of the benchers of the Law Society of Upper Canada are dominated by a few large Toronto firms. The law society does not regulate certain activities of its members. If it did, Clayton Ruby would have censured his and the actions of his colleagues, Morris Manning and Michael Code. At the time, Ruby was a bencher and the Vice-Chairman of the Discipline Committee. In addition, these members of the law society have a financial interest in the status quo. The law society does not censure these wrongdoings, nor will it.

Bill S-13 limits the use of privilege as a defence to civil liability by barristers in instances of their own wrongdoing in the conduct of judicial proceedings. It will assist the punishment and prosecution of wrongdoing perpetrated by barristers. Courtroom dynamics should be understood. Judges and barristers are joined by their common membership in the profession, the bar association, and the law society. Moreover, judges are subject to discipline by the law society in respect of their own conduct as members.

Honourable senators, common law evolved barristers' privileges to support and promote justice based on the premise that privileges would not be misused. The trend has been that the common law has expanded bit by bit, case by case, the exercise and the extent of these privileges. In short, the profession simply takes what it needs as it needs it. Judges and courts have summary jurisdiction over the conduct of the barristers as officers of the court, but their reluctance to exercise this jurisdiction leaves these questionable behaviours to the law society, which takes no action. The result is: no censure.

Mr. Justice Blair, in his Civil Justice Review's First Report, states that the civil justice system is "in a crisis situation." Bill S-13 addresses a mischief that has caused this crisis. This mischief is of a peculiar kind and quality, one that has been cultivated by some in the bosom of the profession, caused sometimes by greed, sometimes by vanity, sometimes ignorance. It is a disease within the profession, characterized by its insistence, its persistence, and its unconscionability.

Bill S-13 will criminalize barristers' persistence in the false allegations after they have been proven to be false and causes the Criminal Code of Canada, as a statute, to oust an insufficiency in the common law. It will criminalize the wanton and reckless disregard of the truth in the use of false allegations within judicial proceedings.

On motion of Senator Haidasz, debate adjourned.

The Senate adjourned during pleasure.

[*Translation*]

ROYAL ASSENT

The Honourable John Charles Major, Puisne judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Speaker of the Senate said:

> I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable John Charles Major, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

> An Act to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act. (*Bill C-93, Chapter 38, 1995*)

An Act respecting firearms and other weapons. (*Bill C-68, Chapter 39, 1995*)

An Act to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act. (*Bill C-61, Chapter 40, 1995*)

An Act to amend the Customs Act and the Customs Tariff and to make related and consequential amendments to other Acts. (*Bill C-102, Chapter 41, 1995*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Wednesday, December 6, 1995, at 1:30 p.m.

THE SENATE

Wednesday, December 6, 1995

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

Prayers.

SENATORS' STATEMENTS

NATIONAL DAY OF REMEMBRANCE

SIXTH ANNIVERSARY OF TRAGEDY AT L'ÉCOLE POLYTECHNIQUE

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, six years ago today, a deeply disturbed individual walked into l'École polytechnique in Montreal armed with a mini-Ruger 14, plenty of ammunition, and a stated grudge against feminists. He shot 27 people, killing 14 young women, before turning the gun on himself.

This chilling event shook the country and, in its aftermath, this day, December 6, was set aside as a national day of remembrance and action on violence against women in all its forms.

This has been a truly depressing year for public exposure to this kind of this issue, be it the ghastly tragedy of Kristen French and Leslie Mahaffy; the four women murdered in Montreal last week, including a young policewoman in her office; the fear which permeates the Abbotsford area of British Columbia where a killer roams free, while taunting police authorities and the population; or the anger and despair in the small town of Taber, near my home town in southern Alberta, where a family was shattered by the rape and shooting of their mother.

It is true enough that little can be done to prevent the seemingly random actions of a person gone mad, but work can be done by governments, communities, families and individuals to expose, to condemn and to diminish the frequency of this type of violence with its very special characteristics.

This government has taken a number of legislative initiatives during the last two years to improve our justice system, including the passage of the following bills: Bill C-72 to prevent the defence of extreme intoxication to excuse violence; Bill C-104 to regulate the collection and use of DNA evidence; Bill C-41 to treat abuse of trust and hate crimes as aggravating factors in determining the severity of sentencing; and, Bill C-68 which will strengthen the control of firearms and help police forces across the country to enforce the thousands of prohibition orders that are issued every year in response to domestic conflicts.

This is a not an issue of concern to women only. It is of concern to all of us — men and women together. We must accelerate the campaign against violence, in all its forms, wherever it exists, against women and men, against children and the elderly.

Many victims outside of our knowledge have been injured beyond repair or lost their lives through hatred and violence. We do not know who they are, but we do know the women of l'École Polytechnique. With their families and friends, we repeat their names with great sadness: Geneviève Bergeron; Hélène Colgan; Nathalie Croteau; Barbara Daigneault; Anne-Marie Edward; Maud Haviernick; Barbara Marie Klueznick, Maryse Laganière, Maryse Leclair, Anne-Marie Lemay, Sonia Pelletier, Michelle Richard, Annie St. Arnault, and Annie Turcotte.

Honourable senators, we simply must make a much more powerful effort to produce a safer and more secure future for all our citizens, whatever their age, whatever their gender, wherever they live. That is the best memorial we can offer.

Hon. Erminie J. Cohen: Honourable senators, there are pivotal moments in every country's history. In the United States, those moments have been the assassinations of leaders and the landmarks of their space program. In Canada, some of our recent historical moments have been the days when referenda have been held, landmark elections, and this day.

We all remember where we were when we heard about the killing of 14 young women at l'École polytechnique in Montreal on December 6, 1989. It was a day that shocked Canadians into some soul-searching about the nature of our society. It was a day that jolted us out of our complacency about violence against women. It compelled the federal government of the day into taking action, and it continues to inspire Canada to take a leadership role in addressing the issue of violence against women at home and on the international stage.

At the United Nations World Conference on Women in Beijing, Canada sponsored a resolution calling on all countries to take responsibility for ending violence against women, no matter what cultural excuses were used.

On that day in December, 1989, too many men looked in the mirror and felt a twinge of empathy for Marc Lépine. On that same day, too many women looked at the men around them and felt a fear that they had not felt before. Too many parents looked at their young daughters and wondered how they would be able to give them the confidence necessary to meet life's challenges in the face of such senseless rage.

How can we let our young daughters walk alone to school or home from part-time jobs? How can we tell them not to take shortcuts to the library without instilling in them an everyday fear that puts limits on their horizons? How can we understand what it feels like for victims of rape and violence and the survivors of the Montreal massacre if we do not take this day to think about it?

We must pledge ourselves to work for greater understanding between men and women, girls and boys, so that they will enjoy a future that was denied the 14 women who died six years ago.

This day is called a Day of Remembrance. It reminds us of the women of Bosnia who were tortured and raped throughout the long war that tore Yugoslavia apart, and of the many women who suffered the same treatment in other wars throughout history. These victims and survivors are finally being given recognition and a voice to express their pain. They have a right to demand that their suffering not be condoned through the silence of governments but recognized for the war crime and genocidal act that it is.

The long-term implications for these women and the future generations they are expected to raise are finally being looked at head on by educators and policymakers. These girls and women must not be left alone to bear a shame that should be borne by all of society. We must honour the resolutions made at the U.N. conference in Beijing so that we can help restore the hopes, dreams and confidence of these women so that they can, in turn, instill them in their own children.

In this way, honourable senators, we can ensure that there will be no recurrence of the kind of tragedy we saw in Montreal on December 6, 1989.

[*Translation*]

Hon. Lise Bacon: Honourable senators, we will never forget what happened on December 6, 1989, when 14 young women lost their lives at Montreal's École polytechnique.

As victims of a brutal and deadly aggression, these young women will never have the opportunity to live the bright future that was theirs. Nor will they have the opportunity to fulfil their potential and aspirations, and to share them with their close ones.

December 6 is a reminder that violence is all too present in our society, and that violence against women, whether verbal or physical, is a problem which must not only make us think but also act.

Twenty-five per cent of all women have experienced violence at the hands of their current partner or of a former one. On average, a woman is shot to death every six days in Canada. Firearms are the weapons of choice for spousal homicides. We could provide many more statistics, but these sad figures are enough to convince us that thought must be followed by action.

Although progress has been made in recent years in terms of making people aware of the issue of violence against women, we must still act at every level to fight this plague. In that regard, the federal government has taken significant measures, including a three year campaign to promote public awareness and collective measures against violence in our society. In 1995-96, the theme includes, among other issues, violence against women and children. The campaign also includes national consultations on violence against women; amendments to the Criminal Code and other legislative initiatives; the establishment of a national crime prevention council, in July 1994, and many more initiatives.

[*English*]

Canada has also taken steps to put the issue of violence against women on the international agenda. At the fourth United Nations World Conference held in September 1995, Canada played an important role in ensuring that the conference's final document, the Platform for Action, included measures to eliminate all forms of violence against women.

The massacre that took place at l'École polytechnique in Montreal on December 6, 1989, and recent events — I am thinking particularly of the murder of Constable Odette Pinard in Montreal last week — painfully remind us that, too often, violence is part of our everyday lives, and that it is our duty to act and to take measures to stop violence. In any society, violence is unacceptable. It will always be unacceptable.

Hon. Senators: Hear, hear!

Hon. Mira Spivak: Honourable senators, the loss of 14 young women at l'École polytechnique in Montreal six years ago was a tragedy which galvanized Canadians. Their deaths spurred many Canadians to act to make this country a safe one for all women. Their memory has become our touchstone.

We must address systemic violence and systemic gender inequality, or we risk the horror of similar tragedies.

[*Translation*]

Each year, I also become more aware of what we owe to the families of these 14 young women. We are indebted to their parents, who used their sorrow and their pain as a springboard to positive action. We can hear their voices. Last year, in particular, we heard them ask the government to provide better protection for all Canadians. They made that request:

> ...with their heart, their soul, their guts, their intelligence, their common sense...

And, to quote Suzanne Laplante-Edward, in reference to her daughter Anne-Marie:

> ...with in mind the wonderful memory of their beloved children.

These parents continue to work to make Canada a better place, and we owe them our gratitude.

[*English*]

With each year that passes, there are signs of hope that we are addressing some of the root causes of violence against women. This past summer, Statistics Canada gave us a detailed picture of women in Canada that shows there is progress in narrowing the gap of gender inequality; that there have been substantial increases in the educational attainment of women; and that there has been substantial growth in the number of women in the labour force.

In recent years, women have increased their representation in several professional fields. For example, in 1994, women made up 32 per cent of all doctors and dentists in this country. A dozen years earlier, they made up only 18 per cent.

The report, however, discloses that substantial inequality remains. On average, women's incomes are just 58 per cent of men's average incomes in Canada. Women make up more than half of all people living on low incomes in Canada. Women are much more likely than men to feel worried about their personal safety. We still have a society in which 42 per cent — I was surprised to learn this figure was not at 100 per cent — of women feel unsafe walking alone after dark in their neighbourhoods.

According to the United Nations development programs newly released 1995 Human Development Report, globally, women constitute 70 per cent of the world's poor; represent two-thirds of the 900 million illiterate; and receive only 26 per cent of total earned income. They hold only 14 per cent of the world's managerial and administrative positions and occupy only 10 per cent of parliamentary seats.

[*Translation*]

The campaign against violence is far from over, as demonstrated by last week's killing of a Montreal policewoman and mother of two children, who was shot point-blank while writing a report in her office. This savage attack against a 30-year-old woman reminds us, once again, that we still have a long way to go.

On this national day of commemoration and activities to condemn violence against women, we remember a tragedy, and this moment of reflection gives us strength and determination. These 14 young women studying in Montreal left us, sadly, a legacy that will bear fruit. We owe them and their families our sincere gratitude. Above all, we owe them, on this day of commemoration, our repeated assurances that their sacrifice has not been in vain.

• (1350)

NATIONAL UNITY

QUEBEC REFERENDUM— COVERAGE OF EVENTS BY CBC FRENCH NETWORK

Hon. L. Norbert Thériault: Honourable senators, I would like to comment on the media coverage provided by the Société Radio-Canada during the referendum.

Honourable senators, the obvious bias of some journalists at the SRC regarding Quebec separatism has bothered me for some time. For instance, the coverage of the monster rally, where nearly 100,000 Canadians travelled to Montreal to tell Quebecers that they wanted a united Canada, left something to be desired.

The CBC, the English network, said there were 150,000 people, while the SRC and RDI estimated that there were about 35,000. You must admit there is quite a spread between the two estimates. Is it so hard to get the real figures? Was this not one of the biggest demonstrations in the history of Canada?

Complaints about the way in which the SRC fulfils its mandate have been heard before. Back in 1987, the CRTC was concerned about the fact that francophones outside Quebec did not receive from their national broadcasting service the kind of programs with which they could identify, such as local news, specific editorial content or specific subjects. The CRTC added that wherever they happened to live, francophones outside Quebec should be able to identify with the national service. That is why, again according to the CRTC, the SRC should adapt its French programming to satisfy the needs of francophones outside Quebec.

In fact, the SRC willingly took part in an exercise to identify the television needs of francophones outside Quebec. In 1988, it released a study which proposed a detailed action plan covering the many aspects of problems relating to coverage area and programming. At the time, the SRC estimated that $80 million would be needed to implement the report. This remains the most exhaustive study ever made by the SRC to examine the television needs of these communities.

Today, eight years after the CRTC's decision and seven years after the SRC tabled its report, I must conclude that the SRC has failed to adapt its French television services in a manner that is satisfactory. Instead of the expected increase in local programming, francophones outside Quebec, after the budget cuts in December 1990, lost one local station — the one in Toronto which is not negligible in an area with several thousand francophones — and were given only 24 hours of general or local programming on all stations outside Quebec, instead of the 41 hours produced before the study. Recent budget cuts had the effect of further reducing local French programming outside Quebec, especially in Ottawa and Moncton.

Lately, I noted some attempt to provide more Canadian news coverage with programs like *SRC Bonjour* but here again, this does not suit western Canada because of the time difference. *Le Téléjournal* with Bernard Derome, *Le Point* with Lépine and Poulin and special features on the SRC's news program remain firmly focused on events in Quebec. RDI might be an alternative for broadcasting local news, except that RDI is not available everywhere in Canada.

The Hon. the Speaker: Honourable senators, the time allotted to Senator Thériault has run out. Does he have permission to continue?

Hon. Senators: Agreed.

Sen. Thériault: Honourable senators, you know it is not often that I take up the Senate's time. As an Acadian, must I accept seeing the French fact reduced almost exclusively to Quebec on state television? Being from the Maritimes, I figured out long ago that I needed to access other national networks to get news of my region.

Honourable senators, is it normal for me hear more about Acadians on CBC radio's *Morningside* than on its francophone counterpart produced in Montreal. and for Montreal?

This is an upsetting and unacceptable situation. Imagine if there were a sovereign State of Quebec and if the state television, Radio-Québec, were openly promoting Canadian federalism. No one would tolerate that, nor will we tolerate it from Radio-Canada today.

Hon. Jean-Robert Gauthier: Honourable senators, I shall wait until tomorrow. I know what is on the Order Paper, and just how heavy our agenda is.

[*English*]

QUEBEC REFERENDUM—RESPONSE OF SOME QUEBECERS TO COMMUNICATIONS FROM SCHOOLCHILDREN IN OTHER PARTS OF THE COUNTRY

Hon. Marcel Prud'homme: Honourable senators, on October 31, schoolchildren in Grades 3 and 4 of the Bisset Elementary School in Alberta sent out letters stating their thoughts on the referendum: that they were very happy about the result. The envelope was addressed to "any elementary school, Grade 3 or 4, in Québec City."

Approximately three weeks later, their teacher, Mr. Kent Richardson from St. Albert, was surprised to receive the envelope on which was written: "Return to Sender." Inside, he found the letters from the schoolchildren accompanied by an editorial cartoon from *Le Devoir* and the name of a teacher, Madam Christiane Lévesque of l'École Saint-Jean-Baptiste, in Quebec.

Madam Lévesque, when reached by Radio-Canada yesterday, stated that she returned the envelope to the schoolchildren and that she did not appreciate receiving the envelope in the first place.

This morning, I took the initiative to talk to Mr. Kent Richardson, the teacher from St. Albert. He told me that this started as a comparative study between Alberta and Quebec, which is part of the curriculum in Grades 3 and 4 at Bisset Elementary School. This study is intended to increase the appreciation, tolerance and sensitivity of the students towards a different culture. It was supposed to be completed by the end of the year. It started in September and culminated in October and was, by way of a project, to have students prepare letters to state how they felt about the result of the referendum. In fact, many students stated what they felt before, but Mr. Richardson believed that the students also could do something after the fact.

[*Translation*]

Honourable senators, it is a pity when schoolchildren, in expressing how they feel, come up against this kind of lack of understanding on the part of an adult. Not only should eight- and nine-year-olds be encouraged to state their thoughts but their initiatives should be greeted with courtesy.

I find such incidents most unfortunate. I hope that Mrs. Christiane Lévesque will return to a better frame of mind and that Quebec leaders, whom I will be contacting this afternoon, that is to say the mayor of Quebec City or the office of either Mr. Parizeau or Mr. Bouchard, will let these children know that they are sorry.

[*English*]

I expressed my deep sadness to Mr. Richardson and asked him to convey my admiration to his students. In addition, I agreed to speak to his students at any time.

Since Mr. Richardson wishes to pursue this endeavour, I asked my friend Mark Assad, the member for Gatineau—La Lièvre, if he could find a school for me that would be receptive to this kind gesture made on behalf of these children from Bisset Elementary School. Approximately 10 minutes ago, he agreed to do so. Mr. Richardson and his students intend to find a school in Quebec with canadiennes françaises — not in Montreal, where it would be easy to organize. Mr. Assad is convinced that, without a shadow of a doubt, he will find a school that will accept this letter, which was sent in good faith.

Hon. Senators: Hear, hear!

• (1400)

ROUTINE PROCEEDINGS

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

RESPONSE TO INTERIM REPORT ON THE SAFETY IMPLICATIONS OF AUTOMATED WEATHER OBSERVATION SYSTEMS

On Tabling of Documents:

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators I have the honour to table a response to the Standing Senate Committee on Energy, the Environment and Natural Resources on their Interim Report on the Safety Implications of Automated Weather Observation Systems, AWOS.

FISHERIES

REPORT OF COMMITTEE ON ANNUAL REPORT OF DEPARTMENT OF FISHERIES AND OCEANS ON THE ATLANTIC GROUNDFISH FISHERY TABLED

Hon. Eileen Rossiter: Honourable senators, I have the honour to table the second report of the Standing Senate Committee on Fisheries, which results from the committee's examination of the annual report of the Department of Fisheries and Oceans and deals with the Atlantic groundfish fishery.

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

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

CODE OF CONDUCT

SECOND REPORT OF SPECIAL JOINT COMMITTEE PRESENTED

Hon. Donald H. Oliver, Joint Chairman of the Special Joint Committee on the Code of Conduct, presented the following report:

Wednesday, December 6, 1995

The Special Joint Committee on a Code of Conduct has the honour to present its

SECOND REPORT

Your Committee has examined its Order of Reference adopted by the Senate on Wednesday, June 28, 1995, and by the House on Monday, June 19, 1995, and recommends the following:

That the name of the Committee in French be changed to "Comité mixte spécial sur un code de conduite".

Respectfully submitted,

DONALD H. OLIVER
Joint Chair

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

On motion of Senator Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

PARLIAMENTARY ASSEMBLIES OF FRENCH-SPEAKING COUNTRIES

REPORT OF CONFERENCE OF SPEAKERS, PARIS, FRANCE

The Hon. the Speaker: Honourable senators, I have the honour to present, in both official languages, the report of the conference of speakers of Parliamentary assemblies of French-speaking countries, which I had the privilege of attending as Canadian parliamentary delegate.

The conference, held in Paris on October 16 and 17, 1995, at the invitation of the speaker of the French National Assembly, brought together more than 40 speakers of French-speaking parliamentary assemblies.

INTERNATIONAL ASSEMBLY OF FRENCH-SPEAKING PARLIAMENTARIANS

REPORT OF CANADIAN SECTION AND FINANCIAL REPORT OF 22ND SESSION OF GENERAL AMERICAN ASSEMBLY

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 23(6), I have the honour to present, in both official languages, the report of the Canadian section of the International Assembly of French-Speaking Parliamentarians and the financial report of the 22nd session of the General American Assembly of the IAFSP, held in Quebec City from July 12 to 14.

[*English*]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart, with leave of the Senate and notwithstanding rule 58(1)*(a)*, moved:

That the Standing Senate Committee on Foreign Affairs have the power to sit at 3:15 in the afternoon today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

SOCIAL PROGRAMS IN CANADA

NOTICE OF INQUIRY

Hon. L. Norbert Thériault: Honourable senators, I give notice that on Thursday, December 7, 1995, I will call the attention of the Senate to concerns with respect to social programs in Canada.

GUN CONTROL LEGISLATION

PRESENTATION OF PETITIONS

Hon. Paul Lucier: Honourable senators, I have the honour to present two petitions regarding Bill C-68: one from the people in the Yukon, and one from some people in British Columbia.

QUESTION PERIOD

CONSTITUTIONAL AMENDMENTS

AVAILABILITY OF OPPORTUNITY FOR THE PROPOSAL OF AMENDMENTS—GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, I have a question for the Honourable Leader of the Government in the Senate concerning Bill C-110 which is now before the Justice and Legal Affairs Committee of the other place.

My question is prompted by reports that, in recent days, a number of cabinet colleagues have come to the conclusion that the bill needs to be amended in order to provide a five-region veto, extending the veto to British Columbia as a region.

In particular, a media report of yesterday's date states that the Minister of Fisheries and Oceans, Brian Tobin, began favouring a separate veto for B.C. after participating last Tuesday in a radio open-line show in Vancouver.

This report is confirmed by one of Mr. Tobin's press aides who is quoted as saying, "Tobin had been struck by the strength of West Coast public opinion on the issue." The same report stated:

> Justice Minister Allan Rock is also believed to be backing a separate veto...

Further on, the article states:

> B.C.'s minister, David Anderson, is "more than on side" for a fifth region and has been working around the clock to lobby his cabinet colleagues, says Liberal Peter Warkentin, vice-president of the party's B.C. region.

My question is this: Is the government giving consideration to proposing amendments to Bill C-110 before its passage by the House of Commons?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I can say to my honourable friend, quite honestly, that I have no knowledge that that is the case.

Senator Murray: Honourable senators, is it a fair and accurate statement of the government's position that you are determined to pass Bill C-110 without amendment through the House of Commons and send it in that form to the Senate?

Senator Fairbairn: I cannot answer that question either. It is clear that strong views are being expressed regarding parts of this proposed legislation.

The bill is now before the House of Commons. As you know, it is being studied by the House of Commons committee today. We must wait and see what transpires. I am being absolutely honest with my friend in stating that I cannot answer his questions.

• (1410)

Senator Murray: The government has no plans at the moment to propose amendments to this bill. Is that the situation?

Senator Fairbairn: Should that be the case, it would be announced as of this moment. I am not aware of any.

CLARIFICATION OF SITUATION IN RELATION TO ABORIGINAL ASPIRATIONS—GOVERNMENT POSITION

Hon. Lowell Murray: I couple my next question, honourable senators, with the expressed hope that, before any further steps are taken, including proposed amendments to the bill, the government would consult with the premiers, especially the premiers of the four provinces in Western Canada who are affected by the present bill and would be affected by any amendments thereto.

Honourable senators, the minister also will have noted statements attributed to the head of the Assembly of First Nations concerning the possible impact of the amending formula on the constitutional aspirations of aboriginal peoples. I think it would be important, at an early date, for the responsible minister, Mr. Rock, to clarify the situation with regard to this bill and its relationship to the constitutional aspirations of aboriginal peoples.

Hon. Joyce Fairbairn (Leader of the Government): I thank my honourable friend for his comments. He has had a very long history of involvement on this particular file of government and national policy. I shall certainly make his views known to my colleague.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of a former colleague of ours, Charles R. McElman. Welcome, again, to the chamber.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I also draw your attention to some other distinguished visitors in our gallery: a delegation of senior officials of the Federation Council in the State Duma of Russia, who are in Ottawa this week to study our parliamentary system, under a parliamentary exchange program that we have with the Parliament of Russia. I would add that three of the delegates are very fortunate in that they will be going from Ottawa to the province of Manitoba to spend some time in Winnipeg.

Hon. Senators: Hear, hear!

CONSTITUTIONAL AMENDMENTS

DISTRIBUTION OF VETO POWER—STATUS OF BRITISH COLUMBIA—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, I am pleased that Senator Murray was inspired by my question of yesterday.

Yesterday, I asked the Honourable Leader of the Government in the Senate if she would inform her colleague of my wishes. I do not expect to be told any caucus secrets, although I am touched by yesterday's invitation by Senator MacEachen to come back to the fold. That invitation is now on the record. I have been waiting for an invitation from the government whip, but I have not received one yet.

Senator MacEachen: I may change my mind!

Senator Prud'homme: Honourable senators, I would ask the Honourable Leader of the Government in the Senate if she conveyed my strong wishes of yesterday to whomever she met this morning, either in cabinet or in caucus, about a veto for British Columbia?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I shall be pleased to do so this afternoon when I meet with some of my colleagues.

HUMAN RESOURCES DEVELOPMENT

BRITISH COLUMBIA—IMPOSITION OF WAITING PERIOD FOR PAYMENTS UNDER CANADA ASSISTANCE PLAN—SUSPENSION OF TRANSFER PAYMENTS—GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, I have a question for the Leader of the Government in the Senate. The Minister of Human Resources Development, Mr. Axworthy, is withholding payments to British Columbia as result of that province's three-month residency period requirement before application for

welfare. Minister Axworthy claims that the three-month waiting period is a barrier to the free movement of people in Canada. Would the minister explain to us how the three-month waiting period constitutes a barrier to the free movement of people in Canada?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Minister of Human Resources, with considerable regret, took the decision that he did because the Government of British Columbia was clearly in breach of the law governing the Canada Assistance Plan. Mr. Axworthy would far prefer to settle the issue of mobility rights without implementing this kind of penalty. It is not something that the Minister of Human Resources wishes to do. However, there is a law in place, and he believes the federal government must abide by that law. He and his officials hope to talk again with the minister in British Columbia.

Senator Tkachuk: Honourabe senators, that may be, but he does not say that. He says that the Government of British Columbia is causing a barrier to the free movement of Canadians. I do not know much about how the minister thinks, but there is nothing stopping anyone from moving to British Columbia, as far as I know. I just want to know what the barrier is and, if the barrier is three months, what would make it better? Would it be one month? Would it be two weeks? Would it be 15 days? Would it be the same requirement as that for voting in British Columbia, namely, six months? What is the actual barrier to prevent you, or me, or any Canadian, from moving to British Columbia?

Senator Fairbairn: Honourable senators, there is no barrier preventing Senator Tkachuk from moving to British Columbia at all. I am sure he would be more than welcome there.

The barrier, as I said before — and I will be pleased to get the exact language of the law for my honourable friend — is found in the question of the rights of Canadians, wherever they live in Canada, to be able to move to other parts of Canada and not lose their eligibility to access the Canada Assistance Plan. It is set out clearly in the law. That is the difficulty in which the federal minister finds himself. If there is, through negotiation, discussion and cooperation, a method of resolving this issue, the minister would be a happy man. He left himself available, up until the moment when this action became necessary this week, to try to find a favourable conclusion to this difficulty.

However, I will be pleased to get the exact wording of the law, which leaves the minister with no other alternative but to take the action that he has taken. He has done so with great regret and hopes that further communications with his counterpart in British Columbia will resolve the situation.

CONSTITUTIONAL AMENDMENTS

VETO PROPOSALS—EFFECT ON FUTURE STATUS OF YUKON

Hon. Paul Lucier: Honourable senators, my question is for the Leader of the Government in the Senate. It concerns Bill C-110. The provinces object to being lumped together in a veto. However, we in both northern territories do not have that problem. We have been totally ignored. We are not being lumped with anyone. We do not have any say at all. Could the Leader of the Government assist me on this matter?

I have a letter from the Office of the Government Leader of the Yukon Territory, Mr. John Ostashek, which states:

> Yukoners are proud to be Canadian and wish to see the federation work, but success cannot be achieved by measures which will take away from our rights. The veto proposals will make eventual provincial status even more difficult to achieve; they are regressive and unfair to the Yukon and NWT. Exclusion of our interests and our voice is particularly troublesome at a time when we join fully with the provinces and the federal government in a variety of intergovernmental forums and at First Ministers' conferences.

• (1420)

The veto could, eventually, have a serious effect on the Yukon and the Northwest Territories. We are not talking about provincial status now, but we do know that we will want to achieve that at some point in the future. We have always felt that the achievement of provincial status should be settled between the territory involved and the Government of Canada, which is how every other province became a province. Then there were no vetoes from anyone.

Can something be done in Bill C-110? Can we be assured that, at some later point, this matter will be addressed and that the people of the Yukon and the Northwest Territories will be able to feel that they count in this equation? We are not merely entities sitting on the side to be dealt with when everything else is in place.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I should like to answer the last part of my honourable friend's question first with a very strong statement to him and those he represents that they do indeed count. They are of great importance, not just to any government but to the country as a whole.

Senator Lucier will know that honouring the commitment made during the referendum and bringing forward the measures that the Prime Minister has recently outlined does not alter the current amending formula, nor does it amend the Constitution. It is seen as a bridge to 1997 when a formal review of the amending formula must be conducted by the first ministers. The suggested changes are not of a constitutional nature.

The government is also committed to doing everything it can to create a degree of consensus which will allow us to improve our federation, short of constitutional amendment. That is what the Prime Minister has committed himself to do. In the past, my honourable friend has made him very conscious of the position of the Northwest Territories and the Yukon, particularly on the question of provincehood.

[*Translation*]

HUMAN RESOURCES DEVELOPMENT

UNEMPLOYMENT INSURANCE REFORM—CORRESPONDENCE BETWEEN FEDERAL AND NEW BRUNSWICK GOVERNMENTS—REQUEST FOR TABLING OF DOCUMENTATION

Hon. Jean-Maurice Simard: Honourable senators, my question is for the Leader of the Government, and relates to my question of yesterday about the reform of the unemployment insurance program.

From the answer I was given by the government leader, I felt obliged to reformulate my question to enable her to clarify her response and to confirm her commitment to table the documents I asked for yesterday.

I suggested she should agree to table all the documents exchanged between the Government of New Brunswick and the federal government, including the documents Mr. McKenna used to convince the federal government of the ftaws in the reform, or at least of the dissatisfaction of the four Atlantic premiers with the reform and their continued concerns about it.

In response to my question, the government leader said:

> If there is anything further I can do in response to my friend's request, I will do it.

I just want the documents, Madam Minister. I can understand that she does not have in her possession the documents expressing the Government of New Brunswick's objections to the negative impact of the reform on seasonal jobs.

However, I think Canadians — and certainly the people of New Brunswick — are entitled to know exactly which points Mr. McKenna does not like in the reform. Otherwise, we are limited to interpreting Mr. McKenna's words of rather weak opposition as another frivolous statement, devoid of meaning. Given that speech evaporates and the written word endures, I, and the people of New Brunswick, would like to know the content of these documents so that I can confirm Mr. McKenna's attachment to the workers in New Brunswick who could be affected by the passing of this bill.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I believe the answer to that question is the same in substance as the answer I gave my honourable friend yesterday. I will take his requests seriously and present them to my colleagues to find out if there is any documentation, and if so, what the nature of it is, and whether there is a possibility of tabling such documentation. I undertake to do that.

In spite of our political differences, I am sure my honourable friend would agree that Mr. McKenna's words and speeches are very compelling in themselves.

[*Translation*]

Senator Simard: Honourable senators, to return to my question, we know that spoken words are fleeting. No one in Canada can accept, or even imagine, an official statement of the Government of New Brunswick being made orally.

If the McKenna government is serious, and I believe it is most of the time, it will certainly have prepared documents giving some statistics about the people likely to be affected by this reform. It is totally inconceivable that Mr. McKenna would have restricted himself to a spoken statement which could be interpreted in any way one might wish in the weeks, months, even years, to come.

[*English*]

Senator Fairbairn: Honourable senators, I am not disputing what my honourable friend has said; I am simply saying that I do not know. I will try to find an answer for my colleague. However, it may be that I cannot delve into the domain of any provincial government, and the questions my honourable friend poses may be better asked of Premier McKenna.

[*Translation*]

Senator Simard: Since I am a senator and since Canadian money and federal unemployment insurance and employment legislation is involved, I do not think I need to contact the legislature of New Brunswick to get an answer.

Moreover, where the legislature of New Brunswick is concerned — and you will have to take my word for this — there have been no consultations between the Leader of the Government of New Brunswick and myself in recent days.

Yesterday, an official request was made to the Government of New Brunswick and its premier for the Legislative Assembly to be recalled and for there to be a debate on this matter in New Brunswick. All New Brunswick parties are in agreement that the legislation of Messrs Chrétien and Axworthy is not appropriate in the least.

Do you know what Mr. McKenna's answer was to Leader of the Opposition Valcourt's request? That there would be no special session. Do you believe I would get a positive response from Mr. McKenna if I asked for those documents?

There are numerous precedents for tabling before this house correspondence, letters or documents which have been exchanged between these two governments in the past, as well as with other provincial governments.

My question is therefore as follows: Will the minister commit herself to a serious investigation in order to obtain these documents for tabling, within a week or, at the very least, before adjournment?

[*English*]

Senator Fairbairn: Honourable senators, once again, I have committed myself to convey my honourable friend's question to the proper sources to see if documents exist and whether it is possible to accede to my friend's request. I will do that.

[*Later*]

[*Translation*]

UNEMPLOYMENT INSURANCE REFORM—CORRESPONDENCE BETWEEN FEDERAL AND NOVA SCOTIA GOVERNMENTS—REQUEST FOR TABLING OF DOCUMENTATION

Hon. Gerald J. Comeau: Honourable senators, my question follows on that of Senator Simard. The Government Leader in the Senate has committed herself to obtaining for us the correspondence containing the recommendations of the Premier of New Brunswick, Mr. McKenna. I would also like to see tabled the correspondence of Mr. McKenna, who has had very little to say so far, concerning the changes Minister Axworthy has proposed for Nova Scotia.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I repeat that I will ascertain if anything is available and, if so, I will check to see if it is appropriate to follow through.

UNEMPLOYMENT INSURANCE REFORM—RELATIONSHIP TO REDESIGN OF OVERALL SOCIAL PROGRAMS—GOVERNMENT POLICY

Hon. Brenda M. Robertson: Honourable senators, two years ago, after the Liberals formed the government, some rather interesting proclamations and announcements were made by Mr. Axworthy regarding the study and redesign of all programs supporting the social safety net. These announcements were made over a considerable period of time.

Knowing, as most of us do in this chamber, the strong inter-relationship between social programs, can the honourable leader advise us why her government and Mr. Axworthy dropped the study on the restructuring of the social network in favour of a piecemeal approach demonstrated by isolating the reform of unemployment insurance from other programs?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as my honourable friend will know, an exercise was begun by Mr. Axworthy some time ago. He has taken a great deal of time and effort to consult, to gather information and views from the public, the provinces and interested stakeholders in all areas on the broad subject of social reform. He has not done that once; he has done it a great many times.

He has not, in any way, backed away from his intense concern to establish a secure social network for Canadians. He has chosen the method in which he is now engaged. It involves a different way of approaching what will now be called the "social transfer". It will include policies for the elderly.

My honourable friend refers to this approach as piecemeal. The minister has had extensive consultations, and he has initiated an approach which he and the government believe will constitute security for Canadians of all ages, and in all parts of this country, for many years to come.

Senator Robertson: That is an interesting answer, honourable senators.

Have the discussions between Minister Axworthy and the people of this country indicated that the preference is that one program at a time should be addressed without considering others? Will each program be tinkered with, separate and apart from the others? If that is done, honourable senators, I submit to you that it will not work.

Senator Fairbairn: Honourable senators, I respect my colleague's views on this process. She comes to this chamber from the province of New Brunswick and with a great deal of experience of how these programs work. My honourable friend will know, for instance, that over many years unemployment insurance has been dealt with in a manner that does not separate it from the social network. The issue itself is complex and special in the way that it affects the lives of Canadian workers. Following advice and consultation, governments in the past sought to come to the best possible conclusions on the unemployment insurance issue. However, in dealing with unemployment insurance, governments have been accused of tinkering. I do not believe it was tinkering before, and it is not tinkering now.

Honourable senators, in a very determined way, the Minister of Human Resources Development has tried to combine the difficult social problems involved in work and education in an attempt to find different methods of job creation. He has attempted to pull more of that into the ambit of employment services than has been the case in the past. However, his motivation is the same as that of previous governments: to establish the strongest foundation and sustainable security for Canadians in the areas of employment, pensions and health care. That is his motivation. He is making choices based on the best advice and knowledge that he can accumulate through public consultation and discussions with all who are involved in the social network.

Honourable senators, I personally believe we should give the minister all the support we can as he strives to achieve the objectives that we all wish to achieve.

Senator Robertson: Honourable senators, obviously there is a major difference in opinion. In due course, we will have an opportunity to debate this issue.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 20, 1995, by the Honourable Senator Berntson regarding the sale of Airbus aircraft to Air Canada.

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—NUMBERS OF RCMP INVESTIGATIONS PUBLICIZED—REQUEST FOR PARTICULARS

(*Response to question raised by Hon. Eric Arthur Berntson on November 20, 1995*)

> From what is known of the nature of the documents that were publicly disclosed and the manner in which they have been made public, these documents were not documents created by the Government of Canada or edited by the Government of Canada.

The Government of Canada has no reason to believe that the reported disclosure resulted from governmental action.

In light of this information, the Government of Canada is not asking for an investigation at this time.

To our knowledge, no letters of request to other countries have ever been made public.

ORDERS OF THE DAY

AUDITOR GENERAL ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Roux, for the second reading of Bill C-83, to amend the Auditor General Act.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, Bill C-83 aims to give the Auditor General a stronger mandate to monitor departmental activity concerning the environment. It also ensures that such activity is reported to the House of Commons annually.

By way of background, honourable senators, reaching this point has involved travelling a somewhat winding trail. The former PC government made environmental concerns a key part of federal planning. In 1989, the PC government launched the National Round Table on the Environment and the Economy, an initiative to include environmental concerns and economic planning. In particular, a sustainable development strategy was included in the Conservative Green Plan introduced in December 1990. The strategy focused on forestry, the agri-food industry, and fisheries.

In their Red Book, honourable senators, the Liberals pledged to make sustainable development a major component of Canada's strategy for economic growth. They promised to create an "Environmental Auditor General" to monitor the "greening" of government. In the spring of 1994, the Standing Committee on Environment and Sustainable Development recommended the creation of a new and independent office, designated "The Commissioner of the Environment and Sustainable Development." This was in spite of testimony from the Auditor General pointing out that his office was already doing similar work.

• (1440)

In her response, however, to the committee's report, Environment Minister, Sheila Copps, stated that a new office separate from the Auditor General would not be created.

In substance, the passage of Bill C-83 would implement five changes. First, it would require that all full departments develop a sustainable development strategy. Second, it would require the Auditor General to make an environmental report to the House of Commons at least annually. Third, it would require the appointment by the Auditor General of a commissioner of the environment and sustainable development who would assist the Auditor General in performing his duties relating to the environment. Fourth, the commissioner will also monitor the progress of departments in respect to their sustainable development strategy. Fifth, it would impose guidelines regulating the treatment of all petitions related to environmental development issues received by the Auditor General. The commissioner will forward all petitions to the appropriate minister who will acknowledge receipt of the petition to at least one petitioner within 15 days of reception and respond to the petition within 120 days.

Honourable senators, this is not a complicated bill, although there may be some need for clarification regarding some concerns raised at the committee stage, which I suggest is the appropriate place to raise such concerns.

Hon. Mira Spivak: Honourable senators, I wish to indicate my support for Bill C-83, which will create the commissioner of the environment and sustainable development under the Auditor General Act.

Senator Kenny ably explained in detail the forward-looking elements of the bill. However, I have some concerns with respect to it.

I welcome the amendments that will expand the watch-dog role that auditors general have informally taken upon themselves for 10 years or so. As the Auditor General himself pointed out in his November report, in the past decade his office has explored environmental issues from almost every conceivable angle as part of its mandate to report matters of significance to Parliament.

With this bill, he will have a new partner — perhaps a new "deputy" is the appropriate term. The new commissioner of the environment and sustainable development, appointed by and reporting to the Auditor General, will be charged specifically with keeping watch on what government departments say they will do to further sustainable development and telling Parliament, and the public, the extent to which they are doing it.

The new office is certainly worthy of support. It makes some sense to locate it within the Office of the Auditor General. Time and again we hear that unsustainable development not only harms the natural environment, human health and our country's credibility in the international community, but also, in the long run, it is more expensive.

The Auditor General reaffirmed that point in his recent reports that tell of the economic fallout from delays in finding permanent disposal for radioactive waste and PCBs. In just one hour this week I also heard people concerned with global climate change speak of many measures governments could introduce that would not only mitigate the impact of climate change on the environment, the economy and human health, but how they would also save taxpayers money.

This bill requiring departments to give some thought to the impact of their procedures, their programs and their policies on the environment and Canada's progress toward a sustainable society is certainly worthy of support. We need this mechanism to require our officials to see the big picture and to take a long-term view. Long gone are the days when asking employees to recycle or follow environmentally friendly procurement practices will meet the environmental challenges we face.

That being said, I am aware that the bill does not go as far as many might have hoped. It does not allow the new commissioner to judge the merits of departmental policy. It does not create an ombudsman for the environment, or even a quasi-ombudsman as we have for the protection of access to government information or personal privacy. The new commissioner will simply pass on petitions received from the public to the responsible minister and report the response.

At the end of the day, the effectiveness of this bill will depend on two unknowns: It will depend on the quality of the sustainable development strategies that departments produce, and it will depend on the political will of the government to act on the deficiencies reported to Parliament by the new commissioner. In short, the effect remains to be seen.

However, I support this bill in the spirit of willing suspension of disbelief. It is a good, if limited, step. I sincerely hope that the government heeds the words of my colleague opposite who, yesterday, said that it will ensure the decisions made by federal departments are sustainable development decisions and that environmental, social and economic considerations will be integrated in all federal planning and decision making. That is a hoped-for result. I support it and hope that it will come to pass.

Hon. Colin Kenny: Honourable senators —

The Hon. the Speaker: I wish to remind honourable senators that if the Honourable Senator Kenny speaks now, his speech will have the effect of closing the debate on second reading.

Senator Kenny: Honourable senators, I am sure that the members of the Standing Senate Committee on Energy, the Environment and Natural Resources will consider this bill carefully.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kenny, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

BRITISH COLUMBIA TREATY COMMISSION BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Marchand, P.C., seconded by the Honourable Senator Losier-Cool, for the second reading of Bill C-107, respecting the establishment of the British Columbia Treaty Commission.

Hon. A. Raynell Andreychuk: Honourable senators, it is with pleasure and some trepidation that I rise today to participate in this debate at the second reading of Bill C-107, respecting the establishment of the British Columbia Treaty Commission.

Bill C-107 will provide confirmation of Canada's obligation under the B.C. Treaty Commission Agreement. It is a very serious undertaking. It is also an opportunity to make progress.

The past summer in British Columbia was one of the worst summers of discontent. There was fear, anguish, violence, and very nearly death. The rule of law was flouted. Governments seemed paralysed by indecision.

To an unfortunate extent, public goodwill has been eroded toward legitimate native grievances. Legitimate grievances exist and persist if governments do not ensure consultation and efforts are not made toward developing understanding and consensus on the important matter of the lands, waters and bounty of British Columbia.

The place for native/non-native dialogue is not atop a barricade. Grievances should never be settled at the point of a gun. Progress will not happen as a result of expensive, do-nothing solutions produced by the vast Native Affairs bureaucracy.

The establishment of the British Columbia Treaty Commission will enable us to commence a process that has a chance of working. It guarantees consultation at a pace agreed upon by the peoples most concerned — those at the grassroots.

The B.C. Treaty Commission Agreement was signed on September 20, 1992 by the Progressive Conservative government, the Government of British Columbia, and an organization called "the First Nations Summit." The agreement endorsed the 1990 British Columbia Claims Task Force Report which recommended a new treaty-negotiation process for British Columbia. The Liberal government, elected in October of 1993 — 26 months ago — inherited this insightful and honourable effort just as they inherited so many other excellent initiatives.

The commission's purpose is to facilitate the treaty negotiation process; it will not negotiate or make decisions on entitlement. The commission will be the keeper of the process by which negotiations can proceed effectively to resolution. The negotiations will be carried out among the individual First Nations and the two governments.

I read with some interest the Minister of Indian Affairs' introduction of the bill on October 19, 1994 when he said that:

> ...its aims and objectives lie close to the heart of government.

He added that:

> ...his Ministry's goal for Canada is to develop a Canada where aboriginal children would grow up in secure families and healthy communities with the opportunity to take their full place in Canada.

This emphasis on security and health of communities is an important commitment by the minister. He will be held to it. All communities in British Columbia will become more secure and healthy when the uncertainty that has prevailed in British Columbia over native land claims is combatted with rigorous consultation.

It would be natural if Canadians, and certainly if First Nations peoples, felt despondent about the matter of native self-government and native issues in general because, in fact, we do talk and talk but often little is done. Real, honest consultations have been lacking.

The recognition of an inherent right of self-government would not, by itself, meet the aspirations of native peoples. In short, it would not, by itself, solve the challenges that confront natives, nor would it redress historic injustices.

The quest of the First Nations Summit for treaties requires what the Honourable Jean Charest calls "result-oriented government."

Canadian achievements in the area of native rights, such as Nunavut, have often been remarkable. With the helpful vigilance of the native peoples themselves, solutions to complex questions will yield tangible measures.

Often, however, we pay lip service to section 35 of the Constitution. It is time that we, in fact, lived by our rule of law.

Many British Columbians imagine that improved access to land, waters, resources, and certainty regarding Indian land claims in B.C. will address, in part, our indebtedness to native peoples and be the start of something honourable and prosperous.

I believe that Bill C-107 is, in the main, a valuable piece of legislation. However, it should be studied by the committee, word for word and clause by clause, to ensure that its aspirations are, in fact, attainable.

Hon. Len Marchand: Honourable senators —

The Hon. the Speaker: Honourable senators, if the Honourable Senator Marchand speaks now, his speech will have the effect of closing the debate on second reading of this motion.

Senator Marchand: Honourable senators, I thank Senator Andreychuk for her remarks on the bill. It appears as if there may be unanimous approval of this bill. I commend its passage to honourable senators.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Marchand, bill referred to the Standing Senate Committee on Aboriginal Peoples.

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—DEBATE ADJOURNED

Hon. B. Alasdair Graham (Deputy Leader of the Government), moved:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. Sharon Carstairs: Honourable senators, I do not wish to speak today to the —

POINT OF ORDER

Hon. Noël A. Kinsella: Honourable senators, I rise on a point of order.

The Hon. the Speaker: Honourable Senator Kinsella, are you rising on a point of order?

Senator Kinsella: Yes, Your Honour.

Honourable senators, the point of order which I rise on today has to do with the motion that has been moved by Senator Graham and which my colleague Senator Carstairs has begun to debate.

I object to the Senate considering this motion because I believe it to be in direct contravention of our rule 63 in that the motion is dealing with a matter the substance of which was considered by the Senate and voted on by the Senate, which vote was negatived. Rule 63(1) clearly provides:

> A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

That is to say, provided by subsection rule 63(2).

As honourable senators are aware, that rule speaks to the extraordinary tests that must be met to rescind such a motion, which involve five days' notice and at least two-thirds of the senators present voting in favour of that motion.

Last week, on another motion that was attempted to be put before us, I had occasion to rise on another point of order. His Honour made a ruling on that point of order. There were several elements to the debate which were duly considered by His Honour.

As senators will recall, it was pointed out that it was felt that because there had been a certain time span between the motion that had been considered by the Senate and voted upon, and the time that was mentioned in the motion then before the house, they were, therefore, different matters. I review that because the point of order I am raising today is being raised at a different point than the one raised last week.

Honourable senators, this matter is of some seriousness because it speaks to the order of the assembly and the rights of all senators to know what is before them in their deliberations, as well as to know when a decision is made in a given session and what that decision is.

If one were to accept the argument that a senator merely needs to recommend, after a vote had been taken on a motion, that the date be changed and then introduce the same motion, then the whole purpose of rule 63(2) would be redundant. Why have a superior test that has to be met when the assembly intends to change a decision that had been taken deliberately? The fact that we have rule 63(2) certainly infers that. However, I think that it is more a matter of consequence than simply inference. There is one of implication, that is, because we have rule 63(2), it is of a higher order; it is just not something in the procedural literature; rather, it is a rule of this chamber and therefore carries much more weight than what a learned scholar on procedure argues in his or her writings.

The very existence of rule 63(2) implies that there must be a significant, substantial difference in the matter that is being deliberated upon by the Senate in order for it to be rescinded.

Honourable senators, I checked the *Companion to the Rules of the Senate* which we all have available to us. At pages 190 and following there is a good review of the history and the purpose of rule 63. We should reflect upon what is stated therein. I think it is clear that the point of order that I wish to make on this motion is that we are focusing very specifically, in a very limited way, on the motion that is before us. That is to say, it is part of the Orders of the Day and it is seeking to undo something which we did on November 22.

If we were to make that change, then we would have to meet the test of rule 63(2), which I think would create chaos.

The other point is this: We do not want to find ourselves in the situation of a senator coming forward every other day and saying that he or she will move a motion on a matter which has been decided previously, with the only change being the date. It could go on and on and we would make no progress at all.

I draw the attention of His Honour and honourable senators to *Bourinot's Parliamentary Procedure, fourth edition*, at page 328 where the matter of renewal is dealt with after the question has been put. It provides, in part, that when the question on a motion has been put by the Speaker to the house for its determination, it is then in the possession of the house.

We were seized of the question, which is the substance of the motion before us today. We were seized of that question several weeks ago and we made a deliberate determination on it. Effectively, we are now being asked to reconsider it. If we are to reconsider it, then I submit rule 63(2) must apply.

[Senator Kinsella]

However, in the alternative, and perhaps *mutatis mutandis*, it is more important that we not allow that to occur because the general practice in Parliament is that a matter which has been the subject of the judgment of the House and where that judgment has already been expressed, the matter is disposed of and it is not until a new session that that question may appear again.

As Bourinot states at page 328 of the fourth edition:

> It is, however, an ancient rule of Parliament that "no question or motion can regularly be offered if it is substantially the same with one on which the judgment of the house has already been expressed during the current session". The old rule of parliament reads: "That a question being once made, and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the house".

Honourable senators, my submission is that this house has made its judgment on this substantive matter. That judgment cannot be overturned save and except by the measure provided for in rule 63(2).

Hon. John B. Stewart: Honourable senators, on November 30, His Honour dealt with the main point now raised by Senator Kinsella. On that occasion the Speaker quoted the terms of the motion which Senator Carstairs proposed to move. He said:

> The second objection relates to the point of order raised by Senator Phillips, that a motion that has already been decided cannot be raised again.

In dealing with that, His Honour said:

> I have examined the earlier motion of Senator Fairbairn, seeking to have the Committee on Legal and Constitutional Affairs report on the message of the House of Commons and the motion of Senator Graham that was defeated on division last week. That motion proposed that the committee report no later than Wednesday, November 22. This new motion orders the committee to report no later than Monday, December 11.

As I understand Senator Kinsella, he is saying that the motion which has been moved this afternoon is substantially the same as the one to which the Speaker referred as "the earlier motion" because, of course, Senator Carstairs' proposed motion never became a motion because it was found to be out of order.

If Senator Kinsella's point this afternoon is to prevail, he will have to show that the ruling His Honour made on November 30 does not apply to this motion in the way that it applied to the motion of Senator Carstairs, if indeed she had made that motion.

There is another more serious point to consider, although it may not be the decisive one. We must distinguish between different kinds of motions. Obviously, we make the motion to adjourn from time to time, and such a motion might be defeated. That does not become a bar to moving that motion an hour or two later. I say that just to get us into the water.

Motions are of two kinds: First, there is a motion which seeks to have the house, in this case the Senate, formulate a resolution; and a resolution adopts a principle or states the views or the

opinion of the house. Second, we have motions which relate to how we do our business, that is, motions which relate to our domestic order.

I have not had occasion to check the precedents in this regard. However, I think honourable senators will find that, historically, the rule against repetitious motions is a rule against asking the house to reverse its opinion or to change its views on a proposed principle during the same session. That is why an attempt to have a second reading motion for the same bill in a session is ruled out of order. It would be an attempt to have the house adopt a principle that had already been rejected by the house.

However, when we come to matters of domestic order, we are on different ground. I should like to cite an example of how it is different. I will illustrate my point by an example. I am referring to Erskine May.

There is the motion called the "previous question" and that motion is that the question be not now put. Erskine May explains the implications of putting a previous question which was agreed to by stating:

> If it be resolved in the affirmative, the Speaker is prevented from putting the original question as the House has thus refused to allow it to be put. The original motion may, however, be brought forward again on another day, as the decision of the House merely binds the Speaker not to put the question thereon at that time.

Let us assume, for example, on a question on third reading the house decided that it did not want the question to be put now and that was negatived. However, on the following day it would still be in order to put the question. Even though the question was put and negatived on one day, on the following day it would still be in order to move the same motion a second time, or a third time or fourth time on successive days. There is a decision on the motion that the question be not now put.

Senator Lynch-Staunton: To postpone.

Senator Stewart: No. There is no question of postponement. It is that it be not now put this day. It is still in order to move exactly the same motion on the next day or the day after that.

The reason it is possible to move exactly the same motion is that it does not state an opinion, a resolution or a view of the house on a substantive matter; it is a matter of the domestic affairs of the house.

I mention that in a sense as a footnote to my earlier comments. I think that His Honour has already answered the question by the decision he gave on November 30, 1995 when Senator Carstairs attempted to bring forward a motion and the Speaker ruled that the proposed motion would be out of order by reason of the motion which had been dealt with earlier.

Honourable senators, I wanted to raise this other point because I think we might slide into a situation which would be embarrassing for us if, in the future, we did not distinguish between motions which determine the views of the house for a session, and motions which deal with the conduct of our business.

Hon. Orville H. Phillips: Honourable senators, I agree with Senator Kinsella that rule 63(1) prohibits the introduction of this motion. It is very definite. It makes no exceptions.

I should like to refer to one part of His Honour's ruling last week, where he stated:

> ... we are soon approaching an extended adjournment or a possible prorogation of the parliamentary session ...

Honourable senators, I have no idea where that information came from. We on this side have no information of an adjournment, and we have no information of a possible prorogation. I heard the rumour last December of a possible prorogation. I heard it again at Easter, and again in June. I find a reference to it in a ruling made by His Honour.

It is most unusual to use the rumour mill as the basis for making our decisions. We should have a more reliable basis upon which to reach a decision than the rumour mill. I would hope that His Honour will reconsider at least that portion of his ruling.

I would raise the question of the procedure leading up to the decision which was made on this motion. The two motions are identical except for the dates. Everyone was notified, and a decision of the Senate was to be taken. If honourable senators look around the chamber today, they will see that the attendance was much greater when that vote was taken than it is today. I submit to His Honour, with the greatest of respect, that the decision has already been taken. It was taken by almost 98 out of 104 senators.

Senator Prud'homme: The Speaker did not vote that day.

Senator Phillips: Thank you very much for the correction, senator.

With the exception of those who were unavoidably absent, or late, the full Senate took the decision, and they took it with the understanding that it was to be the final decision. The whip sent out a notice to everyone. We saw senators whom we had not seen for a long time.

I am sure that, if Your Honour will reflect, rule 63 definitely applies today; and it applied when the previous vote was taken.

Senator Graham: Honourable senators, in his ruling on November 30, the Speaker referred to a motion that we dealt with earlier in the Senate on Bill C-69. To quote from the *Debates of the Senate*:

> ...I am persuaded that, on the whole, there is sufficient difference in this motion, in comparison with the one that was proposed last week, to allow it.

Senator Lynch-Staunton: Read the whole sentence.

Senator Graham: That is it.

Senator Lynch-Staunton: That comes after a comma.

Senator Graham: Honourable senators, this is exactly what we are doing today. The motion today is in conformity with the Speaker's ruling of November 30. In fact, the motion today actually flows from that ruling. With all respect, I submit that by asking the Speaker to reverse himself, we would, in effect, be putting His Honour in an intolerable position.

Senator Lynch-Staunton: You have had your share of doing that.

Senator Carstairs: Honourable senators, Senator Kinsella made reference to the *Companion to the Rules of the Senate*, page 109. I would refer him to page 189. I think that indeed the Companion is very clear as to specifically what applies under rule 63 and what does not apply under rule 63. It states:

> This rule may generally be referred to as the "same question rule"...

It goes on to state:

> "That no bill of the same substance be brought in the same session."

Of that there is no question. It then clearly indicates what we are debating at this moment. It states:

> The same question rule, however, has a somewhat limited application with regard to the motions proposed during the passage of a bill in the Senate. For example, certain amendments such as a six month hoist may be proposed at both second and third readings. As well, Rule 77 provides that, "At any time before a bill is passed a Senator may move for the reconsideration of any clause thereof already carried."

Clearly, it is possible, even with rule 63, to have, on a number of occasions, what are essentially procedural motions rather than substantive motions. We are clearly dealing with a procedural motion in this instance. A vote was taken on November 21 which was very specific. It said that there would not be an order of this house to require the Legal and Constitutional Affairs Committee to report the next day. That is all we voted on. We did not vote on Bill C-69. We are now being asked to support a motion which would say that the committee should report on December 13.

Presumably those on the other side were not opposed to the bill being voted on because, if they were going to take that stance, then they would have, in fact, voted against the bill. If they did not vote against the bill, they simply voted on a date and time. They now have an opportunity to vote on another date and time. The committee has had almost two additional weeks to study the debate and to propose, perhaps, new amendments to the bill. The fact that the committee has not met in that time is somewhat irrelevant.

This is clearly another procedural motion asking that this bill be brought from committee to the floor of this house so that debate in this chamber can take place on Bill C-69.

Hon. Lowell Murray: Honourable senators, I should like to take a minute of your time: Senator Stewart in his opening remarks does us a service by raising the question of adjournment motions as an example which, even if defeated, can, after an intervening procedure, be moved again. That is indeed the case. He does us a service because he draws our attention to the fact that our rules make a distinction between procedural or dilatory motions on the one hand, and substantive motions on the other.

Senator Carstairs has put forward the proposition that Senator Graham's motion is a procedural motion. It is not a procedural motion. According to our rules, a dilatory or procedural motion can be moved at any time, and without notice. The government acknowledges that Senator Graham's motion is a substantive motion by having given the required notice and by having presented it in this form. There is no question but that it is covered squarely by rule 63(1) as a substantive motion. Therefore, rule 63(1) applies.

It is up to the Speaker to decide whether this motion of Senator Graham's is the same in substance as the question which we resolved some 10 days ago. It is certainly obvious to me that it is exactly the same, and therefore would be found to be out of order under rule 63(1).

My purpose in rising is to rebut the contention of Senator Carstairs that this is simply a procedural motion. It is not; it is a substantive motion.

Hon. H.A. Olson: Honourable senators, we should acknowledge that members opposite have now agreed that there are different kinds of motions. Senator Murray calls them "procedural" and "substantive." What we are really arguing about here is whether or not, by once refusing or voting to not request a committee to return a bill to the floor of the Senate, that it can never be done again in the same session.

Senator Lynch-Staunton: That is right.

Senator Olson: How ridiculous can you get?

Senator Lynch-Staunton: It is in the rules.

Senator Olson: Even you do not believe that, Senator Lynch-Staunton.

Senator Stanbury: It cannot possibly be true.

Senator Olson: It cannot be true. Does it apply just to Bill C-69, or is it applicable to any bill that has been sent to a committee?

Senators opposite have said that it is not enough to just change the date. Senator Kinsella made that comment. Would it be enough if we were to change the number of the bill? Would it be enough, then, if we were to call it Bill C-71? We are not dealing with substance and Senator Murray knows it. We are not dealing with a substantive motion; we are dealing with a housekeeping, procedural motion.

Senator Murray: Is this a substantive motion or a procedural motion? Perhaps, for openers, we should have a ruling on that. If my friend has precedents to back up what he is saying, then let him present them.

Some Hon. Senators: Order, order!

Senator Olson: Perhaps it would be a good idea for senators opposite to sit down and listen to some reason, to see how ridiculous they are. In making such an argument, the Senate will prevent itself from ever recalling an act or a bill from a committee.

Senator Lynch-Staunton: That is a Bouchard argument. Do you want a referendum every week?

Senator Olson: If honourable senators opposite believe that, then I do not think there is much use in me and Senator Stewart,

who was perfectly logical, trying to make the argument. There are different kinds of motions. However, even if honourable senators accept that there are different kinds of motions, they then say that this one is a substantive motion that is covered under rule 63(1). That is what senators opposite seem to be arguing now. I am afraid it is hopeless. There is no use trying to argue with them.

Senator Lynch-Staunton: I am not ruling on the matter; the Speaker will do that.

Senator Olson: Unfortunately, I have to address the senators, but I do hope the Speaker is listening, of course.

In any event, the logical extension of what Senator Kinsella and others opposite are arguing is so completely ridiculous that I hope they are not sincerely trying to confine the Senate to that kind of a box. If that is what they believe, then I am afraid they may have another motive.

[*Translation*]

Hon. Jean-Robert Gauthier: Honourable senators, this is a very interesting debate. We should get back to the essential issue: is it a substantive or procedural matter?

I respectfully submit it is a procedural matter. Beauchesne's, citation 559 defines substantive motions as follows:

> Substantive motions are self-contained proposals, not incidental to any proceeding, amendable and drafted in such a way to be capable of expressing a decision of the House.

Substantive motions usually concern bills or resolutions. In this House, often the date on which a report is to be presented is changed. Recently, I was in the Senate when it was decided to authorize a committee to report at a later date than had been agreed.

For instance, the Special Joint Committee on a Code of Conduct was to report to this house by the end of November. There was a motion to postpone presentation of the report until the end of March. This did not lead to a lengthy debate because it was a procedural matter. We agreed that since the committee had not been allowed enough time, we would extend the deadline. In this case, only the date was changed.

[*English*]

In Erskine May, it states that, when a certain motion in relation to the procedure of the house — and I deal with this motion as a procedural motion — has been rejected on a particular day, it may be revived on subsequent days. We do it all the time. I now hear the Tories arguing that this is a substantive motion. I am with my colleagues in that I think this is a procedural motion.

Hon. Duncan J. Jessiman: Honourable senators, no one yet has looked at the definition of "motion" under our own rules. In the *Rules of the Senate of Canada*, "motion" is defined as follows, and I will read the pertinent parts:

> "Motion" means a proposal made by a Senator that the Senate or a committee thereof do something...

The motion was to instruct the committee to report. We voted on that. "Motion" as defined comes under rule 63(1).

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, on November 21, 1995, the motion before us, which was defeated, stated:

> That it be the instruction of this House to the Standing Committee on Legal and Constitutional Affairs that no later than Wednesday, November 22, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

The motion that is before us now, honourable senators, reads as follows:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

As I understand it, what we are trying to determine now is whether this is a procedural or a substantive motion. Indeed, the motions are identical except for the date.

Aside from all the arguments that have been made by Senator Murray and others as to whether or not this is a substantive or procedural motion, we need look no further than His Honour's ruling of November 30, in which he stated, in part:

> ...I am persuaded that, on the whole, there is sufficient difference...

Why would His Honour be looking for difference, if he did not believe that this was a substantive motion?

The issue has been decided. We now have the Speaker's ruling which says that what we have before us is a substantive motion. We must decide whether or not the date alone is enough, indeed, to allow for a ruling of sufficient difference.

Fortunately, on the motion that was, properly, not put before the House by Senator Carstairs, the Speaker was able to find sufficient difference by virtue of some speculation that we might adjourn for an extended period or prorogue the house. That is all well and good. However, with respect, I think it is somewhat weak. The fact is that we are dealing with a substantive motion, not a procedural one. Is the date enough to justify that? I say that it is not.

Hon. Richard J. Stanbury: Honourable senators, the difference in date is the essence of this debate. If I ask you to do something tomorrow, and you say, "No, I am not going to do it tomorrow", is there any reason why tomorrow I cannot say: "Well, will you do it now?"

Senator Berntson: It is procedural.

Senator Stanbury: Whether you call it procedural or substantive, I am saying that it is ridiculous to suggest that if the Senate decides today that it does not want the committee to report, it cannot say tomorrow that it does want it to report. There no precedents for this situation. No committee has ever been in this situation.

Senator Berntson: Honourable senators, my learned friend eloquently advances an argument to which I must respond, because it is almost as ridiculous as what he alleges is ridiculous on this side.

If we were to take his argument to its conclusion, and we had identical motions before this house every day, the only difference being the date, we could, stretching this logic to its limit, have that motion, except for the date, changed every day, 365 times a year. Why, then, would we even bother having rule 63 in the rule book?

Senator Murray: Honourable senators, on the question of whether this is a procedural or substantive motion, I did not have much luck in English in convincing my friends opposite. Therefore, in response to Senator Gauthier:

[*Translation*]

I would respectfully draw his attention to rule 23(4), regarding dilatory and procedural motions, which provides, and I quote, that:

> ...dilatory or procedural motions, which can be moved without notice and must be decided without debate.

Senator Graham gave 24 hours' notice in the case of the motion currently before us. A debate was held, in the case of an essentially identical motion resolved ten days ago. Clearly, then, we are talking about a substantive and not a procedural motion, according to the definition in our rules.

[*English*]

Hon. Marcel Prud'homme: Honourable senators, I have already said enough on this subject. However, I should like to say that this reminds me somewhat of the referendum question, where the PQ government says, "I will make you vote until we get the results we want."

Senator Graham: Honourable senators, before the Speaker rises, I would draw the attention of the Honourable Senator Prud'homme, and other honourable senators, to rule 98 which states:

> The committee to which a bill has been referred shall report the bill to the Senate.

Senator Berntson: We will.

Senator Graham: What we are asking is to let Parliament do its work.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to participate in the debate, I would thank all of those who have participated.

I take the question of rulings seriously. If I am prepared to rule now, it is not because I have not given this matter serious consideration. I have met with my Table Officers on several occasions to thoroughly discuss this matter. Thus, I would make it clear that my decision has not been taken suddenly or lightly.

I would refer honourable senators to page 2390 of the *Debates of the Senate* of November 30, where my first comments on this matter can be found. At that time, I made the point that the issue is not as simple as it may seem. Once again, the discussion of this afternoon attests to that.

At page 2390, I quoted from Erskine May, where I said:

> ...or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again...

However, I also stated that Erskine May goes on to explain that whether the second motion is substantially the same is finally a matter for the judgment of the Chair. I now find myself in the position of having to make a judgment call. That is not an easy task. Several aspects must be considered.

It was suggested that I was speculating on when this session might finish. Perhaps that is speculation. However, one thing is certain: Christmas Day is on December 25. There is no speculation in that regard. If we were to follow normal Senate procedure and practice, we would finish our work at the end of next week. However, that may not happen; we may continue.

I believe the original notice of motion was given on November 2. It is now December 6. Therefore, considerable time has elapsed since the first notice was given. The vote was taken two weeks ago. It seems to me that the time difference in a circumstance such as this is a valid consideration. It is conceivable that, as time marches on, senators may adopt a different point of view from that which they had two or three weeks ago.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: That is a decision for the Senate to make, not the Speaker.

In addition to the conditions I mentioned last week related to the different time elements proposed in this motion as compared to the first motion, I draw honourable senators' attention to a portion of that discussion related to the procedural/substantive question. I will not go into detail on that; however, it is a point that honourable senators should keep in mind.

There are certainly precedents whereby the Senate has changed dates without rescinding the previous order. I would remind honourable senators that we frequently adopt orders of reference for special studies with a fixed reporting date. We set up a special committee and instruct the committee to report by a particular date. On more than one occasion, the reporting date has been changed. Never, to my knowledge, have we questioned whether we had to rescind the previous decision. The decision to change the date was made by a motion on the floor of the Senate. There was no regard to the fact that the same question was before the Senate with the only difference being a change in date.

Based on my ruling of November 30, as well as further study which indicated that, indeed, we have changed dates in regard to

instructions to committees on previous occasions without rescinding, it being done simply by a decision of the Senate, I conclude that the motion is in order.

Hon. Sharon Carstairs: Honourable senators, as I said earlier, I do not wish to speak to the principles of Bill C-69 today. I shall, however, speak to the process. Nothing would please me more than to have Bill C-69 before this chamber where debate on the strength and weaknesses of that bill could take place. That is what this motion purports to do.

I should like to give a brief history of this bill and its predecessor, Bill C-18, which have been before this chamber for quite some time — almost two years to be exact. The bill was returned to the House of Commons with amendments in May of this year. The House of Commons rejected all but one of the Senate amendments and returned the bill to this chamber on June 20, 1995.

Despite the desire on this side to debate and vote on the proposition that we, as a chamber, not insist on our amendments, Bill C-69 was returned to the Standing Senate Committee on Legal and Constitutional Affairs, and there it remains, and remains.

The question arises: Why is it still there? Is it still there because there are so many witnesses that we cannot possibly hear them all? To my knowledge, there is not a single witness waiting to be heard on this particular bill. The question then arises: Is it because the Legal and Constitutional Affairs Committee is meeting morning, noon and night and simply does not have enough hours in the day to deal with this particular piece of legislation? The answer to that question is also no.

This bill has been sitting in committee because the other side has determined that they simply will not allow the bill to come to a vote. This has been the case since July of this year, some five months. There has been exactly one meeting on Bill C-69 since that time.

A second meeting was scheduled. Staff were on call and ready to conduct a clause-by-clause study of the bill on Tuesday, November 21, but that meeting was cancelled. It was cancelled presumably because the committee was not at all under any instruction from this house to report.

The question that must be answered, is: Is this process parliamentary? I would suggest, honourable senators, that it is not.

Senator Pitfield has indicated that he has real problems with Bill C-69. On November 22, he stated his difficulty with the process. He said:

> Perhaps I am unduly influenced by the scene last night when our colleagues denied, as I see it, the elected government the right to manage the government's business. Vote down the electoral boundaries, as some of us wanted to do, but do not refuse us the right to bring it out of committee so we cannot vote at all.

Senator Pitfield has addressed the essence of this question. That question is the right of all senators to debate and to vote on Bill C-69. By leaving it in committee and, in turn, by not scheduling a committee meeting to consider Bill C-69, no one, neither members of the committee nor members of this chamber, are able to debate and vote.

In response to a question posed by Senator Gauthier to the Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, Senator Beaudoin, as to when this bill will be returned to this chamber, the Chairman replied, and I quote:

> I am perfectly prepared to have the committee sit to hear other witnesses and prepare a report before Christmas, if you like.

The next day, in a further comment, Senator Beaudoin stated:

> — a report is out of the question for now.

Clearly, it is the intention on the part of those who control this committee to let the bill die in committee. Why?

If the committee accepts the view of constitutional specialist Professor Hutchinson that the bill is unconstitutional, rejecting the view of Professor Baines that the bill is indeed constitutional, then let us vote on this matter.

As senators, we have a responsibility not to support unconstitutional legislation. If honourable senators believe that Bill C-69 is unconstitutional, then they must cast their votes accordingly. However, it is not parliamentary, nor is it very brave, for this chamber to abrogate its responsibility by not voting at all.

Senator Pitfield and I would clearly vote differently on Bill C-69. However, we are in total agreement that this vote should be held.

Honourable senators, I urge you to listen to Senator Pitfield, and I repeat what he said:

> Vote down the electoral boundaries, as some of us wanted to do, but do not refuse us the right to bring it out of committee so we cannot vote at all.

On motion of Senator Berntson, debate adjourned.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS ACT

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—DEBATE ADJOURNED

Hon. B. Alasdair Graham (Deputy Leader of the Government), moved:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the motion and the Message referred to it on October 5, 1994, relating to certain amendments to Bill C-22, An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.

Hon. Richard J. Stanbury: Honourable senators, once again, we are debating a motion to require the Legal and Constitutional Affairs Committee to report a bill to this chamber. Bill C-22 is an important piece of legislation. It would cancel the Pearson airport agreements and establish a regime for the assessment of damage claims arising out of that cancellation. Most important, it would fulfil an election commitment made by the Prime Minister to the

people of Canada, an election commitment that has been frustrated by a few individuals in this house.

I do not stand here today to debate the merits of Bill C-22. The issue today is whether we will ever get the opportunity to debate the merits of that bill; whether I will have the opportunity to persuade you, openly and in full view of the Canadian people, why I am convinced that the bill is valid; whether someone else will have the opportunity to stand up publicly and try to persuade me that I am wrong; and whether we will have the opportunity to put the matter to a vote or decision by this whole chamber.

Public debate and public vote are why we are here. They are the cornerstone of our parliamentary system and our role in that system, but they are being thwarted by seven senators, members of the Legal and Constitutional Affairs Committee, who are refusing to release Bill C-22 to this chamber.

Bill C-22 was first sent to the Legal and Constitutional Affairs Committee in June 1994 — 18 months ago. After hearing several witnesses, the committee reported the bill back to this chamber with certain amendments. I opposed those amendments. I believed then, as I do now, that they would have gutted the bill and frustrated the will of the Canadian electorate. Indeed, the amendments were rejected by the elected majority of the House of Commons.

The message from the other place was referred to the Legal and Constitutional Affairs Committee on October 5, 1994. There it has sat for 14 months. For the first three months the committee heard witnesses who raised questions and issues about various provisions of the bill, debated among themselves and with committee members, and generally assisted the committee with its study of the bill. In a good-faith effort to speed the bill's progress through the committee, in December 1994, one year ago, the government presented a series of amendments specifically designed to address the concerns witnesses had raised. The amendments clearly went very far toward satisfying the concerns of the witnesses who had opposed the bill. Only two witnesses returned to object to provisions of the bill as it would have been amended.

Once again, the government attempted to resolve the differences between the two sides by proposing further amendments to meet these latest objections, and once again the government was met with new objections; objections that gained in creativity what they lacked in legal substance.

At that point, there could no longer be any doubt about the motives or objectives of the Conservative majority in the committee. This was no longer a serious legal and constitutional analysis of proposed legislation; it had become a partisan battle, and it saddens me deeply to have to say, as someone who witnessed the hearings, that the Canadian Constitution and the principle of the rule of law were transformed into mere tools or weapons for this battle.

Twice the Minister of Justice appeared to answer questions and satisfy committee members that the bill was constitutional and legally valid under the Canadian law. He was very clear. On May 16, 1995, he said:

> With great respect to those who have expressed their opinions and reservations about the original bill, in preparation for my appearance this morning I reread the testimony I gave on July 4 last. Nothing that has been said in the intervening months causes me to change my view of the constitutional validity of Bill C-22 as originally enacted by the House of Commons.

In what the minister described as "a continuing effort engaged in by both sides to find common ground on the important points in issue concerning the rule of law, access to the courts and constitutionality," he explained the second set of amendments proposed for the legislation.

Professor Wayne MacKay, a constitutional law professor at Dalhousie Law School, was equally clear when he testified on these amendments. "At all three points in time," he said, that is before any amendments, after the first set of amendments and after the second set of amendments, "my bottom line has been that there are not constitutional problems with this bill."

One by one, respected legal scholars declined to lend their names and reputations to the Conservative members' manipulation of legal principles. The Canadian Bar Association, which had testified earlier on the bill, expressly refused to allow its name to be used to endorse the testimony of one of its members who appeared before the committee last May when he argued that the bill continued to be invalid and unconstitutional.

I think the last hearing held on the bill was particularly revealing. One of the grounds of attack used by the Conservative committee members related to Canada's obligations under the North American Free Trade Agreement and whether Bill C-22 would violate those obligations.

At the last hearing, Mr. Konrad von Finckenstein testified. Mr. von Finckenstein is a senior lawyer with the Department of Justice. He negotiated NAFTA and the FTA. Intimately familiar with the obligations of those agreements, he was able to assure the committee that Bill C-22 would not place Canada in a breach of its international obligations.

This should have resolved the issue. Instead, faced with strong and persuasive evidence that the bill was unobjectionable, legally and constitutionally, the Conservative members of the committee used their majority position to muzzle further discussion and debate. Almost six months have passed and the committee has taken no further action on Bill C-22. No witnesses have been scheduled. The attempts by Liberal members of the committee to schedule the bill for a vote have been rebuffed. In other words, seven members of this chamber have successfully hijacked an important piece of legislation. Their ransom? Nothing less than breach of promise to the Canadian electorate.

Honourable senators, I have served in the Senate for over 25 years. For 20 of those years I have served on the Legal and Constitutional Affairs Committee with pride and satisfaction that we were considering the legal issues of bills and other matters with care, professionalism and a strong consciousness of our duty and role. I am proud to say that our deliberations were often nonpartisan. I have been pleased to serve under the chairmanship of my colleague opposite, Senator Beaudoin.

Clearly, something has changed. Today, we are debating not one but two motions to require the Legal and Constitutional Affairs Committee to report legislation back to this chamber so that the merits of those bills can be debated openly, freely and in

the public eye. Instead, the bills lie buried, hidden from view and debate. Our requests in committee to bring them forward for consideration even by the whole committee have been rejected out of hand.

Here in this chamber on November 28, the Honourable Senator Jean-Robert Gauthier asked the Chairman of the Legal and Constitutional Affairs Committee, the Honourable Senator Beaudoin, when the Senate could expect a report from the committee on Bill C-22. At that time, Senator Beaudoin replied:

> I am fully prepared to call the committee again to consider Bill C-22 and report on it, if you wish, but I must tell you immediately that the report will state that the bill does not adhere to the principles of the primacy of law and the rule of law, which are part of the Canadian Constitution.

He said the committee would report the bill but, as yet, we do not have it.

The next day Senator Beaudoin rose to correct his previous answer. He said:

> As for Bill C-22, the experts who came to testify have clearly established that the bill remains unconstitutional; in the absence of new amendment proposals from the government, the bill is still in committee.

Do senators in this house accept the opinion of those experts as against the great preponderance of evidence as to the bill's constitutionality? How do we find out that they do if no report is made to the Senate? Has the committee any suggestion from the minister that further amendments will be forthcoming? If not, do individual senators get a chance to decide whether the many amendments already made by the minister to accommodate the concerns, real or imagined, of the seven Conservative members of the committee, satisfy any real concerns of senators as a whole? How do we find that out if no report is made to the Senate?

Denying senators the right to debate and vote on a bill is not the role of the standing committee. Indeed, this approach undermines the principles on which our committee system is based. Bill C-22 was sent to the Legal and Constitutional Affairs Committee after second reading. This chamber had already approved the principle of the bill. The bill was sent in apparent good faith to the committee for further study of the details of its provisions.

Yet, this committee has taken it upon itself — not even the full committee but seven members of that committee — to hold the bill, refusing to release it for open debate until the government offers amendments that these members desire but have no expectation of receiving. Nor do they have any intention of preparing amendments themselves that would satisfy their own desires, or of bringing them forward in a report to this house.

In his speech in this chamber over one year ago, in debate on this very bill, Bill C-22, Senator Lynch-Staunton said:

> The Senate, as has been repeatedly stated over the years, does not exist to obstruct and delay indefinitely.

Senator Lynch-Staunton: Quite right.

Senator Stanbury: He went on to say:

> It must be conscious at all times of the will of the elected representatives. This is particularly true of government policy supported by a majority of commoners. In this case, however, it is not the policy that we challenge — cancellation of Pearson agreements — but the principle which is being violated — denial of access to the courts. It is as simple as that.

What he was concerned about was denial of access to the courts. Noble words, but let us not be misled by these words, for this senator, Senator Lynch-Staunton, who is, of course, an *ex officio* member of the committee that will not release this bill, is purporting to defend the principle of access to the courts by denying access to this chamber, access to public debate, and to a public vote; in short, denying access to the fundamental institutions of our parliamentary democracy.

One of the professors, described by Senator Beaudoin as an expert, and invited by my Conservative colleagues to testify on Bill C-22, was Professor Andrew Heard of the Simon Fraser Institute. He was asked to comment about the propriety of the Senate's continuing to challenge Bill C-22 after the other place had rejected the amendments. He did not mince his words when he said:

> I believe the Senate has the opportunity to deal with the bill effectively on one occasion. Having done that, having forced the House of Commons to reconsider and debate the issue again, if the House of Commons makes its will clear, my view is that the Senate should ultimately yield on its consideration of the House of Commons' insistence on the original form of the bill.

Not only has the Conservative majority refused to yield to the views of the elected majority in the other place but it has refused even to allow the question to be debated here.

Senator Lynch-Staunton: Like you did on the GST.

Senator Stanbury: Does that make it proper?

Seven individuals, honourable senators, have usurped our role; seven people have decided that they know best, that they will not even allow us to discuss, let alone vote on the legislation; seven people have decided to hijack the Canadian parliamentary process and hold it hostage to imposing their preferred policies on the Canadian government and the Canadian people.

The Senate rules are very clear. Rule 98 states:

> The committee to which a bill has been referred shall report the bill to the Senate. When any amendment to the bill has been recommended by the committee, such amendment shall be stated in the report.

The Legal and Constitutional Affairs Committee has had Bill C-22 in its present form for 14 months, including the amendments. It heard witnesses and it considered the bill from all sides. For the last six months it has failed to call one witness or schedule one meeting to examine the bill. The committee has completed its study. There is no good reason why it does not report the bill back to the Senate. Yet, the chairman of the committee has risen in this chamber to tell us point blank that,

unless the demands of seven members are met by the government, that committee will not report the bill to this chamber.

So far, two bills are thus being held for political ransom. What will be next? How else will the declared will of the Canadian electorate be frustrated? What, then, is our democracy? Honourable senators, we must recognize these acts for what they are: Nothing less than abuse of power — for now, a form of tyranny with respect to a few select conditions, but tyranny nonetheless.

How can we restore faith in our committee system? I have always believed that our strength and credibility as an institution is founded largely on the high quality of our work in committee. I know that many of you share this conviction. But what studies will be entrusted to committees if there is no trust that they are, and will always remain, accountable to this chamber and to the Canadian people? Obviously, we will have to ask our Rules Committee to prescribe ways in which we can give more explicit instructions to our committees to avoid this kind of abuse in the future.

I have never believed that because we are appointed to the Senate we are therefore not accountable to the Canadian people. In fact, the trust placed in us is, if anything, that much greater. The traditional checks of the ballot box do not apply directly. Let us not violate that trust. Let us not undermine the credibility and respect of this chamber. The chairman of the committee was very clear: Unless and until he and his Conservative colleagues on the committee receive amendments that accord with their view of what the bill should say, they will not allow it out of committee. That, honourable senators, is seven individuals holding Canadian policy hostage.

We must put a stop to this now. I ask you, for the credibility of each of us and the future work of this institution, to support the motion to bring this legislation to the floor of this chamber for debate. Whatever the result, win or lose, we must join together to stop this dangerous precedent from taking root.

On motion of Senator Berntson, debate adjourned.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, as all honourable senators know, the Senate convenes at 1:30 p.m. on Wednesdays because committees are sitting. This has been an interesting afternoon, and I thank all honourable senators for their participation and patience. After discussions with the leadership opposite, we have agreed to ask that all remaining orders, motions, reports and inquiries stand.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

SPEAKER'S CHRISTMAS PARTY

The Hon. the Acting Speaker: I wish to remind honourable senators that all senators are invited to join the Senate staff at the Speaker's annual Christmas party which will take place in the Speaker's chambers and the Senate foyer at 5:30 p.m. today.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, December 7, 1995

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

LA FRANCOPHONIE

SIXTH SUMMIT HELD IN COTONOU, BENIN

Hon. Jean-Robert Gauthier: Honorable senators, in my capacity as International Vice-President of the AIPLF, I have just taken part in the Sixth Summit of the Francophonie held from December 2 to 4 in Cotonou, Benin.

Canada, represented by the Prime Minister, the Right Honourable Jean Chrétien, was among the forty-seven states and governments attending. UN Secretary-General Boutros-Boutros Ghali also honoured us with his presence.

The forty-seven heads of delegation addressed issues relating to three major areas: first, the international political situation; second, the world economic situation and third, the strengthening of the Francophonie.

As a result of the proceedings, some twenty resolutions, as well as a statement — the Cotonou Declaration — were adopted by the heads of delegation during this summit.

Honourable senators, I should like to report to you on the key results of the summit, in a brief review of some of the points discussed among the heads of state and of government.

The Cotonou Summit was held this year as one of the activities marking the 50th anniversary of the UN and the 25th anniversary of the Cultural and Technical Cooperation Agency. The heads of state and of government pointed out that the Francophonie cannot address the major problems and challenges facing the planet on the eve of the 21st century in isolation. Key issues relating to economic and social development and to the prevention and resolution of conflicts involve all countries, whether or not they are members of the Francophonie.

The discussions on preventing conflicts led to a resolution inspired by the conclusions of the international francophone meeting held in Ottawa last September, a Canadian initiative.

Among its other resolutions, the summit also formulated one on supporting democratization, law-abiding societies and human rights.

With respect to the world economic situation, the summit adopted a resolution on economic cooperation, recommending in particular that priority be given to the countries of the south through savings mobilization, promotion of private enterprise, development of partnerships, restructuring and regional integration of the countries of the south, with an emphasis on sustainable development.

Finally, the summit formulated resolutions on cooperation and development within francophone institutions, specifically increasing the francophone presence on the international scene and launching ambitious initiatives and large-scale projects. The most significant of these resolutions, since it affects structures, is the one on the creation of a secretariat of the Francophonie within the ACCT, the agency of the Francophonie. That secretariat will probably include an official spokesperson who will represent the Francophonie on the international level, as Secretary-General Boutros-Boutros Ghali does the UN.

It was agreed that the heads of state and of government of the countries with French as a common language would meet in Hanoi, Vietnam in 1997 for the Seventh Summit of the Francophonie.

[*English*]

BUSINESS OF THE SENATE

DELAY IN DELIVERY OF OFFICIAL DOCUMENTS

The Hon. the Speaker: Honourable senators, before I call on another honourable senator under Senators' Statements, I should like to advise honourable senators that there has been a delay in the production of documents because of the power outage yesterday. Therefore, some of the documents which we are accustomed to receiving daily are not ready on time. This is due to no fault of the staff.

I might add that we have been advised that there could be further power outages today, creating some problems with the Oasis system. I would ask for your forbearance with these problems.

[*Translation*]

THE SENATE

CRITICISM BY MEMBERS OF THE MEDIA

Hon. Marcel Prud'homme: Honourable senators, this morning in a newspaper which is read by all the members of the diplomatic corps, of the House of Commons and of the Senate, and I am referring to *The Hill Times*, there is an editorial on —

[*English*]

The editorial is entitled, "Electoral Boundaries Showdown," in which reference is made to comments attributed to a very esteemed colleague, Dr. Ted McWhinney, who is a great scholar and Liberal MP from Vancouver.

He is quoted as saying that he objects vigorously to honourable senators holding up Bill C-69. He says this about senators:

...who principally couldn't...elected as dog-catchers...

Talking about us, he says that the worst offenders are people who never run for public office. I do not know who will help me draft a nice open letter to him. I will start now.

If he thinks we have never been elected, he is wrong. I count among us at least 41 who have previously held office. No one else than, for instance, Senator Robichaud —

[*Translation*]

Who would dare day that Senator Robichaud, a great Premier of New Brunswick, Senator Buchanan, a Premier of Nova Scotia, and Senator Lise Bacon, Deputy Premier of the Province of Quebec, did not serve their country well?

[*English*]

Who could forget about Senators Austin and Olson? Who would deny the long-time service of Senator MacEachen to this country? Who would deny the service of Senators Perrault, Haidasz, Thériault, De Bané, Hervieux-Payette and Carstairs, as well as Jean-Robert Gauthier, who was a long-time member of Parliament? Who could forget Senators Bonnell, Rompkey, Thompson, Corbin and Stewart, who is also a scholar? Who could forget Senator Stollery, who is a knowledgeable person about many countries?

On this side of the chamber, who could forget Senators St.Germain, Kelleher, Berntson and Carney? Who could say that Senator Carney did not serve her country well? Then there are Senators Robertson, Murray and MacDonald. Who would say that Senator Ottenheimer did not serve Newfoundland well? Who would deny that Senators Simard, Cochrane, Rossiter, DeWare, Lavoie-Roux —

[*Translation*]

Senator Lavoie-Roux, an eminent minister of the Quebec government who served as Minister of Social Affairs; Senator Comeau, who served his province; Senator Ghitter, who was Deputy Premier of the Province of Alberta; Senator Rivest, a prominent constitutional adviser to the Premier of Quebec; Senator Forrestall, who served his province for many years; Senator Gustafson and many other honourable senators who ran for public office and are so modest I will not refer to them by name.

[*English*]

Perhaps I have forgotten one or two names. However, the last one I want to mention is you, Your Honour, who has served so well the Province of Manitoba.

Because we have been attacked, the time may have come, honourable senators, for some of us to put our heads together and tell this fine gentleman from British Columbia that we have no lessons to learn from anyone.

I repeat, for as long as I am a member of this chamber, I do not intend to rubber stamp proposed legislation. If Canadians — not members of the House of Commons — do not like the Senate, it is for them to decide what to do with it. We have a constitutional duty to exercise, and we will exercise it. We are not a rubber stamp. Not only do I intend not to be pushed around by anyone in this place, but also I certainly do not intend to be pushed around by members of the House of Commons.

UNITED NATIONS

INTERNATIONAL HUMAN RIGHTS DAY

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to note that this Sunday, December 10, is International Human Rights Day. Some might approach this day with indifference, but Canadians recognize the importance of this day.

Perhaps there now exists the notion that human rights are luxuries to be considered when times are good or when it suits our interests. This notion, however, is both fallacious and short-sighted. Human rights must be considered a necessity, if we are to progress into the next millennium and beyond. In this regard, long-term ramifications must be paramount.

Respect for human rights is not only a fundamental value but also a crucial element in the development of stable, democratic and prosperous societies at peace with each other. Rights are central to democracy. Indeed, the correlation between high levels of political freedom and high levels of human development is well documented.

Canada's traditional commitment to human rights, world peace and democratic development has been widely acknowledged. As Canadians, we bought into these values because we held them to be important. We believed that improvements on the international stage would foster gains that would also be felt domestically. It was not only a matter of principle on our part, but also about contributing to our own internal well-being.

As Canadians, we also believe that our attention to human rights offered a reflection of ourselves and our society. What was true then is equally, if not more, relevant today. The question remains: What kind of identity do we seek to promote at home and abroad?

On International Human Rights Day, let us ponder the future as we reflect on our past accomplishments in this area. I encourage all senators over the course of this year to reflect on how we, as Canadians, can further this fundamentally worthwhile cause. When we awaken every day to the right to walk this country freely and to talk freely, to name only two of our rights, we should reflect that others in this world do not have these rights. They pay with their lives.

As we work to overcome our problems, and help others with their injustices, we must remember that rights must be balanced with responsibilities to ourselves and to others.

BUSINESS OF THE SENATE

CONFIGURATION OF ORDER PAPER

Hon. H.A. Olson: Honourable senators, I rise to comment on the Order Paper that is on our desks today. The structure and format of it, as well as the size of the print, are considerably different from the Order Paper which we normally find on our desks.

I prefer this new version. It is an improvement over the old one. Whether the change in style was caused by power outages or whatever, it does not matter. The "Daily Routine of Business" is on the inside of the first page, which is helpful.

I do not propose to make a long speech about it. I only want honourable senators to know that I prefer it, whatever the cause.

[*Translation*]

NATIONAL UNITY

QUEBEC REFERENDUM—RELEVANCE OF CBC PROGRAMMING FOR FRANCOPHONES OUTSIDE QUEBEC

Hon. Jean-Claude Rivest: Honourable senators, I would like to draw the attention of our friend Senator Thériault to some comments he made about the Société Radio-Canada. I share his concerns. The SRC provides very little programming for francophones outside Quebec. I could not agree more with Senator Thériault.

As far as media coverage of the referendum campaign is concerned, however, I simply want to bring to the honourable senator's attention that a study by an impartial firm indicated that the SRC had given 50 per cent air time to the "yes" side and 50 per cent to the "no" side.

Since I was invited several times by the SRC to comment as spokesman for the "yes, no, maybe so" side, I have to say before this honourable house that I have every confidence in the journalists and professionals who work for the SRC. I see I am supported in this by Senator Bacon, who is nodding her agreement.

Senator Bacon: No, no!

[*English*]

UNITED NATIONS

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Hon. Noël A. Kinsella: Honourable senators, Senator Andreychuk has drawn our attention to the fact that on Sunday next, we celebrate International Human Rights Day.

A little known historical fact is that on December 10, 1948, Canada joined the other members of the General Assembly of the United Nations in proclaiming the Universal Declaration of Human Rights. However, two days prior, on December 8, 1948, it was not so clear that Canada would be a signatory to the declaration. Fortunately, we joined the world community in marking that standard of achievement, which has become known as the Magna Carta of the 20th century.

All of that is to underscore the point that we have to be vigilant and alert in the protection and promotion of human rights in our own country. We can never take human rights for granted.

Honourable senators, one of the basic human rights recognized by the Declaration of Human Rights is the right to be free from racial discrimination. Racial discrimination, race hatred and race conflict thrive on scientifically false ideas and are nourished by ignorance. For all practical social purposes, race is not so much a biological phenomenon as a social myth. The myth of race has created an enormous amount of human and social damage.

In recent years, racial discrimination has taken a heavy toll of human lives and caused untold suffering. It still prevents the normal development of millions of human beings and deprives civilization of the effective cooperation of productive minds. The biological differences between ethnic groups should be disregarded from the standpoint of social acceptance and social action. The unity of humankind, from both the biological and social points of view, is the main thing. To recognize this and to act accordingly is the first requirement of a modern society.

• (1420)

Hon. Doris M. Anderson: Honourable senators, I too wish to rise to speak about the Human Rights Day on Saturday, December 10.

Since its adoption on December 10, 1948, the Universal Declaration of Human Rights has been, and continues to be "the most important and far-reaching of all United Nations' declarations, and a fundamental source of inspiration for national and international efforts to promote and to protect human rights and fundamental freedoms." Our own Canadian Charter of Rights and Freedoms and the human rights legislation of the provinces clearly reflect the influence of the universal declaration.

The Universal Declaration of Human Rights helped chart a course for individual nations to follow. It set standards which have become part of international law, and which helped to shape the domestic policies of many countries.

Honourable senators, in 1948, the members of the newly-formed United Nations realized that "to deny human beings their basic human rights was to set the stage for political and social unrest. Human rights affect the daily lives of everyone." Between countries and individuals there is a relationship between respect for human rights and the maintenance of peace.

Maxwell Yalden, Chief Commissioner of the Canadian Human Rights Commission, stated recently that:

> It would be foolhardy and dishonest to suggest that the UN and the declarations and conventions it has spawned have created an era of peace and mutual respect among the nations and peoples of world. We have only to look at the atrocities in Rwanda, in the former Yugoslavia and other trouble spots around the world to see that this is evidently not the case. When it comes to international human rights, the pace of progress is often painfully slow.

He continued:

> It is equally dishonest to focus only on failures. The fact is that the UN and its agencies have been a major contributor to stability and the steady advancement of human rights.

Honourable senators, as the United Nations enters its second half century, the challenge ahead is to overcome the easy cynicism surrounding the UN's effectiveness and ensure that human rights remain on the international agenda. The world community now has the responsibility to follow through with the commitment of the universal declaration to the proposition that "All human beings are born free and equal in dignity and rights."

Honourable senators, in 1993, the World Conference on Human Rights unanimously reaffirmed the principles of the universal declaration. Promoting them internationally is therefore not purely a question of values but a mutual obligation of all members of the international community.

In 1986, Parliament's Special Joint Committee on Canada's International Relations declared an all-party consensus that "the international promotion of human rights is a fundamental and integral part of Canadian foreign policy." The government regards respect for human rights not only as a fundamental value but also as a crucial element in the development of stable, democratic and prosperous societies at peace with each other.

On November 10, 1995, in his opening statement at the Commonwealth Heads of Government meeting in New Zealand, the Prime Minister stated:

> We owe it to the world, and above all to the people who live in difficult situations, to speak out in the face of flagrant violations of democratic principles and basic tenets of justice.

ROUTINE PROCEEDINGS

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH
(CANADA WEST DISTRICT) BILL—REPORT OF COMMITTEE

Hon. Gérald-A. Beaudoin, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 7, 1995

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTEENTH REPORT

Your Committee, to which was referred Bill S-12, An Act to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District, has, in obedience to the Order of Reference of Thursday, November 30, 1995, examined the said Bill and now reports the same with the following amendment:

Page 2, lines 14 and 15: strike out lines 14 and 15 and substitute the following:

"Province of Alberta has, by chapter 46 of the Statutes of Alberta, 1995, authorized"

Respectfully submitted,

GÉRALD-A. BEAUDOIN
Chairman

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

On motion of Senator Beaudoin, with leave of the Senate and notwithstanding rule 58(1)(*b*), bill placed on the Orders of the Day for third reading later this day.

CORRECTIONS AND CONDITIONAL RELEASE ACT
CRIMINAL CODE
CRIMINAL RECORDS ACT
PRISONS AND REFORMATORIES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Gérald-A. Beaudoin, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 7, 1995

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred Bill C-45, An Act to amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act, has, in obedience to the Order of Reference of Wednesday, October 18, 1995, examined the said Bill and now reports the same without amendment but with one observation.

The Committee is concerned that so many technical amendments to the French text of the Corrections and Conditional Release Act included in Bill C-45 should be necessary to remove discrepancies between the two official versions of the Act. Because legislation is now drafted in both official languages, Committee members believe it should have been possible to achieve greater consistency between the two at the time of first passage in 1992.

Respectfully submitted,

GÉRALD-A. BEAUDOIN
Chairman

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

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

TOBACCO PRODUCT RESTRICTIONS BILL

FIRST READING

Hon. Stanley Haidasz presented Bill S-14, to restrict the manufacture, sale, importation and advertising of tobacco products.

Bill read first time.

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

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

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Donald H. Oliver, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

That the Standing Senate Committee on Transport and Communications have power to sit at three o'clock in the afternoon, Tuesday, December 12, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

CONSTITUTIONAL AMENDMENTS

SCHEDULE FOR CONSIDERATION OF LEGISLATION—POSSIBILITY OF PRE-STUDY—GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, I want to ask a question of the Leader of the Government concerning Bill C-110. Perhaps the Leader of the Government can enlighten us as to the legislative schedule and expectations in the other place. When might we expect this bill to arrive in the Senate?

I doubt very much that this bill, as contentious as it is proving to be in the country, will get very quick passage here. I have been thinking about pre-study. Ideally, before the bill arrives here, the government would have amended it in such a way as to correct the problems and build the support that we all know is necessary for such an initiative to gain favour in all parts of the country. In that case, I would hope that there would not be much difficulty on this side.

To some extent, it is a question of timing. How much time does the leader think is left in the debate in the other place? If we were to conduct a pre-study, would there be enough time for us to try to influence the outcome in the other place? Would the government be agreeable to such a procedure?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I understand my honourable friend's concerns and I agree with him. This is a very important piece of legislation.

Concerning the timetable for the bill, it received clause-by-clause review yesterday. The committee will report to the House of Commons on Monday. Under their procedures, it is anticipated that debate on the bill will be completed by next Wednesday.

To deal with the other part of my friend's question, at this point in time the bill, as I said, is now in report stage. It would be premature of me to draw any conclusions about how it will come out of report stage, and certainly before the final vote in the House of Commons.

I am aware of my friend's concern and the concern of others, that we have an opportunity to get on with this matter as quickly as possible, and I hope that will be the case.

Senator Murray: It is not for me to speak on behalf of all my colleagues on this matter, but I think I can give the honourable senator an educated guess as to what will happen if that bill comes out of report stage as it is presently drafted. The chances are very strong that we will try to amend it here. I hope that my friend, and her friends in the other place will take that into account. We could not possibly complete — and I am looking at the leadership here — a bill of this nature in its present form before Christmas. The friends of my friend in the other place should not be making long-term reservations if they want to pass this bill in January, before a possible prorogation in February — that is, if that is what is in the cards.

Senator Fairbairn: Honourable senators, I am aware of the concerns involved here. Indeed, throughout this process, the government itself has heard the concerns expressed by Canadians from all across the country. My friends opposite have been very frank in their comments, and I understand their position.

However, again, I cannot speculate at this point in time. It would be premature to predict how the bill will proceed in the next phase of its existence.

[*Translation*]

LITERACY

OECD INTERNATIONAL SURVEY—LINK BETWEEN ADULT LITERACY AND EMPLOYMENT—GOVERNMENT POSITION

Hon. Jean-Robert Gauthier: Honourable senators, my question is directed to the Leader of the Government in this house. It concerns the international survey on adult literacy published yesterday. The report indicates there is a close connection between adult literacy and employment. Highly literate adults are more likely to have better paying jobs, and are mainly found in growth sectors like business and financial services.

According to the survey, literacy is no longer exclusively a matter of mastering three basic skills: reading, writing and arithmetic. The survey revealed that although formal schooling was very beneficial, continuing education was also very useful to update and improve skills. The challenge is to find ways to ensure that the adult population gets training and development.

My question is as follows: How will the measures to assist training provided in the government's new employment insurance policy that was announced recently help Canadians improve literacy levels on a national scale?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I thank Senator Gauthier for his question and for recognizing the publication of the new report entitled "Literacy, Economy and Society" produced by the OECD. All senators have been sent a copy. Canada is very much in the lead as a result of the study by Statistics Canada from 1989 to 1991, which is recognized for its excellence in other countries of the world.

• (1440)

This survey is unique. Never before have other countries joined together in assessing the base of their own capabilities in order to then be able to draw their policy objectives to focus on competition and the development of their economies in such a rapidly changing world.

In Canada, as indeed in the United States, the survey showed that we were positioned differently from European countries, perhaps because they are smaller and their governments and jurisdictions are less diverse than ours. However, many European respondents were clustered in the middle range in the survey. In terms of Canada and the United States, many respondents were found to be at the top of the proficiency level, according to the survey, but a very disturbing number were assessed to be at the very lower levels.

This is a challenge to us. We must realize that the people in our labour force now will be the same people who will be working in it 20 years from now, and we must find methods to address this structural difficulty, or our country will simply not progress and be competitive. The result will be that our citizens will not have the opportunities that we would wish them to have.

As to the new employment measures, one of the fundamental aspects of the changes introduced by my colleague Mr. Axworthy was to try to shift the focus to employment opportunities and assistance. The literacy component of those changes can be found in the part of the new program which will more directly help citizens to individually seek out the kind of training which they need to modify their own difficulties. Presently, people train for jobs or careers in areas where there are no job possibilities and the training does not meet the needs of individuals. That part of the new program is directed specifically at trying to deal with basic skills and the ability to increase them so that workers in our labour force can be retrained and be more flexible to the very rapid changes in our society.

Another focus encourages unemployed people, through wage subsidies and earning supplements, to enter and stay in the workforce, even if they have jobs that may not pay as well as they have been used to.

If one thing came out of this international study, it was the notion that if university graduates, who come out as highly literate, and others with lesser backgrounds do not have the opportunity to continually use these skills, they will lose them.

That is one of the very troublesome statistics at the core of that study, and it is one with which we in Canada must come to grips. It is not just for government, because government cannot do it alone; it is a problem which must be solved by government and the partnerships that we have been forging over the last several years.

VISIBILITY OF LITERACY SECRETARIAT—GOVERNMENT POSITION

Hon. Jean-Robert Gauthier: *The Ottawa Citizen*, in an editorial this day commenting on the OECD Statistics Canada report, stated that this country does not have a national literacy policy. Further into the article, it indicates that our National Literacy Secretariat is orphaned in the Heritage department.

As minister with special responsibility for literacy, can the Leader of the Government in the Senate reassure Canadians that, indeed, the federal government has formulated policies to deal with this situation, and that she will bring this important diagnosis — because that is what it is — to the attention of the authorities, both federal and provincial, so that we can jointly find some cohesive and possibly very comprehensive programs that will resolve this very difficult situation in which we find ourselves?

Hon. Joyce Fairbairn (Leader of the Government): I would be very pleased to do that. This is one of the issues that I think all of us can truthfully say is a non-partisan issue. It is one on which people in this chamber have worked together, others in the House of Commons from different persuasions have worked together, and people all across this country have worked together.

The country does have a literacy program. My friends in this house who were in the former administration deserve a great deal of credit for bringing forward policies in 1988 in response to the first study on the national level of literacy. That was a private study conducted by Southam. Canadians were shocked by the results contained therein.

As a result of that, the National Literacy Secretariat was set up. It is by no means an orphan, and it certainly is not in the Heritage department. It is alive and well and an example of creative leverage in the federal government that all departments would be well advised to consider. It is small and compact. It has a small budget, although I wish it had a bigger one. However, with a small budget, it levers millions of dollars among provincial governments, among businesses, and among community associations all across this country. It is where it belongs: at the very heart of the Human Resources Development department.

This study particularly shows that the objective, throughout this country and at every level, of creating jobs for Canadians, not just for tomorrow, but for the future, and jobs Canadians can do, very much requires the kind of cooperation for which the National Literacy Secretariat is responsible. It has been given additional assignments in the last year and a half in terms of the TAGS program in Atlantic Canada. It has also been given the responsibility for the Youth Literacy Corps, and it is at the forefront of research and development of literacy materials.

We cannot, as a federal government, deliver services, so we must work in close cooperation with the provinces and with all of the agencies and associations across this country, private and public, who are ready, willing, and able to provide not only money but technology and, most important, awareness on this issue. It is difficult for people to understand that there are significant numbers of Canadians who do not have the kind of ability that everyone in this house has to read and write and to solve problems in an everyday way.

This is major challenge for Canada. It was a challenge for the OECD. I think there has been more publicity on this report than almost any other report I can think of in the last five or six years, and part of it once again is the shock value of realizing that, in a country as progressive and as wealthy as Canada, a great segment of our society remains unable to fully participate or contribute to our national life.

FUTURE MEASURES TO BE INSTITUTED—GOVERNMENT POSITION

Hon. Erminie J. Cohen: My question is also on literacy. On December 10, the world observes Human Rights Day. The right to literacy is a critically important human right.

Honourable senators will recall that last October the Leader of the Government in the Senate and minister responsible for literacy was absent for the unveiling of the government's social security reform paper. Last week, the Minister of Human Resources unveiled an entirely new employment strategy. There was no mention of the word "literacy".

Yesterday, the first international adult literacy survey commissioned by the OECD was released. That study revealed that 42 per cent of Canadians have weak reading skills, scoring in the bottom two of five reading levels. What is worse, honourable senators, is that many Canadians who have trouble reading will not admit that they have a problem. It is therefore not surprising that today's *Ottawa Citizen* editorial was entitled "Literacy Lacking Leadership."

• (1450)

My question to the Minister with special responsibility for literacy is: What policies have been, or presently are being, implemented to lower the unacceptable rate of illiteracy in our country that she alluded to, and when can we expect some progress in this matter?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I thank Senator Cohen for her question. It is a difficult one. I do not concur in any way with the *Citizen* editorial that there is a lack of leadership on literacy in this country. One of the difficulties with that issue is that there is no one level of government or sector in our society that can singlehandedly lead the charge on this issue. Furthermore, as I said earlier, the problem is made infinitely more difficult because, as an example, yesterday as the survey came out, other countries including the United States were able to have their minister for education or their secretary of the department of education speaking on behalf of a cohesive unit. In Canada, we have 12 ministers of education, and because of our jurisdictional makeup, we do not have a ministry of education in the federal government. Therefore, leadership must be shared across

jurisdictional lines, and I will pay tribute again to the efforts at the federal level to establish a method of doing that with the National Literacy Program and the establishment of the National Literacy Secretariat, which does cross those jurisdictional lines. In a cooperative way, it is also part of the provincial literacy initiatives and part of the major private sector initiatives in every part of this country. Therefore it is not a question of a lack of leadership. In fact, single leadership in this country would not do the job; it is the partnerships and cooperation that will.

In response to Senator Cohen on the question of where we go from here, as she knows, we have a great number of programs that are being worked on cooperatively across the country, and as the issue evolves, there is a shifting emphasis on some of those programs. Right now, one of the most critical areas is workplace literacy. Finally, people are understanding that the place to teach and train people with limited skills is right there in the place where they work. The other area where we have seen a very dramatic emphasis in the last couple of years is family literacy, because that is where one sees the beginnings of the problems or the successes in individual lives in this country.

The international survey is an enormous one, and the statistical data that it has amassed will take some time to analyze. Canada had one of the largest groups to be surveyed of any of the countries, and there will be a specific Canada report out in March which will go through various sectors of our society and give us a much clearer picture of exactly the right tools to use in that case.

This Canada report will be the most important piece of evidence on literacy that we have ever had in this country. After it is out, there will be a succession of specific papers — on gender, on immigration, on different aspects of the problem. Those will come out over a period of probably almost two years.

We all know that awareness is difficult to achieve, but the fact of this survey and the subsequent Canada report will make it truly impossible for people to ignore the issue of literacy in the months and years ahead. It will help us build, with partners, a national strategy relevant to the 21st century.

AGRICULTURE

GRAIN TRANSPORTATION—POSSIBLE SALE OF HOPPER CARS—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, my question is in relation to the possible sale of hopper cars. As senators will know, the old boxcars wore out on the prairies, and they were replaced with a wonderful product called hopper cars which were especially built to actually hold grain. I understand the government is thinking about selling these cars to the railroads — perhaps the word "giving" would be more relevant here — at 25 per cent of their value.

My question is: Is this really the intention of the government? Has the government thought of what would happen if, let us say, an international investor were to buy up all of the shares of the railroads, and thus end up owning our hopper cars, as opposed to the farmers, the agricultural community, or the taxpayers of Canada? Is the government giving serious consideration to this very serious problem?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I must confess to Senator Gustafson that I do not know the answer to that question. I will ask my colleagues the Minister of Agriculture and the Minister of Transport if they can help me out on that one.

Senator Gustafson: I would just like to emphasize the fact that many of the farmers to whom I have spoken have a deep concern about the government entering into this type of agreement with the railroads, at a time when there have been so many changes — some probably positive, but some not so positive — in the areas of grain transportation.

Senator Fairbairn: I fully understand the concerns of my honourable friend, and I will make inquiries. I agree with him that this has been a very tumultuous year in agriculture, in transportation and in the grain trade, some of it good, some of it very difficult. On the one hand, it has left our farmers in some senses invigorated in their efforts, but on the other, there has been a sense of some uncertainty, which all of us understand. I will pursue those questions and try to get the most precise answers I can.

NATIONAL FINANCE

REDUCTION IN DEFICIT ANNOUNCED BY MINISTER—RAMIFICATIONS FOR TRANSFER PAYMENTS TO PROVINCES—GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, I have a question for the Leader of the Government. Yesterday, the Minister of Finance said that in the fiscal year 1996-97 or 1997-98, the deficit of the Government of Canada would be reduced from the present forecast of $23 billion for the following year to $17 billion. However, he did not really say how that would be accomplished. Perhaps I could have an indication from the Leader of the Government on this matter.

Does the government intend to find the extra $7 billion it needs through the methods it has used over the last two years — which is to transfer $7 billion of that problem to the provinces by way of cuts to social transfer payments, and to raise the remaining large portion of those cuts by increasing taxes, or will they cut the costs of government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, my honourable colleague Senator Olson commented during the question that the government will seek to achieve these goals through good management, and he is absolutely right.

The Minister of Finance yesterday indicated that by the end of the 1996-97 fiscal year the government would have achieved its goal of reducing the deficit to 3 per cent of GDP — perhaps even a little bit better, but cautiously 3 per cent. Further, in the following year they would take the deficit down to 2 per cent, with the ultimate goal being the elimination of the deficit completely, as the minister has stated on a number of occasions.

As far as his methods are concerned, honourable senators, the Minister of Finance has used a variety of tools to achieve his goals. He made his statement yesterday, and I am sure he will hear back from Canadians. However, we will not know exactly how he intends to achieve those continuing goals until the next budget.

• (1500)

My honourable friend knows that in the past year and a half he has had assistance through a process called "program review", in which departments throughout the government have been asked to look within themselves to see how they can control costs in terms of better management, duplication and overlap with the provinces, and this is an ongoing discussion.

The one thing that the minister did say yesterday is that this government will maintain a balanced approach and be ever conscious of the human dimension as it proceeds with the very necessary program of deficit reduction.

Senator Tkachuk: I differ a little bit on the question of good management, because to date the federal government has achieved the majority of its cuts — that is, 75 per cent of the difference in the deficit from 1994-95 to 1996-97 — by increasing taxes. That has resulted in a total of $5 billion over these three years. They have also cut approximately $4.4 billion in social transfer payments, so that the provinces must deal with the problems of health care, social welfare and university education. The dramatic cut that is being asked of the provinces, for example in the case of British Columbia, represents approximately a 30 per cent decrease in the amount of transfers they received from 1994-95, compared to what they will be expected to deal with in 1996-97. The federal government has not taken it upon itself to make the same cuts in its operating expenses as a result of program review but has let other governments in Canada deal with them.

Provinces should be able to plan two years from now on the basis of their transfer payments. Will there be increases in taxes, or will the federal government reduce operating costs?

Senator Fairbairn: Honourable senators, just as my honourable friend declined to accept my comments about good management, I find it difficult to agree with him on some of his assertions. I should also like to remind him that through social transfers the federal government continues to move billions and billions of dollars into the provincial sphere.

Ultimately, Senator Tkachuk, we will have to wait for the Minister of Finance to pull together the advice that he is receiving and bring it forward in his budget early in the New Year.

GOODS AND SERVICES TAX

FORECAST FOR ELIMINATION OR REPLACEMENT— GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, I should like to ask two short questions. If I get two short, complete answers, then I will be happy. I will appreciate it, and I am sure honourable senators will appreciate not only the questions, but also the answers.

Returning to the earlier comments about yesterday's economic and fiscal update by the Minister of Finance, even the Leader of the Government got carried away. We all know that this fiscal update did not go as far as promising that there would be no deficit in the current account years from now. Some people with whom I spoke this morning said that even the Minister of Finance got carried away by trying to predict what might happen in 1997-98. However, the Minister of Finance cannot even indicate what his follow-up would be to the statement this past summer when, again, in trying to make good and lead Canadians to believe and conclude that for once a Liberal Party promise would be fulfilled, the Prime Minister indicated that he would eliminate the GST.

Yesterday's fiscal update did not even mention the treatment that might be given in next year's budget to the GST, the elimination of the GST, or replacement of it by some other formula.

Can we read something into this omission yesterday?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, not at all.

Senator Simard has referred to the government and its promises, and seemed to imply that it never keeps them. However, I should like to remind him, from a discussion we had earlier today, about a couple of the promises that it has kept. We are restoring the funding of the National Literacy Program, ensuring that the Government of Canada will contribute to the international study and that Statistics Canada will continue to lead internationally in this issue. Therefore, we do keep promises.

On the question of deficit forecasting, as my honourable friend should know, this country has a fiscal history which is littered with missed deficit targets. One of the rather refreshing trends of the last two years is that this government has met its targets. It is on track to continue to meet its targets and, indeed, is broadening its targets with a view to eliminating the deficit, at the same time moving ahead on the central issue of creating jobs for Canadians.

Concerning the GST, the honourable senator will know what I have said on many occasions in the house; namely, that this is a very important commitment of the government. It is being pursued at the federal-provincial level. I told my honourable friend of the reports from the Minister of Finance on encouraging progress in the federal-provincial discussions. We will come to a conclusion on this issue which will be not only good for all Canadians but fairer for all Canadians. My honourable friend will have to be a little more patient as the Minister of Finance and his colleagues in the provinces move together towards a solution on this issue.

REMOVAL OF TAX ON READING MATERIALS—
GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, speaking of literacy and encouragements, the Leader of the Government in the Senate, approximately three or four years ago when the GST was being debated and fought against by the then opposition, made a commitment that she, her party, and a Liberal government — and Senator Hébert also gave his commitment — would do all they could, almost the day after coming to power, to exempt books from the GST. That would certainly do a lot, not only for the literacy sector but also for all Canadians.

• (1510)

Where is the promise? Must we continue to exercise patience and wait another two years? We all know that two years have passed since your government was elected. Can we hope that the government might keep its second promise?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will repeat what I have said before: I am quite aware of comments that were made during the GST debate. I have repeated on a number of occasions that I will do everything in my power to have the GST discontinued on books.

My honourable friend must understand that, in the process which is now underway, the federal government is taking great care to develop a satisfactory and fair solution on the question of this tax, which has been an enormous burden on individuals in this country. It is not operating in a piecemeal fashion; it is dealing with it as a whole entity. Honourable senators can be assured that, as it progresses, I will continue to do as I already have. I have made it clear to the Minister of Finance that my zeal for the notion of taxation on books has not changed.

[*Translation*]

NATIONAL UNITY

CONSTITUTIONAL AMENDMENTS—REQUEST FOR TABLING OF
DOCUMENTS PREPARED BY NEW BRUNSWICK OFFICIALS

Hon. Jean-Maurice Simard: I have a second question, to do with the excellent program *Le Point*. Therein was a report concerning a document, prepared by the Premier of New Brunswick, and the Red Book, of which Mr. Donald Savoie is one of the co-authors. Mr. Savoie was also a member of the transition team following the election of the Liberal government in 1993.

The program, as I understood it, must have left some Quebecers and Canadians a bit up in the air. I would ask the Leader of the Government to table this document in the house. The document is important because of the three elements that Prime Minister Jean Chrétien and his government intend to debate at this point: the distinct society, the veto and the decentralization of federal powers.

What surprised me considerably and concerns me especially in the context of the current debate, is that Professor Savoie and Premier McKenna had identified significant points and changes in policy and made very valuable suggestions that could satisfy Quebec and the other provinces.

The program revealed that Premier McKenna even went to Ottawa in the days prior to October 30 and was told by the Liberal government and the Prime Minister not to release the document. At the time of the referendum, the federalists, including Mr. Jean Chrétien, did not see any problem.

I think Canadians should know the entire content of the document. They do not want an incomplete or unofficial version. It would seem that part of this document has been tabled. Part of it was made public during the summer. I am interested in seeing the official version so that the work done by Premier McKenna and Mr. Savoie may be appreciated.

I would like to make a comparison with the present position of the Liberal government on the three questions that I raised, and that make up the program we are to steam through, that is, the regional veto, the distinct society and all that. I think it would be interesting.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, first, I did not see the *Le Point* program. Therefore, I can only listen with interest to my honourable friend and, perhaps, inform myself from others as to its content.

As far as Professor Savoie is concerned, I am somewhat confused. There were co-authors of the policy book that the Liberal Party used during the 1993 election campaign, and which it still uses. They were the current Minister of Finance, the Honourable Paul Martin, and Chaviva Hosek. I am not aware of Professor Savoie's contribution to a transition team.

However, my friend has been asking all week about documents. I am looking into that, as he knows, to see what might be there and what is appropriate to do with them.

As interesting as I am sure they would be, Mr. McKenna may have a great number of his own documents that are not possessions of the Government of Canada. I am aware of what my honourable friend said yesterday about his inability to get at these documents. However, it may be that Mr. McKenna himself is the person who has the authority to decide which documents he chooses to make public or not.

The honourable senator can be assured that I will do my best. Beyond that, there may be other channels that he may wish to pursue.

LITERACY

OECD INTERNATIONAL SURVEY—POSSIBILITY OF FEDERAL-PROVINCIAL CONFERENCE—GOVERNMENT POSITION

Hon. Stanley Haidasz: Honourable senators, in view of the comments made by the Leader of the Government in the Senate in her capacity as minister responsible for literacy in Canada, I want to thank her for the information she has given us and for the comments made by Senators Cohen and Gauthier this afternoon.

In view of the fact that there are some shocking problems with regard to illiteracy in Canada, would the minister give consideration to the feasibility of either a federal-provincial meeting on literacy or a national conference of experts on the matter?

• (1520)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, that is a very interesting suggestion. In order to have the aspects of this report clearly looked at and communicated publicly, it may well be that some type of conference could be held in the future.

Another aspect of this issue that is of growing interest and deserves to be looked at publicly is the area of technology and how it is changing the face of how we deal with literacy and training, and how we help people in regions of this country far removed from metropolitan centres. All of these issues might well make for a fruitful conference.

[*Translation*]

NATIONAL FINANCE

INTERNATIONAL MONETARY FUND—OBJECTIVES AND METHODS OF DEFICIT REDUCTION—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: Honourable senators, my supplementary follows from the response the Leader of the Government gave to Senator Tkachuk regarding the increased rate of deficit reduction compared with the GDP.

You are no doubt aware that the International Monetary Fund suggested earlier this week to the government that it set as an objective a 1.4 per cent ratio between the deficit and the GDP. I am well aware that the Minister of Finance set 2 per cent as the new target in his speech yesterday.

Following this recommendation by the IMF, does your government foresee ways of further accelerating deficit reduction?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the IMF has suggested cuts that Canada might engage in to accelerate the reduction of its deficit. Of course, the views of that organization are always received with respect and interest. However, I think the Minister of Finance has a much better idea of the priorities with which the government of this country should work in trying to balance not only the cutting exercise in the reduction of the deficit but also the notions of the protection of security for our citizens and what is needed to create jobs and employment for Canadians.

The IMF has every right to make its views known, but we must recognize that it has also applauded this country for its efforts in the last two years. The trend of deficit reduction in Canada has been clearly set out, and, most important, our goals have been met. They will continue to be met. They will be met in a way that, I would suggest, only a national government with the best interests of its country at heart is qualified to judge.

Honourable senators, this is not a paper exercise in Canada; it is an exercise that keeps in mind the lives of individuals. Therefore, the IMF, in suggesting that we should swiftly reach a balanced budget and eliminate our deficit, may not have the same priorities as the Minister of Finance. He will carry out the exercise leading up to his next budget based on those considerations as well.

[*Translation*]

OECD INTERNATIONAL SURVEY ON ADULT LITERACY

NOTICE OF INQUIRY

Leave having been granted to return to notices of inquiry.

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday next, December 12, 1995, I will call the attention of the Senate to the report on the international survey on literacy and Employment Guide.

[*English*]

THE SENATE

CRITICISM BY MEMBERS OF THE MEDIA—CORRECTION

Hon. Marcel Prud'homme: Honourable senators, with your permission, I wish to correct what I said earlier. The article I quoted had just been published. I will definitely be in for a bad weekend if I do not mention the grateful exercise in municipal affairs of our good friend Senator Lucier. My father was involved as well in municipal politics in Montreal. Senator Lynch-Staunton was elected many times. On top of that, Senator Balfour sat with me in the House of Commons three times, as did Senator Phillips.

I made a mistake. Senator Murray was never elected. He was a minister, but not elected. Finlay MacDonald also had something to do with the political process. At any rate, I wanted to bring these corrections to your attention.

Hon. Finlay MacDonald: Honourable senators, I thank Senator Prud'homme for including my name in that illustrious company. I must remind the Senate, however, that I am one of those who lends credence to the accusation of Mr. McWhinney in the other place, because in 1963 I was a candidate for federal office in Halifax, Nova Scotia. It was reported after the results came in that I had shaken the hands of 40 per cent of the electorate and the confidence of the remainder.

Some Hon. Senators: Oh! Oh!

The Hon. the Speaker: Honourable senators, I was not aware that under Routine Proceedings we had an item entitled "Confessions." However, the Senate being the friendly body that it is, I suppose such a comment is in order.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed to Orders of the Day, I should indicate that we wish to call, in order, motion Nos. 1 and 2. The next item would be Bill C-103 under "Presentation of Reports from Standing or Special Committees." We will then go directly to item no. 3 on the Order Paper, which is Senator Fairbairn's statement on the resolution. We will then proceed according to the Order Paper for the remainder of the day.

Senator Kinsella: Could we have an explanation as to why?

Senator Graham: This procedure falls within the rules introduced and adopted by the house under the previous administration. It is not necessary to give an explanation because all of the precedents were established by Senator Lynch-Staunton when he was in this particular position. On a daily basis, he moved the orders around. Since this administration has been in place, we have only done this on one occasion.

Senator Fairbairn has asked that she address the resolution at that particular time. At that time, it may very well be revealed why she has made that request.

ORDERS OF THE DAY

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT COMMITTEE TO TABLE FINAL REPORT—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Graham, seconded by the Honourable Senator Robichaud, P.C.,
>
> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my comments will deal with both motions before us, No. 1 and No. 2, since the principles behind them are about the same. Despite the Speaker's ruling yesterday, I still feel that we are into "déjà vu all over again."

I will not go into details on our objections to Bill C-22 and Bill C-69, but I should like to remind honourable senators of the following: In our view, Bill C-69 simply is not in the public interest.

In fact, Bill C-69 is not even a government bill, although it was sponsored by Minister Gray. It is a bill prepared by back-benchers, the only bill that has come before us that was not prepared by the government. It was prepared and drafted by those who have the most vested interest in electoral boundaries.

• (1530)

Our objection is simple: The present process has effectively come to an end, because the maps with the recommendations from the house have now gone to the electoral commissions. Once those are confirmed, an election held after January, 1997 will be based on the redistribution founded on the census of 1991. If Bill C-69 came into effect today, an election on the basis of the 1991 census could not be held before January, 1998. That 12-month lag is crucial, because history tells us that most elections are held within four years, or so, of the previous one.

We are merely arguing to ensure that the Senate of Canada and the House of Commons respect the constitutional obligation that redistribution following the most available census figures be started and completed as expeditiously as possible. Bill C-69 is an attempt to cancel a process which is nearly completed.

All redistributions cause grief to sitting members. It is unfortunate, but inevitable. However, that is a minor consideration when compared to the need to equalize, as much as possible, the vote of each and every Canadian. That is an impossible task to complete, particularly because of restrictions imposed by our Constitution, but at least redistribution every 10 years allows that effort to be made.

We are told that the Senate should stay out of this, that the Senate is not elected, and that this process should be the preserve of the elected members. Well, it so happens there are also about 30 million Canadians who are not elected. To say that redistribution should be left only to those who are its direct beneficiaries reveals a most strange understanding of what the parliamentary system is all about, to say the least.

Bill C-69, with just a few changes, including having it come into effect only after the current redistribution process has been completed, would meet with our approval — with a few changes, including, in particular, that it not interrupt the current redistribution. That is what we are asking the government to do.

As for Bill C-22, it is clearly unconstitutional. The overwhelming evidence shows, with few exceptions, that it is unconstitutional because it denies the rule of law. Even the government has accepted this argument, however reluctantly, by proposing two sets of amendments, in an attempt to satisfy the objections of those who say, including the Canadian Bar Association unanimously, that the bill violates the Constitution. The government has introduced two sets of amendments which go some way, but not all the way, to meet objections which have been so eloquently and so convincingly presented.

Even Minister Rock has said that this bill is unprecedented. This is an unprecedented bill. There is no legislation in the history of the Parliament of Canada which denies access to the courts as this one would if passed. We do not want to be party to a precedent of this sort.

In his remarks of yesterday, Senator Stanbury complained that we were not allowing the Senate to decide on bills, that seven senators were obstructing the right of the Senate to take certain decisions. Let me put our position into perspective. Since becoming the opposition, we have received nearly 100 government bills in the last two years or so. Of those, we have delayed a decision on only two: Bill C-22 and Bill C-69.

We were accused of delaying Bill C-68. However, when you look back on the circumstances, it is thanks to a decision and a recommendation by this side that a vote was taken on Bill C-68 on November 22 that would allow the House of Commons, in the event that our amendments were passed, all the time available to consider the amendments and decide whether or not to send the bill back to the Senate before the Christmas recess. Those who say we delayed Bill C-68, looking back on it, will realize that we co-operated with the government's agenda.

Senator Stanbury suggested a lack of will on our part; a lack of courage, even, to bring these bills to a vote here. Let me tell him and his colleagues that it is not a lack of courage that prompts us to keep these two bills in committee; rather, it is a mark of courtesy and respect for the elected house.

We could have voted against these bills when they first came before us. There was a strong feeling in our caucus that these bills were so reprehensible or so distasteful that our immediate instinct — certainly that of many of us — was to vote against them. Despite that, we decided that we had too much respect for the will of the elected house, no matter how we might disagree with it, or feel that it is not fair or right, though legally proper, to spontaneously and instinctively vote against it. Rather, our role is to bring to the attention of the other place the flaws in the legislation and to urge consideration of them, and improvements that can correct the flaws. That is why the two bills are still in committee — to give the government a chance to improve upon them, and not risk losing them before improvements can be made.

It would have been so easy to dispose of Bill C-22 when it first came before the Senate, when our numbers were even greater and we could have easily defeated it, but we said, no, we will not take advantage of our numerical superiority. That is not our role. Our role is to act as an opposition, not as an obstruction.

Liberals obviously have difficulty in differentiating between opposition and obstruction. When they were sitting on this side, particularly from 1988 onward, they engaged in the systematic obstruction of every major piece of legislation brought forward by the Conservative government. Let me give you three examples:

In 1988, the Liberals refused to pass the legislation ratifying the Canada-United States Free Trade Agreement, which forced an election. The patent bill, which allowed pharmaceutical companies a longer period of patent protection, was sent back to the house three times — deliberate obstruction. As Senator Simard mentioned in his question, we had the GST debate, about which the less said the better.

The tragedy of those three amongst many interventions is that now that the Liberals are in power, they have done nothing about those matters. They have embraced free trade, in some cases even more strongly than the Conservatives who supported it at the time. There has been no amendment tabled to shorten the patent protection allowed pharmaceutical companies, which was the subject of a major debate here. It has been two years now, and we are still waiting. As Senator Simard pointed out, we have not even had an amendment to the GST to exempt periodicals and books; an amendment which the Leader of the Government so passionately supported at the time.

The tragedy is that the Liberals did not oppose so much as they obstructed; and the irony of the situation is that, once in power, they have embraced the policies which they so damagingly obstructed.

I suppose that should not be too surprising from members of a party which, not long ago, denounced distinct society and today embraces it as though it were their own discovery.

One of the reasons bills are not moving as fast as the government would like is that the Senate has refused to engage in pre-study. Senator Murray asked, but did not get a direct answer, about Bill C-110, the veto bill. We hear that it may only come to us on Wednesday or Thursday of next week, without amendment. The Senate has a major responsibility to at least listen, if not respond, to the concerns of regions. Does the government really expect that when Bill C-110 comes here on Wednesday or Thursday we will pass it automatically just because we want to get home for Christmas? To do so would be a complete abdication of our responsibilities.

We did suggest pre-study to the government leadership. This is not a partisan issue. Federal-provincial relations and harmony between the various jurisdictions in this country is not a Liberal, Conservative, NDP, Reform or Bloc issue. It is a question of keeping this country together. Thus far, we have received no answer.

It would be easy for the government to engage senators on both sides in the legislative process, particularly with regard to bills of a largely non-partisan and technical nature. There is talent on both sides which cries out to be used. Unfortunately, the government neglects some of the greatest talent available in this house.

The government has a choice which I offer on behalf of my colleagues. It is the following: Bring the necessary amendments to the two bills which are in committee, or risk losing the bills entirely. It is as simple as that. If the government wants to pass the bills down without amendment, it will risk losing them. If we have held them back in committee, it is only to give the government an opportunity to improve on them. If our role is to be, as both Senator Carstairs and Senator Stanbury are suggesting, to move everything along for a vote rather than holding it back for improvement, the government faces the possibility of defeat on bills which deserve to be defeated in their present form.

If Bill C-69 were defeated, the Senate would be applauded, because Bill C-69 only serves the interests of a small group of dissatisfied members of the Liberal caucus who, once having been elected in the ridings they now hold, refuse to accept the principle behind redistribution. As one member said, "I worked years for this. Now that I've got it, don't take it away from me." It is a sense of proprietorship that should not be accepted.

I fail to understand why the government buckles in to these malcontents rather than accepting the principle that, while redistribution will hurt sitting members, the purpose will be served; that is, to give each Canadian a vote which is as equal as possible to that of other Canadians.

As far as we are concerned, a vote against these two motions will be a vote of respect for the House of Commons. By voting against them we will be telling the government that we are keeping these bills here while waiting for the government to improve them. We are asking the government to meet us part way. We are not being adamant or pig-headed, but we are saying, as have Patrick Monahan, the Canadian Bar Association and other observers across Canada, that Bill C-22 is unconstitutional.

We are not saying that the government cannot cancel the contracts, although we question the propriety of doing that. We are saying that the government should allow those affected by the cancellation their day in court. We are not pleading for them. We will not go to court with them. We are indifferent as to whether they win or lose, but we say that they have the right to go to court.

In the case of Bill C-69, we are simply saying that the process has come to an end. We have already spent $5 million to $6 million. The maps will be deposited and confirmed in early January. They will be proclaimed then and confirmed a year later as the basis for the next election. Why, for the sake of a few malcontents, tear all that apart and restart the system under new rules with additional expense, and, most important, allow the next election not to be held on the basis of the 1991 census?

For these reasons, I urge that the two motions be voted down.

On motion of Senator Hébert, debate adjourned.

BUSINESS OF THE SENATE

MOTIONS RESPECTING BILLS C-69 AND C-22—VOTES DEFERRED

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, following discussions on both sides,an agreement has been reached with the opposition party with respect to how we will proceed on the two motions standing in my name on the Order Paper respecting Bill C-22 and Bill C-69.

Accordingly, pursuant to rule 39, I move:

> That at 5:30 p.m. on Tuesday, December 12, 1995 any proceedings before the Senate shall be interrupted and all questions necessary to dispose of the motions by the Honourable Senator Graham of December 6, 1995, to instruct the Standing Senate Committee on Legal and Constitutional Affairs to present their final report to the Senate on the message and motion regarding Bill C-22 and the message and the motion regarding Bill C-69, shall be put forthwith without further debate or amendment and that any votes on any of those questions not be further deferred.

Motion agreed to.

• (1550)

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—
DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-sixth report of the Standing Senate Committee on Banking, Trade and Commerce, (Bill C-103, to amend the Excise Tax Act and the Income Tax Act, with an amendment), presented in the Senate on December 5, 1995.

Hon. Michael Kirby: Honourable senators, I rise to speak on the report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-103.

On November 30 and again on December 5 of this year, pursuant to an order of reference adopted by the Senate on November 7, the Standing Senate Committee on Banking, Trade and Commerce met to study Bill C-103. The bill seeks to amend the Excise Tax Act by imposing an 80-per-cent tax on the value of advertising in the Canadian split-run edition of periodicals. The bill would make the tax payable, in the words of the bill, by "a responsible person." Such a "person" is defined in the bill as being a publisher, distributor, printer or wholesaler.

The bill also amends the Income Tax Act by adding an anti-avoidance rule to section 19 of the act. This section provides rules for the deductibility of expenses for advertising in newspapers and periodicals.

That, honourable senators, is what the bill does. In layman's language, the bill effectively makes the cost of producing or selling any future split runs of magazines in Canada prohibitively expensive.

The report of the committee, however, contains an amendment. What the amendment does is to change the date that this legislation becomes effective from the date proposed in the bill March 26, 1993, some 33 months ago, to the date that this bill receives Royal Assent. I will comment in a minute on why the committee has recommended that amendment.

I should add, almost parenthetically, that the committee also seriously considered several other amendments, specifically two amendments recommended by the Canadian Bar Association. The reason we did not make further amendments was that Minister Dupuy, when testifying before the committee on Tuesday morning, gave us his guarantee — and we on the committee assumed his guarantee meant the government's guarantee — that amendments to deal with the concerns of the bar association would be introduced by the government in the next omnibus tax bill. A bill of that type normally comes before the Senate and then the committee in the spring of every year. Given that undertaking from the Minister of Canadian Heritage, we decided to set aside the issue of whether we would make the amendments recommended by the Canadian Bar Association. We proceeded to consider the issue of whether the bill ought to go into effect on March 26, 1993, as recommended by the government, or whether it ought to go into effect at the time of Royal Assent.

There are two reasons why the committee voted to make the effective date the date of Royal Assent. I will only comment on one today. I will leave it to other members of the committee — Senator Kelleher, Senator Oliver and others — to comment on the second reason, namely, the substantial concern that the committee had about U.S. trade retaliation. This concern arose because of the way the bill is, first, retroactive, and, second, because it singles out a specific magazine, *Sports Illustrated*. This bill has been interpreted by its critics as a punitive measure targeted at a single publication. Let me leave that trade issue aside, however, and talk about the other reason for changing the date on which the bill becomes effective.

The Standing Senate Committee on Banking, Trade and Commerce has had a long-standing concern with retroactive legislation. Many times in the past, during the 10 years I have been on this committee, members on both sides of the aisle have given speeches expressing their profound concern and opposition to legislation which is effectively retroactive, because it makes past business decisions *ultra vires*; legislation that essentially nullifies the effect of business decisions, that, in fact, at the time they were taken, were perfectly legal.

Bill C-103 is intended to prevent future split runs of new magazines. It is intended to prevent new periodicals from coming out with split runs. This is a legitimate goal. The amendment contained in our report absolutely preserves that goal. Our amendment continues to preserve the fundamental thrust of the policy contained in the act, which is that Canada ought to have a policy stopping future split runs.

The issue before the committee was whether we ought to go back 33 months and prohibit *Sports Illustrated* from doing split runs as well. Our view was that going back in history for 33 months, during which time only one publication has started a split run, namely *Sports Illustrated*, was a form of retroactivity. The evidence before the committee was not at all conclusive that *Sports Illustrated* had even been told that what they were doing was against any government policy. In fact, the evidence, in my view, leans the other way.

In 1990, for example, Time Canada, which is the parent company of *Sports Illustrated*, sought and obtained a letter from Investment Canada confirming that *Sports Illustrated* would not be subject to the Investment Canada Act. That is an important consideration because one way of stopping split runs is by using the conditions of the Investment Canada Act. *Sports Illustrated Canada* in fact has an exemption from that act by a decision of Investment Canada in 1990.

Two years later, in December 1992, Time Warner of Canada advised the government that they would begin publication of *Sports Illustrated* in Canada in 1993. Witnesses from *Sports Illustrated* and from Time Canada testified before the committee last Thursday that at no time did they receive notice that their plans were in contravention of Canadian law. There is correspondence between Time Canada and Revenue Canada through that first six-month period in 1993. However, the correspondence deals with Tariff Code 9958. It indicates clearly, in the terms of a letter from the Deputy Minister of Customs and Excise, that the split-run editions being printed in Canada were not in breach of this provision. Tariff Code 9958 is the element of Canada's Tariff Code which stops split runs from being physically brought over our border. The Department of Customs and Excise came to conclude that the split-run edition of *Sports Illustrated* did not violate Tariff Code 9958.

Honourable senators, it is true — and this is where the evidence is somewhat conflicting — that during this period early in 1993, Perrin Beatty, the then Minister of Communications, gave an interview to the press in which he indicated that he was not in favour of the *Sports Illustrated* split-run edition. Subsequently, after *Sports Illustrated* had published two split-run editions, Mr. Beatty indicated that a policy would be introduced which would effectively prohibit *Sports Illustrated* from proceeding with future split-run editions.

Honourable senators, these facts raised in the minds of committee members two issues: First, is it reasonable to expect businessmen in this country to take business decisions on the basis of statements made by a minister which they read in the media? Surely, if you have a particular view, you ought to

communicate it directly to the company involved. Second, and perhaps more important, even if one were to accept the premise that the minister had made a statement and that it was clear, there is no getting around the fact that what this bill proposes to do is to go back 33 months in history. It attempts to go back three years and implement a policy which was only announced via a media statement some three years ago.

The Charter of Rights has been used in the criminal courts to have charges that have stood for too long dropped. The courts have ruled that if you do not proceed to deal with a charge within a reasonable period of time, then you cannot proceed with the charge. You are required to drop it.

Surely, honourable senators, the business community of Canada is entitled to an obligation that says, if the government announces its intention to implement a policy, and if the announcement is to become the effective date of implementation, there must be some reasonable period of time in which that policy is implemented and put into legislation. Even this scenario stretches credulity. The fact is, in our view, if you can go back three years, in an extreme case you could go back 10 years. You could go a long way using retroactive legislation. The principle is a dangerous one.

• (1600)

Finally, honourable senators, I am comfortable with our decision because of the findings of a task force that looked at this question. The Task Force on the Magazine Industry published its report in 1994. The task force was chaired by Mr. Tassé, the former deputy minister of Justice; and Mr. O'Callaghan, the former publisher of The *Edmonton Sun* and other publications. That report, which was issued in March 1994, did two things. It called for an excise tax of 80 per cent on the value of advertising in a split run. It called for precisely the same measure as is contained in the current bill. The O'Callaghan-Tassé Task Force also said that *Sports Illustrated* should be grandfathered. It came out against retroactive legislation.

Honourable senators, first, this amendment seeks to preserve a stated policy of governments on both sides of the house in the last few years; namely, that future split runs should not be allowed. Second, it seeks to do what the task force on the Canadian magazine industry recommended; namely, it seeks to make this bill non-retroactive. Under the amendment, the legislation would go into effect the day it is passed.

Third, it seeks to preserve a position which the Banking, Trade and Commerce Committee has held under a variety of chairmen during the 10 years I have been on the committee, and regardless of what party was in power. That stance is that there should be a principle of business law in Canada which states that retroactive legislation, particularly legislation that goes back almost three years, should not be allowed.

Honourable senators, simply put, these are the things that the amendment seeks to do.

Let me make two other comments for those who will make the argument that this bill is a disaster for the Canadian magazine industry. Factually, that is incorrect. The reality is that the Canadian magazine industry has competed with *Sports Illustrated* split runs for two and one-half years. When we asked whether or not that competition had led to the collapse of any Canadian magazine publications, we were told categorically "no."

Remember that this bill prevents *Sports Illustrated* from increasing the frequency of the number of split-run editions it produces. It limits them to 12, which they did in the last year. Therefore, it clearly does not increase the level of competition among Canadian magazines, and Canadian magazines have competed successfully against this particular split-run edition for two years. Therefore, that argument holds no water.

As to the argument that if we amend the bill and send it back to the other place, the bill will die on the Order Paper because the Commons will be unable to deal with it in sufficient time before prorogation, I do not believe it. If the other place chooses to adopt our amendment, they can deal with it in a simple motion. What goes back from here is a motion to accept the bill, as amended. It can be dealt with in a matter of 60 seconds in the other place.

Fundamentally, this raises a question that I and other senators have spoken about in this chamber for a long time. Every time we get to a major break in the parliamentary calendar, whether it is December or June, we are repeatedly told that we must do things to keep people in the other place happy, or to keep the government in the other place happy. If honourable senators will check the record of the last year, I have twice said — and I have stated it categorically in writing to members of my own committee — that it is time that we stopped having our agenda driven by the timetable of the other place.

I am sure that some people will advance the timing problem as an argument. In my view — and this is a position that I have held for a long time — this argument is not related to this bill. We in this chamber should take what we believe to be the right legislative action. If it requires that the other place adjust their timetable a bit, so be it. I am tired of being pressured to change my position simply to keep the other place happy.

Honourable senators, this was not a partisan vote. Conservatives and Liberals voted for the amendment and voted against it. The tradition with the Banking Committee is that things seldom, if ever, split along partisan lines. I have outlined why I support the amendments and why I am with the majority. I have outlined the views of the majority with the exception of the trade issue, which some other members on the committee will address.

I hope I have dealt in advance with the arguments of those who oppose this amendment. There is no doubt in my mind that this is not a disaster for the Canadian magazine industry. They have competed successfully with *Sports Illustrated* for two and one-half years. In fact, they are being protected because the public policy in this bill has been preserved; it stops future split runs. Finally, honourable senators, we should not be stampeded into doing something simply because it makes life easier for people in the other place.

The Banking Committee has done its job, and I recommend that this report be adopted by the Senate in a speedy fashion.

Hon. Donald H. Oliver: Honourable senators, I commend the Honourable Senator Kirby on the excellence of his remarks.

First, I should like to point out that the amendment proposed by the committee in the report which the chairman of the Banking Committee presented on Tuesday contains a technical error.

MOTION IN AMENDMENT ADOPTED ON DIVISION

Hon. Donald H. Oliver: I therefore move:

> That the report be not now adopted, but that it be amended by replacing the line:
>
> "on the day this Act is assented to, a particular number of"
>
> with the line:
>
> "on the day of the coming into force of this section, a particular number of".

The Hon. the Speaker: Honourable senators, have heard the motion in amendment moved by the Honourable Senator Oliver and seconded by the Honourable Senator Kinsella.

Is it your pleasure to adopt the motion in amendment?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, Senator Davey is prepared to speak on the report of the committee. Before he does, I should like to indicate and emphasize that the government cannot support the motion moved by Senator Oliver. We do not support the amendment that the committee intended to put forward. Consequently, we cannot support this motion, which is designed to advance the amendment.

What the committee proposes in its report is an amendment that would have give special status to *Sports Illustrated* magazine. As Senator Davey will undoubtedly explain, *Sports Illustrated*, though warned by the previous government not to do so, took advantage of new technologies to establish a split-run edition in Canada. It now wishes to be exempt from the provisions of Bill C-103, which would prevent split runs.

The committee's proposed amendment would give *Sports Illustrated* what it was after. That amendment is contrary to the policy established not only by this government but by the previous Conservative administration. Consequently, we do not support the amendment brought forward by the committee and we cannot support Senator Oliver's motion in amendment, as it would, in effect, go against our intention.

Having made the points that have to be made traditionally, we have allowed such technical defects to be corrected. In the spirit of cooperation and in view of those traditions, we will not oppose this motion to clarify an egregious drafting error.

I do want to make it perfectly clear that, although we will not stand in the way of Senator Oliver's motion, we are adamantly opposed to the report of the committee, and we will be voting against it.

Honourable senators, perhaps you can direct me on the correct procedure. I think Senator Davey wants to speak on the report.

The Hon. the Speaker: Are you ready to proceed, Honourable Senator Berntson?

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, I think it would be in order to speak on the report and the amendment simultaneously. I fully expect that there will be further debate. We are pretty thin on both sides here today, and there may well be other members who want to speak to the amendment before we dispose of it.

Senator Graham: I want to point out that we are not supporting Senator Oliver's motion but we are not opposing it.

• (1610)

Senator Kirby: May I clarify the problem? The amendment drafted by the Law Clerk's office had a technical error in it because of the way it phrased the starting date. Senator Oliver's amendment fixes that error.

Honourable senators, given that Senator Graham has just said — and this is not meant to be a debate between three Nova Scotians, which is what is taking place here — that the government will not oppose Senator Oliver's amendment, it seems to me appropriate that we adopt the amendment now and proceed to debate the other issue.

Senator Berntson: Let it go.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Are there any other honourable senators who wish to speak on the amendment? If not, then I will put the amendment to the Senate.

It was moved by the Honourable Senator Oliver, seconded by the Honourable Senator Kinsella:

That the report be not now adopted, but that it be amended by replacing the line:

"on the day this Act is assented to, a particular number of"

with the line

"on the day of the coming into force of this section, a particular number of".

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Motion in amendment adopted, on division.

The Hon. the Speaker: We are back to the report of the committee, as amended.

Hon. Keith Davey: Honourable senators, 25 years ago this week, I chaired a committee that conducted a detailed analysis of the mass media. I should like to quote from a book which came along a little later. This is quite a remarkable book entitled *The Rainmaker*. You can purchase it, if you can find it. I would like to quote from chapter 8, a section called "The Uncertain Mirror". The reference was to me.

> Out of football, out of advertising, out of politics, what next. As a constant observer of all media and newspapers in particular, I had become increasingly concerned over a number of years about media concentration. More and more Canadians were getting news and other information from fewer and fewer people. And as Canadians, most of us viewed what was happening in the world at large through the eyes of American reporters.
>
> On March 18, 1969 I expressed those concerns in a speech I made to the Senate. I proposed a special Senate committee to determine whether we had the press we needed in Canada or simply the press we deserved.

I will not go on and talk about the report except to say that at page 145 you will find a fascinating picture of members of the committee. In that picture, sitting beside me, is my friend Senator Petten. Senator Sparrow was also a member and Senator McElman — who was here yesterday — was one of the key members.

I have two quotations from *The Rainmaker* relating to the discussion we are about to have: First, I said:

> There is something about the media that is turning people off. It has got something to do with society itself and the way it is changing and the way people react to it. If the media turn people off, it is because society at large turns them off. If newspapers are losing friends, it is part of the same process by which Parliament is losing friends, and the courts and the corporations and the schools and the churches.

Remember, it was some number of years ago that I wrote these words. I went on to a section called "The Troubled Magazines." Here is what I said at that particular time:

> Magazines are special. Magazines constitute the only national press we possess in Canada. Magazines add a journalistic dimension which no other medium can provide — depth and wholeness and texture, plus the visual impact of graphic design. Magazines, because of their freedom from daily deadlines, can aspire to a level of excellence that is seldom attainable in other media. Magazines in a different way from any other medium can help foster in Canadians a sense of themselves.

That was true then; it is true today: Magazines in a different way from any other medium can help foster in Canadians a sense of themselves.

Having said that, honourable senators, I shall try to explain my strongly-held position. These were things that we were talking about some number of years ago; this is stuff I am talking about today.

I am taking this opportunity to speak on a very important and urgent issue, Bill C-103. The Standing Senate Committee on Banking, Trade and Commerce has accepted in principle Bill C-103. This is important because the bill reinforces Canada's magazine policy. Failure to pass the bill now will risk placing our national magazine policy in a legal enforcement vacuum and expose Canadian publishers to unfair competition for advertising revenues.

While the committee accepted all of Bill C-103, it has proposed one important amendment. I am asking the Senate to reject this amendment because I believe it to be fundamentally wrong and to fundamentally contradict the spirit of Bill C-103.

Let me explain, honourable senators. Bill C-103 maintains the integrity of a long-standing government policy to promote the Canadian magazine industry. This policy has had great success, despite Canada's relatively small market size and our dual language community, which renders our own market even smaller.

Canada's magazine policy has its roots in the 1961 Royal Commission on Publications which was led by an esteemed member of this chamber, Senator Gratton O'Leary. The royal commission recognized that advertising revenues are the key to a viable Canadian magazine industry. Senator O'Leary's recommendations in 1961 formed the basis of what is still today a very successful policy. It uses the provisions of the Income Tax Act and the Excise Tax Act to protect the advertising base of genuine Canadian publications.

A loophole that was created in 1993 by a change in technology now threatens to undermine this policy. Bill C-103 will close this loophole, thereby ensuring that the policy continues to be enforced. I am pleased that the committee has approved our legislative approach to closing the loophole.

Criticism of Bill C-103 has been levelled by spokespersons from one of the largest transnational communications empires in the world, Time Warner. There has also been widespread support for the bill from the Canadian Magazine Publishers Association, from Maclean Hunter, from advertisers and from the broader culture and arts community. This bill enjoys widespread support from all political stripes, from members of the previous government, and, of course, the current government.

Let me explain briefly the background to Bill C-103. In 1993, Time Warner believed they had found a way to by-pass Canada's long-established policy. They decided to make use of a loophole in the application of the policy and announced the launch of a split-run edition of *Sports Illustrated*. In a split-run edition, a publisher uses articles and other editorial content prepared and paid for in the magazine's domestic market and inserts advertising targeted at another market. In the case of *Sports Illustrated Canada*, the editorial content of the Canadian split-run edition is largely the same as the U.S. edition but contains advertising directed at Canadians. Split-run magazines, with their recycled articles, siphon off advertising revenue from legitimate magazines with original content.

The government responded clearly and unequivocally in 1993. Revenue Canada informed Time Warner that the spirit and intent of Canada's legislation must be respected. The Honourable Perrin Beatty, then the Minister of Communications, stated publicly that the government was committed to upholding its magazine policy. A task force was created in March, 1993 to update enforcement measures and ensure that the policy established in 1965 could still operate effectively in the face of new technology.

I must say just a word or two about that time. I spent too much time badgering the then Leader of the Government in the Senate, Senator Lowell Murray. He greatly influenced much of the positive activity which resulted, and I have great respect for Senator Murray because of that particular activity.

Despite the clearly expressed intentions of the government in 1993 and its methodical approach to solving an enforcement issue, Time Warner decided to begin publishing a split-run edition of *Sports Illustrated*. I stress that the company knew the intentions of the minister in 1993 and knew the intention of Canada's policy. Other foreign magazine publishers did not imitate or follow Time Warner. They did not try to exploit a temporary loophole.

Now, in 1995, the government has proposed the legal means to close the loophole with Bill C-103. Time Warner, however, is now looking for special treatment. Before the Senate Committee on Banking, Trade and Commerce, Time Warner argued that *Sports Illustrated Canada* should be grandfathered, and therefore be given special status under Bill C-103. Time Warner has misconstrued this legislation in suggesting that it is retroactive, and unfairly targets *Sports Illustrated Canada*. The reality is just the opposite. Only one magazine is seeking special, unique privileges that are not available to any other foreign split-run publishers.

• (1620)

Let me explain that, honourable senators. First, the bill is not retroactive. No company will pay any excise tax for split-run editions until after the coming into force of this act. There will be no tax claimed on activities carried out before Bill C-103 becomes law. Time Warner, therefore, will be allowed to keep its earnings from the Canadian market from the split-run editions of *Sports Illustrated Canada* that they have published since 1993.

Bill C-103 simply closes a loophole that now exists in the application of a policy. Like any other tax legislation, the new regime should apply equally to all. It will apply from Royal Assent onward, and will not apply retroactively. The amendment proposed by the Senate committee would unfortunately grant special status to *Sports Illustrated Canada*. A special privilege would be given to this magazine only so that it can continue to publish split-run issues in the future that would be exempt from the tax provisions that apply to everyone else.

Second, let me stress that Bill C-103 does not unfairly target *Sports Illustrated Canada*. Time Warner was simply the only publisher which attempted to circumvent the spirit and intention of our policy on magazines, so clearly known throughout the publishing world.

A number of other magazines had the technology to exploit a technical loophole in 1993. Instead, they chose voluntarily to respect Canada's policy. Would it be fair to reward *Sports Illustrated Canada* with a privileged status continuing into the future because they used a loophole that everyone else knew would be temporary? To do so would single out *Sports Illustrated Canada* from all the other publishers who respected our policy. We cannot, in good conscience, grant *Sports Illustrated* a privileged status, which is the intention of the Banking Committee's amendment.

My third and final point — perhaps repetitious — deals with a very practical issue. If the amendment is adopted, it will force the legislation to return to the other place. There will be serious delays because the government today, as with the government in 1993, will not propose measures that support split-run publications.

In my opinion, delay caused by this proposed amendment will send the wrong message to Canada's cultural community: That the Government of Canada cannot defend its own cultural policy in the face of a campaign, organized by lobbyists and representatives of large, transnational corporations, which seeks to divert the advertising revenues of Canadian publications.

Bill C-103 as proposed by the government is an effective, balanced and careful response to the problem. The cultural community and former and present ministers have strongly asked that Bill C-103 be passed in its original form.

Therefore I must appeal to honourable senators not to support the amendment. Senator O'Leary's magazine policy still makes sense. It has worked well for 30 years. The amendment proposed to us would seriously harm this policy. I do not need to remind honourable senators of the timing problems that would be caused by the proposed amendment. You are well aware of the pressures that this Parliament is facing as we come to the close of the first session. This bill must be passed without delay if we are to provide the legal authority to close a loophole that now exists in the enforcement of magazine policy.

If we adopt this bill with an amendment, its passage will certainly be delayed because the amendment is so manifestly unfair. The magazine policy enforcement loophole will remain; it will be exploited, and we in this chamber will not have rendered good service.

I urge my colleagues and fellow senators to pass Bill C-103 without amendment.

Hon. Senators: Hear, hear!

On motion of Senator Berntson, debate adjourned.

QUEBEC

MOTION FOR RECOGNITION AS DISTINCT SOCIETY— DEBATE ADJOURNED

Hon. Joyce Fairbairn (Leader of the Government), moved:

> Whereas the people of Quebec have expressed the desire for recognition of Quebec's distinct society;
>
> (1) the Senate recognize that Quebec is a distinct society within Canada;
>
> (2) the Senate recognize that Quebec's distinct society includes its French-speaking majority, unique culture and civil law tradition;
>
> (3) the Senate undertake to be guided by this reality; and
>
> (4) the Senate encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

She said: Honourable senators, the purpose of this motion today is to enable the Senate of Canada to join with the House of Commons in moving what we would call a parallel resolution to that being debated in the other place at this time.

I believe it is the view of a great many of the representatives in this chamber that they would wish to have an opportunity, not just to discuss or debate or express their views on this very important issue, but also to be, in the end, part of a parliamentary declaration on the question of the distinct society.

During the Quebec referendum campaign, as all of us know, the Prime Minister of Canada made three commitments: First, to recognize that Quebec forms a distinct society within Canada; second, not to make any constitutional change that affects Quebec without Quebecers' consent; third, to undertake changes to bring services and the decision-making process closer to the citizens.

The motion that we have before us today, honourable senators, is only one part of a more comprehensive package by which the Government of Canada indicates its strong intention to move this country forward, to show progress within our federation, and to fulfil commitments made to all Canadians, and particularly to Quebecers.

The government is delivering on its promises only approximately one month after the Quebec referendum. During the last weeks of that referendum campaign, we all witnessed Canadians from every part of the country expressing their great attachment to the Province of Quebec. These signs came not only from politicians or public figures; they came from the people we represent, who live and work and raise their families in the towns, villages, and cities, and in the vast rural and northern expanses of this land.

All of us, I think, were struck by the importance of this genuine expression by individuals of attachment to Quebec and to Canada. Very clearly, Canadians care about their country. They care about Quebec. They are part of this country, and the same applies to the people of Quebec.

On October 30, Quebecers voted to stay together with other Canadians. They also sent a strong message to the rest of the country, and especially to politicians, that changes are needed. The referendum vote itself undoubtedly was a cliff-hanger. The Government of Canada, being a responsible government, could not, should not, and cannot ignore these messages.

• (1630)

The Prime Minister himself committed to change during the rally in Verdun, Quebec; on national television; at the massive and moving rally in the heart of Montreal on October 27; and again on national television directly following the October 30 vote. This motion on distinct society responds to one of the three commitments that he made.

When the Senate votes and, I hope, supports this motion, it will formally express its acknowledgement of the reality that Quebec is a distinct society, which includes the fact that Quebec has a French-speaking majority, a unique culture and a civil law tradition.

Recognition of Quebec as a distinct society is a natural part of Quebec's and Canada's evolution. Historically, provincial differences have dictated the need for different approaches, remedies and accommodations within our federal system. For example, provincial representation varies in both the House of Commons and the Senate. Three provinces — Manitoba, New Brunswick and Quebec — must print and publish their laws in

French and English. The others are not subject to that requirement. Constitutional school rights apply in some but not all provinces. Quebec, Ontario, Saskatchewan, Alberta, Manitoba and Newfoundland must apply those rights, while New Brunswick, Nova Scotia, Prince Edward Island and British Columbia do not. Quebec, as we have said, has a civil law rather than a common law system. The Canadian federation leaves room for flexibility. In fact, this has always been one of its strengths.

Recognizing the distinctiveness of Quebec within Canada does not take anything away from the rest of the country. Recognition of Quebec's francophone character does not exclude others. On the contrary, it contributes to ensuring the continued evolution of Canada as a unified nation.

Canadians also have a very strong tradition in valuing our minorities and knowing that it is the value we place on those minorities which preserves, protects and promotes our democracy. Nothing in this motion in any way detracts from these values.

Furthermore, the motion takes away no existing or potential aboriginal or treaty rights, including the inherent right to self-government. The government has demonstrated a very real and sincere commitment to ensuring that aboriginal people have the tools for governing themselves. It has kept the promises it made to aboriginal people by tabling the inherent rights policy, and announcing its readiness to negotiate aboriginal jurisdiction and authority in a broad range of key areas, which it is doing with repeated success in various parts of Canada. The recognition of Quebec as a distinct society would have no impact on aboriginal peoples' exercise of their jurisdiction.

Honourable senators, in terms of this discussion, we are talking about a very important statement and a commitment that this house, along with the other House of Parliament, would make to this province; a commitment without which, I believe, Canada cannot be whole. It represents a very important guiding principle for the legislative and executive branches of the federal government as well as for the people of Canada.

At the beginning of my remarks I said that this resolution represents one part of the government's commitment to change as outlined following the referendum. I should like to say a few words on the question of the veto which the government is prepared to exercise on behalf of the provinces by federal legislation.

The Government of Canada proposes to place its veto power, which it exercises through its position in Parliament, at the disposal of the regions. Such a veto would preclude the federal government from supporting an amendment to the Constitution that does not have the support of the regions. Let us be clear that the current veto, requiring seven out of ten provinces with 50 per cent of the population, remains unchanged. The regional veto is an overlay aimed at giving an extra protection to the regions.

By establishing the regional vetoes, the government is delivering on a promise that no change to the Constitution would be made without Quebec's consent. The purpose of the regional veto is to unify, not to divide, and the government has listened carefully to Canadians from all parts of the country on this issue.

Honourable senators, I apologize for being unable during Question Period today to be more specific in my answers to questions by Senator Murray. However, as a result of the consultation and the listening that has taken place, Minister of Justice Allan Rock announced a short while ago that the Government of Canada will propose an amendment to Bill C-110, currently before the House of Commons, that would provide a veto for British Columbia.

Hon. Senators: Hear, hear!

Senator Fairbairn: The object of these efforts is to bring Canadians from every region together, not to make them feel left out. Throughout the last week, it has become very clear that the people of British Columbia feel incredibly strongly that their province has attained full regional value. They, along with the people who represent them here in the Senate, particularly those in the government caucus in the other place, have made a very strong case that with its population, its size, its growth and its unique Pacific orientation economically, British Columbia deserves to be designated as a region. The new western region will be comprised of Alberta, Saskatchewan and Manitoba, and western regional approval of constitutional amendments would require two provinces with 50 per cent of the population.

Honourable senators, we will be watching with great interest as this amendment is put forward in the other place. It is our hope that it will form part of the legislation that will be sent to us for discussion next week.

In addition to the motion we have before us today, and Bill C-110, the government has moved forward on transforming the unemployment insurance system in a manner which respects provincial jurisdiction in education and training. The Government of Canada will withdraw from labour market training. It will work in partnership with provinces to eliminate program duplication, and help Canadians find jobs and improve skills needed to enter or achieve progress in the labour force.

Honourable senators, withdrawal does not mean abandonment. It is a recognition of the desire expressed by all Canadians for their governments to become closer to their citizens. The proposed changes in labour market training will clarify the roles and responsibilities of the provinces and the Canadian government.

• (1640)

The three initiatives which the government has proposed constitute a significant first step. They are a realistic approach to the fact that the Quebec premier-in-waiting and the Government of Quebec have indicated that they are not willing to undertake any constitutional discussions.

As I said earlier, honourable senators, there will be a first ministers conference on the amending formula in April 1997, and constitutional amendments can be considered at that time. The proposals of today are seen as a bridge carrying us through until that moment when we must undertake that review as part of our constitutional obligations.

Honourable senators, on the eve of the Quebec referendum, we were all very concerned that we would lose our country. That political reality shocked us. It forced us to look within ourselves, and to come to grips with the deep emotions that we too often ignore or suppress or feel awkward in expressing. Nevertheless, we did express them quite openly. They were genuine. What was at stake was the very existence of Canada.

Now that Quebecers have voted no, some other Canadians may feel that perhaps the issue is not that pressing, that there is time to consider it in various different ways. I would suggest, honourable senators, that that is the route of complacency and benign neglect. Let us not forget that separation, pure and simple, is the current Quebec government's agenda.

Honourable senators, I am deeply convinced that this country can live united while showing flexibility in the way in which our federation functions. This motion is one of the steps taken to ensure that we will have a stronger and more modern Canada, one that works better for all of its citizens regardless of where they live; one which truly offers the climate in which to grow even stronger, in terms of economic opportunity and social values of fairness, compassion and generosity.

We have still a long way to go, honourable senators, but as a beginning, this motion declares our intention to try together to make this unique experiment flourish. It is a commitment on the part of the Senate so that the whole Parliament of Canada will share in this undertaking. I therefore ask all of my colleagues to join me in support of this motion.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): I move adjournment of the debate.

Hon. H.A. Olson: Honourable senators, I understand that it is up to the Leader of the Opposition to make the next speech. However, if he does not intend to make that speech until next Tuesday, I wish to advise my honourable colleagues that other parts of Canada have a great deal of interest in this motion, especially the amendment that has been made by the Minister of Justice. If you wish to adjourn the debate now, four or five days will elapse before we get back to this motion. In that time, as has been my experience many times with this type of situation, the wrong spin can be put on what is being done.

Senator Lynch-Staunton: Please proceed. I will allow Senator Olson to speak.

Senator Olson: I yield to the Leader of the Opposition to make the first speech because the Leader of the Government has moved the motion. I have no problem with that. I am merely puzzled that he is not ready to comment on the speech that was just made.

Senator Lynch-Staunton: I am not ready because I have just heard my colleague's speech. However, if Senator Olson wishes to speak, I am willing, as are others, to hear what he has to say.

Hon. Marcel Prud'homme: Honourable senators, my colleague has been saying all afternoon to me that he will have questions, but he will not ask for an adjournment. I would very much like to listen to Senator Olson because I believe in what he has just said. If you speak three or four days later, the spin doctors will go before you. I like that expression. It is new to me.

I would not like this to be taken as a precedent. In the British tradition, if one does something one day, the next day it is a precedent. I agree that Senator Lynch-Staunton should speak next because that is the custom. However, if he wants to delay making his speech, that is fine, too, but it should not create a precedent.

Senator Olson: I agree that it will be a precedent. I was not asking for any precedent to be set. Senator Lynch-Staunton has indicated to me that he is not ready to speak at this time. I have no problem with that.

The Hon. the Speaker *pro tempore:* Honourable senators, when I recognized Senator Lynch-Staunton, Senator Nolin rose at the same time. I understand he wishes to ask a question. I will recognize Senator Nolin, and then, as I understand it, Senator Lynch-Staunton will yield to Senator Olson.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, the resolution you presented is, without a doubt, central to the concerns of Quebecers. I intend to speak to the resolution next week.

I do have a few questions. In your comments you referred to a parliamentary statement consisting of two parallel statements. Why did the government not take the legislative route, which is the usual approach in Parliament? Why two parallel statements, even if they are identical?

[*English*]

Senator Fairbairn: Honourable senators, may I indicate to Senator Nolin that I believe the resolution or the motion before the Senate today is quite authentic. It was the choice of the government initially to move this resolution in the House of Commons where individual members are elected, and thus reflect the wishes of the country.

I must be candid with the honourable senator. Perhaps my choice would have been a joint resolution, which has been used in the past. However, in this case, a different choice was made. Indeed, I was encouraged, and readily agreed, as I indicated at an early stage to the Leader of the Opposition in the Senate, to bring forward our own resolution and pass it in concert with that of the House of Commons.

[*Translation*]

Senator Nolin: Honourable senators, paragraph 4 of the resolution reads as follows:

> The Senate encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

If this had been a bill, the judicial branch would have been obliged to take note of it. Do you not see this as an oversight, considering the importance of this decision?

[*English*]

Senator Fairbairn: Certainly not to my knowledge, Senator Nolin. The guidance I received in putting forward this motion was to have the resolution in precisely the same form as that introduced in the other place.

• (1650)

Hon. Noël A. Kinsella: Honourable senators, in her speech, the Leader of the Government in the Senate made reference to the veto bill that is now in the legislative process, going beyond the item of the distinct society resolution that we are debating here. It has been reflected upon and articulated by some that the federal Parliament is fettering, as it were, the exercise of its veto. Effectively, it is the federal veto that is exercised, but it could be seen to be harnessed, or fettered, or subject to this legislation.

What does that do in terms of the duty of Parliament, from time to time — as it does with all legislation that we deal with concerning matters of amending the Constitution of Canada — to seek out as best it can what constitutes the federal and Canadian public interest? That is when Parliament exercises its best judgment as to what constitutes the public interest of Canada. Will that responsibility that Parliament has, both in ordinary legislation and in amendment of the Constitution process, be minimized or lessened so that instead of exercising what would constitute the Canadian public interest, it will be taking into consideration what would constitute the public interest of a region such as these regions — that is, if this is how the amendment will be brought forward.

What are your thoughts on the need for Parliament to be able to exercise its judgment as to what constitutes the Canadian public interest, which can be radically different from what would constitute the public interest of Atlantic Canada; or what would constitute the public interest of Quebec; or what would constitute the public interest of Ontario; or what would constitute the public interest of Western Canada, or the three provinces of the West and the province of British Columbia?

Senator Fairbairn: Honourable senators, first, this is not a constitutional amendment; it is a first step, or a bridge, as it has been described, leading us toward the obligation set forth in the Constitution to have a review of the amending process in 1997.

The Parliament of Canada, with its elected representatives in the House of Commons from every corner of the country, has its daily obligation and responsibility to reflect the public interest of the country and the people in the country.

In terms of this bill, the honourable senator used the word "fettered". It is really more of a loan within this period of time. If an amendment were to be approached, for whatever reason, then fundamentally the current amending process which has been in place since the early 1980s is there. It is fundamental to any changes.

The federal government has said that, in the interim, before any consideration would be given to reviewing or adjusting that process, there will be an overlay offered by the federal government. The people in the regions will have an opportunity to have their views met. They, too, are Canadian public interests, but they will have the opportunity to have their views met if there is an abiding concern over anything that might be envisaged in this kind of amendment.

Anyone in this chamber would know that if there is a region in Canada that finds a particular change for its own people so overwhelmingly offensive, the central government — that is, the federal government — will have to have very severe thoughts about ever pursuing it.

This particular proposal simply says to the regions, and the variations of combinations within them, that "Your view counts as well, and we want to be influenced by it."

Senator Kinsella: How does the government envisage determining what constitutes the will of the different regions? For example, what means will be utilized to determine what constitutes the will of Atlantic Canada as a region?

Senator Fairbairn: Very early on when this proposition was first put forward, Senator Murray asked me whether or not that would be specifically stated in the bill and/or defined in the bill. It is not.

What the government has said, and what the Prime Minister and the Minister of Justice have said, is that the regular process of deciding these kinds of things would be through a legislative discretion within provinces. The other possibilities are through the government of a province and through a referendum, for which some provinces such as my province of Alberta, the province of British Columbia and others, have laws already on the books. This took place at the time of negotiations for the Charlottetown accord. They have a legal obligation within their own provinces to express themselves on these issues through referenda. There are a variety of methods whereby this could be exercised.

Hon. Gérald-A. Beaudoin: Honourable senators, it is true that this is not a constitutional proposal. I agree entirely in that regard. It is a proposal under a legislative form. However, the fact is that since the next federal-provincial conference on the

Constitution must be convened before April 17, 1997 — which is not that far away; it is a matter of 16 months — does the Leader of the Government in the Senate not think that what we are doing now is the first act of a very important conference in 1997? We are adding, to a formula of amendment that has been there since 1982, a legislative process as they have done in some other provinces with respect to referenda.

The federal Parliament, on authority, may deal with the National Assembly or with the people of Quebec by referendum under this formula. Does the minister not think that we must take into account that what we are doing now is a very important preliminary to what will take place in April 1997? Does she not think that even if there is a very substantial difference between that and a constitutional amendment, the fact is that, ideally, to save this country, we should now act in such a way as if we were very close to revisiting the amending formula?

• (1700)

The argument put forward by my colleague Senator Kinsella is important because the veto of the federal authority is a prerogative. To a certain extent, it is up to the federal authority to bind itself. However, we must take into account that we are already discussing some feasible amendment to the amending formula for 1997.

Senator Fairbairn: Honourable senators, in response to Senator Beaudoin, who is far wiser on these issues than am I, this is a first step along the way of suggestions as to what will be the formal review in 1997. There may be many more when the time for the conference arrives, and when the first ministers are around the table, involving whoever else they wish to involve. These legislative proposals that are being put forward at this time will quite probably be part of that discussion. However, they will not be the only part of that discussion. It will be a very open discussion with, perhaps, many other variations — perhaps better variations — placed on the table at that time.

I repeat, this is a bridge. Essentially, it is in response to an honourable commitment that was made. The Prime Minister, as he was addressing that commitment, considered that in this interim period the other parts of Canada also might benefit from that kind of an assurance during the period of time prior to the 1997 meeting.

Senator Nolin: Honourable senators, the Leader of the Government in the Senate referred to the speech of Mr. Chrétien given in Verdun. I want to remind honourable senators as to why we are discussing the veto now. This is what he said:

[*Translation*]

> To those who believe, as our opponents claim, that constitutional changes that would affect Quebec could be made without the consent of the Government of Quebec and the National Assembly, I say that will not happen. You have my formal commitment as a Quebecer, as a Canadian and as the Prime Minister of Canada.

[*English*]

Is it the provinces which will decide how they want to manifest the fact that they do not consent to a change in the Constitution? Is it the federal authority which will decide if it will be by referendum? Or will it be the National Assembly of Quebec or the Government of Quebec?

This is an important question, because the Prime Minister stated clearly in Verdun that there would be no change to the Constitution which would affect Quebec's powers without the consent of the government or the National Assembly. I now see some flaws in this proposal.

Senator Fairbairn: Honourable senators, when we are in debate on the bill next week, we can probably get into more of the details than we can today.

I believe one of the efforts guiding the Prime Minister was to have flexibility in terms of choice in regard to this particular proposal. As I say, we can get into that in greater detail next week.

The Prime Minister has noted in his comments in the House of Commons as well that he has never said that it is the "preferred choice." However, he has made the point that, in the case of constitutional amendments, the position of the legislative assembly of a province has been very important in those kinds of decisions.

Senator Olson: I appreciate the position taken by the Leader of the Opposition with respect to what has just taken place. I do not know whether I should have known this or not; however, I did not know that this amendment to the resolution was to be made today. I am not complaining about that. However, it surprises me, and perhaps it is a pleasant surprise.

I know, too, that it is expected of me as a senator from Alberta to raise this matter. These kind of things can have a domino effect. Indeed, to some extent that has already happened — although not so severely in Alberta, if I may say so, as what we have been told has happened in British Columbia by some senators from that province. I refer to Quebec receiving a veto and the rest of us going by way of regions and, indeed, the four western provinces.

Even before the announcement was made by the government concerning the amendment, it was my opinion that British Columbia did, *de facto*, have a veto on the basis of the Prime Minister's announcement. I am not trying to belittle that. I am saying that I am certain that if British Columbia had complained about an amendment or about the amending formula being proposed, the Government of Canada would not have lent its authority to veto an amendment. There is no question in my mind about that.

Senator Lynch-Staunton: Why have the bill, then?

Senator Olson: Why have the bill? It is very simple; surely the Leader of the Opposition can understand that the Prime Minister made a commitment during the referendum debate.

Let me tell the honourable senator one or two things about that referendum campaign that went on in Quebec.

Senator Lynch-Staunton: I was there.

Senator Olson: I hope I do not hurt somebody's feelings by saying this —

Senator Lynch-Staunton: I was there while he was out west, raising funds for the Liberal Party.

Senator Olson: He does that so very well, which is why we like him to come to our province.

Senator Lynch-Staunton: He did it during the referendum campaign, before he showed up in the last week of the campaign in a panic.

Senator Olson: No, he did not show up in a panic, in any way, shape or form. What he did was make certain commitments about which my honourable friend knows.

I can tell honourable senators this: There were millions of people in what is flippantly referred to as the "Rest of Canada" who stood helplessly by, frustrated that they could not get involved in what was about to happen, or what might lead to the breakup of their country. They did not like it. They expected the Prime Minister to speak and to act for them, and he did. Is that not clear? It is completely clear to me. He made some commitments.

I should now like to talk about what is involved in the motion that is before us and, indeed, the proposed amendment in the other place. I think that, *de facto*, Alberta has a veto, if by themselves they want to use it. First, it has that *de facto* veto because of having a majority of the population in the three Prairie provinces.

Senator Berntson: Go and stick it to Saskatchewan and Manitoba, then.

Senator Olson: Everybody wants to get ahead of themselves. Wait until I explain it.

Senator Lynch-Staunton: We want you to catch up.

Senator Olson: I have caught up. I think they have a veto. I guess that perhaps Alberta's population is greater than both Manitoba's and Saskatchewan's populations put together.

Senator Berntson: Right on.

• (1710)

Senator Olson: That satisfies one part of the requirement. I would bet anything that if Saskatchewan or Manitoba vociferously disagreed to an amendment, it would not be passed, regardless of Alberta. Indeed, the Parliament of Canada could lend them its veto.

I hope honourable senators opposite will make a speech on this. Surely they have a view. I am trying to explain a few things from Alberta's point of view. Quite frankly, I do not think you understand. Alberta, and indeed the other two Prairie provinces effectively have a veto.

It is not terribly worrisome to me, because I do not think it will ever be tested between now and April of 1997. At that time, there will be a formal meeting of all 11 governments of the provinces and the territories to deal with this subject. The Leader of the Opposition in the Senate knows that.

An Hon. Senator: Why have it?

Senator Olson: The honourable senator asks, "Why have it?" He would not have said that a month or more ago when we were in the middle of the campaign. Of that I am certain. The answer to "why have it" was to try to do what he could — and the Prime Minister did it well, apparently — to see that the referendum did not get a majority for the "yes" side.

The Prime Minister was asked by the leader of the Reform Party. "If it came out 50 per cent plus one, are you going to just acquiesce to that and that is the end of the debate?" He asked that question because many people in Western Canada were asking how many more referendums it would take. It was a perfectly legitimate question. I know why he did it. I understand a little bit about politics in Western Canada, too. It was a good question from his point of view.

The Prime Minister's answer was clear. He was not ready to break up the country for 50 per cent plus one. Well, it happened to be 50 per cent minus something like 50,000 votes.

All I want to say now is that I do not believe we need to raise the spectre of this domino effect, that Alberta ought to be next. Why not Alberta? British Columbia's population is slightly larger than Alberta's. I think Alberta has 2.7 million people, while British Columbia has about 3.8 million. That is going up, by the way, at the rate of 8,000 a month.

Senator Lynch-Staunton: They are all leaving Alberta.

Senator Olson: I should advise my honourable friends that Alberta's population is increasing rapidly too, in case they did not know.

In any event, who will get ahead?

I do not think that we should let a few radio commentators do to Albertans what I believe happened in British Columbia. Two or three of them raised their rhetoric and heightened the attitude amongst the population. It is just a terrible thing.

Senator Lynch-Staunton: Does Premier Harcourt have a radio program?

Senator Olson: I do not care what he has; I am giving you my view.

I believe that British Columbia had a *de facto* veto under the proposition made by the Prime Minister, even before it was amended. Some people did not agree with me. I guess Premier Harcourt was one of them. He has a political problem in B.C. that I do not have. I understand that pretty clearly.

Senator Lynch-Staunton: But your party has. That is why you caved in and allowed them in.

Senator Olson: I do not think accommodating the people in any part of this country, including British Columbia, should be regarded as a cave-in.

Senator Lynch-Staunton: You caved in.

Senator Olson: No, we did not.

One principle of politics — something that the Conservatives never learned — is that you should listen to the people.

Senator Lynch-Staunton: We consulted.

Senator Berntson: You should listen to them before.

Senator Lynch-Staunton: We had 10 premiers on-side.

An Hon. Senator: Order, order!

Senator Simard: "Order, order"? He makes sense.

Senator Olson: Honourable senators, I wanted a few minutes to explain this domino effect. I know what spin doctors can do to these kinds of things if they get started on the wrong foot. I want them to know that I believe Alberta has an effective *de facto* veto, in the same way as Ontario or Quebec or British Columbia has now.

I hope it does not get any further than that.

Some Hon. Senators: Hear, hear!

On motion of Senator Lynch-Staunton, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, December 12, 1995, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH (CANADA WEST DISTRICT) REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill S-12, to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District, presented in the Senate on Thursday, December 7, 1995.

Hon. Gérald-A. Beaudoin moved the adoption of the report.

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

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker: When shall this bill be read the third time?

Hon. Leonard J. Gustafson: With leave, now.

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

Some Hon. Senators: Agreed.

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

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there has been discussion between the leadership on both sides, and I would ask that all orders, reports, motions and inquiries stand.

The Senate adjourned until Tuesday, December 12, 1995, at 2 p.m.

THE SENATE

Tuesday, December 12, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I proceed to call Senators' Statements, I wish to inform you that we have with us today two new House of Commons Pages who have been chosen to participate in the exchange program with the Senate for the week of December 11 to December 15.

I should like to introduce Peter Holland from Montreal, Quebec. Peter is pursuing studies in international business at Carleton University.

The other Page is Nancy Lobb, and she is also studying international business at Carleton University. She is from Holmesville, Ontario.

SENATORS' STATEMENTS

OFFICIAL LANGUAGES

PROLIFERATION OF FRENCH TELEVISION STATIONS IN ONTARIO—COMMENTS IN MEDIA

Hon. Jean-Robert Gauthier: Honourable senators, a series of articles in *The Toronto Sun* on December 5, 6 and 7 severely criticized the spending of public money on French television in the Greater Toronto Area by Radio-Canada, or CBC, and TFO, Télévision française de l'Ontario, an arm of the provincial educational TVO network.

The Toronto Sun has used, or I should say "misused," Bureau of Broadcast Measurements, or BBM ratings, to make their point that French-language television in Toronto is a waste of money and should be drastically reduced in the name of budget restrictions.

The Toronto Sun editorial of December 7, entitled "Pull the Plug," argues that there are too many French-language television services in Toronto: TVO, TFO, Radio-Canada, CBC and RDI. RDI is the French equivalent of *Newsworld*. In the editorial, they make the following assertions:

> First, we're officially bilingual (fine this isn't Quebec.)

What a red herring of a statement!

Honourable senators, I ask: Is bilingualism as referred to in the editorial only for Canadians living in Quebec? Surely not! Canada has two official languages and the federal policies to implement that reality. Canadians expect their federal government to serve them in the official language of their choice, and CBC Radio-Canada, our national broadcaster, has a policy, approved some 20 years ago, which states that the publicly funded broadcaster must serve official language minorities wherever and whenever there are 500 or more living in a community. That policy goes for the English in Quebec and the French speakers outside Quebec.

As for TFO/TVO, *The Toronto Sun* knows very well that is an excellent educational television network in Ontario and that TFO, the French arm of TVO, averages 175,000 viewers every week.

Further, *The Toronto Sun* editorial implies that bilingualism "is not an argument that impresses anyone any more." We in Canada just lived through a difficult referendum in which our Quebec compatriots reaffirmed their belief in a united Canada. One would think *The Toronto Sun* would show more understanding and generosity towards their French-speaking citizens in Toronto and elsewhere in Ontario.

In the same editorial, *The Toronto Sun* argued that these services of French-speaking television are mainly aimed at larger French markets like Ottawa-Hull, and they make the comment that the "status quo is untenable."

Honourable senators, if one were to follow the logic of *The Toronto Sun*, we should cut budgets to French television in Ontario according to an undetermined formula where numbers would so warrant. What a silly proposal in a province as large as Ontario, where the French-speaking population is spread over most of its territory.

To get an idea of the position of *The Toronto Sun*, the editorial is accompanied by a cartoon that promotes the idea of expatriating French-speaking Canadians from Toronto to Quebec. There should be no need, in their view, for French-speaking services any more since the savings of closing down French television could be used to buy French-speaking Ontarians a house in Quebec and move them to that province.

Honourable senators, I have only one thing to say: Shame on *The Toronto Sun* for advocating such a deportation of their French-speaking fellow citizens living in Toronto. Shame on them!

HEALTH

ADVERTISING OF TOBACCO PRODUCTS—
MEASURES ANNOUNCED BY MINISTER

Hon. Mira Spivak: Honourable senators, I would commend the Minister of Health for the very strong proposals she presented in the other place yesterday to control tobacco products in Canada.

As the minister acknowledged, the Tobacco Products Control Act does not have the flexibility of either the Hazardous Products Act or the Food and Drug Act regulating products that cost far fewer lives.

Well before the Supreme Court annulled key elements of the TPCA, many health advocates thought it required substantial amendment or replacement. The minister has now proposed new legislation to incorporate many features of the Hazardous Products Act and the Food and Drug Act and to restore the complete ban on advertising of tobacco products which the Supreme Court struck down.

This is good news. I am glad the government is providing the evidence to support its position on advertising. I am also pleased that the minister is addressing point-of-sale advertising, access to cigarettes by young people, packaging and labelling, sponsorship of sports and cultural events by tobacco companies, and the very elements of tobacco products.

There will, no doubt, be protests from tobacco manufacturers and from sporting and arts organizations that rely on tobacco sponsorship. I can only say: Do not be deterred. Do not bend. Other measures should be considered to replace the funding that tobacco companies have provided to these organizations such as cigarette taxes or other industry funding. Perhaps Canada's banks might be interested, given their current profit picture.

In her blueprint, the minister also cited some very telling statistics that I hope her colleague the Minister of Finance will take to heart. Federal revenue from excise taxes and duties on tobacco products in fiscal 1993-94 was $2.6 billion. However, the societal costs attributable to smoking that year were $11 billion, more than four times as much. Of that amount, $3 billion was spent directly on health care. The remaining $8 billion was due to lost productivity.

These are not statistics a finance minister can afford to ignore. What can he do about those billions of health care dollars paid every year by governments, and the billions more lost to a productive economy? As the Health Minister's blueprint said:

> Higher prices are a very important disincentive to smoking, especially for youth. An effective means of raising prices is through taxation.

I sincerely hope that the strong tobacco control measures proposed yesterday by the Minister of Health will, next spring, find their way into a bill which is just as strong. She has my support. I also hope that the Minister of Finance will see the wisdom of the health minister's blueprint and again raise tobacco taxes in the next budget.

JUSTICE

POLITICAL NON-INVOLVEMENT IN POLICE
INVESTIGATIONS—STATEMENT OF MINISTER TO MEDIA

Hon. Marjory LeBreton: Honourable senators, I rise to put on record shocking revelations regarding the Minister of Justice, Mr. Allan Rock, as reported in yesterday's *Globe and Mail* that, within days of being elected in 1993, he alerted the RCMP to allegations that he had heard about Progressive Conservatives and Swiss bank accounts. He stated:

> "I have had the practice...as long as I have been in this job, that if anybody comes to me with information, implicating anyone else in wrongdoing or suggesting any such thing, then my practice is to pass that on to the RCMP."

Then, after denying that he was aware that his department had sent a letter to Swiss authorities naming former prime minister Mulroney, he continues:

> "Politicians should not be involved in police investigations."

However, that statement is immediately contradicted when Mr. Rock states:

> "Whenever I received any information of alleged wrongdoing, I passed it on, and in this particular instance that you are asking about, where we now know there is a police investigation, I did not now there was a police investigation under way and didn't know about the letter of request to a foreign government."

This, two years later, I might add. The *Globe and Mail* story continues:

> On the specific issue of whether and when Mr. Rock spoke to the RCMP about the allegations, the minister said yesterday —

And again there is a contradiction:

> "I don't think it is appropriate for me to communicate to others, and particularly publicly, the information that I may have given the RCMP, about information that came to me concerning such matters."

The *Globe and Mail* reports that the minister said that, in such instances, it was his practice to alert his informants that he had spoken to the RCMP so that they would not be surprised.

The most shocking statement of all, however, is this one out of the mouth of the Minister of Justice when he said:

> "I have never had an instance occur where I have passed information on and heard back from the RCMP in any way whatsoever... There is more than one circumstance in which I have given information to the RCMP...and I have never had a call back from the RCMP."

Mr. Rock is the Minister of Justice, and as such is the protector — one would hope — of the rights of individuals and the administration of justice for all. In his statement, he says, "as long as I have been in this job." It begs the question: To what job is he referring? He says, "Politicians should not be involved in police investigations," even though he calls his informants to alert them of his referral to the RCMP.

This is shocking and unacceptable. We have a Minister of Justice, the protector, supposedly, of our rights and justice system, who admits that he is a police informer.

What are Canadians to think? There is something seriously wrong here, and the Canadian public should be gravely concerned. The Minister of Justice owes us all an explanation.

MANHUNT IN BRITISH COLUMBIA— REINSTATEMENT OF DEATH PENALTY

Hon. Gerry St. Germain: Honourable senators, I recently had the opportunity of meeting with Ms Cheryl Smith, aunt of Tanya Smith, the young Abbotsford woman who was recently murdered in British Columbia. I spoke with Ms Smith in regard to her sincere concerns about the justice system in Canada.

I am sure many of you have heard the horrific circumstances that led to the death of Tanya Smith on October 14 of this year. While walking with a friend near the MSA hospital in Abbotsford, British Columbia, Tanya was abducted and murdered by a man who later dumped her body into the Vedder River near Chilliwack, B.C. A province-wide manhunt is under way in British Columbia to find and capture Tanya's murderer, who has spent the last two months taunting police.

Obviously, the person who murdered Tanya is a sick and dangerous individual. When captured, he should spend the rest of his life in prison. This is the expectation of most Canadians and the wish of the Smith family.

In our discussion, Ms Smith emphasizes that, once this murderer is captured and brought to justice, she wants him put away for life with no chance of parole. However, she is disappointed that the government and the Minister of Justice, Allan Rock, is not willing to make the necessary changes to ensure that people who commit such crimes are not eligible for parole. In fact, Liberal Member of Parliament John Nunziata introduced a private member's bill that would have addressed part of Ms Smith's concerns. However, the government, including the Prime Minister and the Justice Minister, Mr. Rock, voted against these changes.

Unfortunately, we cannot do anything to lessen the loss and the pain felt by those who knew and loved Tanya Smith. Tanya's murder is a true tragedy. However, we can do something in her memory that will help to protect Canadians from these types of criminals. I know that families across Canada, including the family of Tanya Smith, believe that the government is not doing enough to protect our children from these types of criminals. Thus, I implore the government and the Minister of Justice to introduce real, substantive, measures, not symbolic tinkering, to amend the law and protect our children from this evil. Even the consideration of reinstatement of capital punishment is foremost in the minds of the families of victims right across this country.

Honourable senators, the majority of Canadians want the reinstatement of capital punishment, but governments have failed to act in that direction to protect the children of our country. I would urge that some action be taken immediately.

ROUTINE PROCEEDINGS

AUDITOR GENERAL ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Pat Carney, Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Tuesday, December 12, 1995

> The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its
>
> NINETEENTH REPORT
>
> Your Committee, to which was referred the Bill C-83, An Act to amend the Auditor General Act, has, in obedience to the Order of Reference of Wednesday, December 6, 1995, examined the said Bill and has agreed to report the same without amendment.
>
> Respectfully submitted,
>
> PAT CARNEY, P.C.
> *Chairman*

The Hon. the Speaker: When shall this bill be read the third time?

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

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Wednesday, December 13, 1995, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

APPROPRIATION BILL NO. 3, 1995-96

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-116, for granting to Her Majesty certain sums of money for the Public Service of Canada for the financial year ending March 31, 1996.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

NATIONAL PROTECTED AREAS STRATEGY

TO AUTHORIZE ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE TO EXTEND DATE OF FINAL REPORT—NOTICE OF MOTION

Hon. Pat Carney: Honourable senators, I give notice that tomorrow, Wednesday, December 13, 1995, I shall move:

> That, notwithstanding the order of reference adopted by the Senate on Wednesday, April 27, 1994, the Standing Senate Committee on Energy, the Environment and Natural Resources, which was authorized to undertake a study of the policy options available to the government to complete the network of pristine areas that represent Canada's natural regions and the creation of a national protected areas strategy and to make recommendations thereon, have power to present its final report no later than Sunday, March 31, 1996, and
>
> That, notwithstanding usual practices, if the Senate is not sitting when the report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this chamber.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Donald H. Oliver, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

> That the Standing Senate Committee on Transport and Communications have power to sit at three o'clock in the afternoon on Wednesday, December 13, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. A. Raynell Andreychuk, with leave of the Senate and notwithstanding rule 58(1)(*a*), moved:

> That the Standing Senate Committee on Aboriginal Peoples have the power to sit at three-thirty in the afternoon today, Tuesday, December 12, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

JUSTICE

DAMAGE TO PARLIAMENTARY PROCESS—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1) and (2), and 57(2), I give notice that, on Tuesday next, I will call the attention of the Senate to the frequent reports in the national and international media, including varied allegations naming the former Prime Minister, the Right Honourable Brian Mulroney; the Minister of Justice, the Honourable Allan Rock; Justice lawyer Kimberly Prost; former Premier the Honourable Frank Moores; the Royal Canadian Mounted Police; Airbus Industrie SA; Georgio Pelossi; diplomtats and others, being matters that have become an aggressive and shameful public spectacle; and to the handling of these matters; and to the erosion of parliamentary process, and to the damage caused to parliamentary government, to the Prime Minister's Office, to the principle of ministerial responsibility, to Parliament, and to senators, including myself, who voted on Bill C-129, the bill to privatize Air Canada, on August 4, 1988, in the Standing Senate Committee on Banking, Trade and Commerce; and to the belief that Parliament, in the interest of public confidence, should take cognizance of these matters, and not leave them to conjecture, speculation and the media, but instead take these matters into Parliament's consideration.

QUESTION PERIOD

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTERS REPLACEMENT PROGRAM—STATEMENT OF REQUIREMENTS—REQUEST FOR ANSWER

Hon. Gerald J. Comeau: Honourable senators, my question is for the Leader of the Government in the Senate. It follows upon a question raised by my colleague Senator Forrestall last month.

Could the minister please inform this chamber of the statement of requirements for the purchase of 50 new search and rescue helicopters, those which will replace the Labradors, as announced by her colleague on November 8?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have forwarded all the questions of Senator Forrestall and Senator Comeau to the Department of National Defence in order to obtain that information. I have not yet received a reply.

Senator Comeau: Would the leader please ask the Minister of Defence to speed up the request? There is much interest. Obviously, the tenders will be called soon.

At the same time, would the Leader of the Government ask the Department of National Defence when public tenders for the replacement of the Sea Kings will be called?

Senator Fairbairn: Honourable senators, I would be pleased to do that.

COMMUNICATIONS

RADIO CANADA INTERNATIONAL—FUTURE PROSPECTS FOR CONTINUANCE—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question relates to Radio Canada International. Can the Leader of the Government in the Senate inform us as to the current state of Radio Canada International and what the government's plans are in relation to its continuance?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I believe the corporation is prepared to make an announcement on that issue. I would just as soon wait until that has been done before I respond in detail to the honourable senator's question.

Senator Oliver: Honourable senators, if the answer is that the government will no longer support RCI, is the Leader of the Government prepared to go to bat in cabinet to try to save this important agency?

Senator Fairbairn: Honourable senators, leaving the cabinet aside, Senator Oliver will know that this government, and governments before it, have respected the arm's length principles laid out in the Broadcasting Act. Let us wait to see what the corporation has to say. At that time I will consider whether I can go any further than that, although I probably will be unable to do so.

[*Translation*]

Hon. Marcel Prud'homme: One of the things that characterizes this country is its international reputation.

During my time in the House of Commons, I always vigorously defended Radio Canada International, which has earned this country a world-wide reputation. Radio Canada International is listened to everywhere in the world, and it is respected everywhere by people who want to get news other than what they can get by tuning into the Voice of America or the BBC.

Let me assure the minister that Canadians abroad have always been proud, not only to listen to Radio Canada International but also to hear what others have to say about it.

[*English*]

I understand the minister's intelligent approach with respect to an arm's length principle. However, there is more to consider than that. Radio Canada International serves our national interests abroad. Therefore, I would join with anyone in this place who would try to convey to the minister our strong support for Radio Canada International. I, for one, would like to impress on the minister that many senators are strong defenders of the glory of Canada abroad. Everything feasible should be done to keep Radio Canada International.

Will the minister convey to whoever is concerned our strong views in this regard?

Senator Fairbairn: Honourable senators, I would be pleased to do that.

NATIONAL FINANCE

MEETING OF FEDERAL AND PROVINCIAL MINISTERS—DISCUSSION OF POSSIBLE NATIONAL DEBT MANAGEMENT PLAN—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, noting the profound desire for change demonstrated in the referendum, on November 3 the Honourable Jean Charest asked the Minister of Finance the following question:

> I wonder whether the Minister of Finance might not use this opportunity to put forward a national plan to the country to eliminate the public deficit and debt with objectives we could all support and joint deadlines and whether now is not a singular time to do so for the benefit of the country as a whole.

In response, Mr. Charest was told that this subject had been discussed at two recent meetings of finance ministers. The Minister of Finance stated:

> I agree with him totally about what must be done, namely, drawing up a federal-provincial master plan with very clear objectives of consolidating public finances at both levels of government.

Can the Leader of the Government in the Senate advise honourable senators whether the Minister of Finance will be actively pursuing such a national debt management plan as advocated by the Honourable Jean Charest at this week's meeting of finance ministers? When does the government expect to move beyond discussions and announce a joint plan to the country in order to return stability to our financial and investment communities so that jobs can be created?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators will know that the agenda of ministers of finance, both federal and provincial, will undoubtedly be a broad one. I am sure a discussion of deficits and debt will arise.

Within the past few days, the Minister of Finance has made clear the federal government's position on its own deficit reduction program, which is on track. Indeed, he indicated an extension of the three-year plan. I am sure he will be interested to hear the views and the reports of his colleagues from across the country on their plans.

DEBT AND DEFICIT MANAGEMENT—EVALUATION OF INTERNATIONAL MONETARY FUND—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, I have risen in this place on numerous occasions to ask questions of the Leader of the Government in the Senate as to why 3 per cent of the GDP was picked as an acceptable level of deficit. On many occasions, she has said that this was a figure acceptable to world financial markets. We now see that the government has had to back off and go to 2 per cent of GDP as an acceptable level of deficit.

When will the government start dealing seriously with the deficit in this country? It is eroding confidence in the region from which I come. It is eroding investment from outside the country, as well as from within. This is because definitive action is not being taken.

It appears that the federal government is trying to hide behind the actions which have been forced upon the people of the provinces of Ontario and Alberta. It is hoping that it can use those actions as a smoke screen so that it does not look so bad in dealing with the finances of this country, and doing what has to be done to create jobs. When will this action to deal with the deficit be taken?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator St. Germain makes a pretty good speech. However, I do not agree with him.

Senator St. Germain: Thank goodness you do not agree with me!

Senator Fairbairn: I would like to point out to Senator St. Germain two or three details.

The federal government has put together its deficit reduction plan, which is the first plan in years to contain targets which have been reached. Indeed, the targets have been surpassed. It has set out these targets in an effort to cut the deficit in a systematic and realistic way, while at the same time leaving the federal government able to provide the services that Canadians need.

The reason for the 2-per-cent level is that the government is being extremely successful in what it is doing.

Senator St. Germain: That is because it had no choice.

Senator Fairbairn: As far as the international community is concerned, there is support for Canada's record. The fact is that Canada does not simply talk about reducing its deficit — it is darned well reducing the deficit. That is happening on track, and better than ever contemplated, and enables us to go even further. That is the one way to help create an economic climate in this country which will create jobs and, ultimately, bring down the debt.

Senator St. Germain: Honourable senators, why is it that the Japanese are currently reassessing their position as far as investing in our foreign debt is concerned, and the dollar has dropped to about 72.4 cents? Is this the result of good management? Is this because you have taken the proper steps at the right time? Quit trying to fool the world. You cannot fool everyone. The IMF told them an acceptable level of deficit should be 1.5 per cent of GDP, and that is why the government took the action it did. It had no choice.

I believe that the government is remiss in its inactivity, and that inactivity is causing the loss of jobs right across this country. The government is fearful of doing what is right.

• (1440)

Senator Fairbairn: Honourable senators, Senator St. Germain is absolutely wrong. The international community is watching Canada as this government keeps its word on bringing down the deficit. It has been doing it year after year, in contrast to the past when to say that deficit cutting projections were overshot in a major way was to put it mildly. The deficit reduction program of this government is accepted with admiration around the world because it is working. It is not just a bunch of talk.

With regard to jobs, it is only through the government's continued pursuit of its objective of eliminating the deficit that there will be increased jobs in Toronto, Vancouver, Montreal and Lethbridge. That is our objective.

[*Translation*]

Hon. Roch Bolduc: How can the Leader of the Government state that the program is recognized worldwide, when the lead institution, the International Monetary Fund, says that what is being done is incorrect, that we are dragging our feet, that it will cost an additional $100 billion over the next three years?

[*English*]

Senator Fairbairn: Honourable senators, Senator Bolduc is far more expert in this area than I am, but the International Monetary Fund is offering a prescription for Canada within the confines of its own room where it is tabulating its statistics and its projections. It does not have the responsibility of governing this country for the people of Canada. This government is seeking a mix and balance, combined with a flexibility, that is supportive of Canadians in the services they require, as it systematically reduces the deficit.

JUSTICE

POLITICAL NON-INVOLVEMENT IN POLICE INVESTIGATIONS—STATEMENT OF MINISTER TO MEDIA—GOVERNMENT POSITION

Hon. Marjory LeBreton: Honourable senators, my questions are directed to the Leader of the Government in the Senate. They deal with the shocking and troubling revelations, reported in yesterday's *Globe and Mail*, that the Minister of Justice passed on information to the RCMP about Progressive Conservatives and Swiss bank accounts.

What information did he pass on, and on what date? From whom did he get this information? Against whom were these allegations levelled, and which of his informants did he alert that he had contacted the RCMP?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot respond to Senator LeBreton's questions today, nor would she expect me to. However, it has been made clear by the Solicitor General that whatever concerns the Minister of Justice was passing on, they had nothing to do with Swiss bank accounts.

Senator LeBreton: Honourable senators, I suggest that the leader read the story in today's *Globe and Mail* about the Solicitor General and the Minister of Justice.

As I mentioned in my statement, Mr. Rock stated that he has never had an instance where he passed on information nor heard back from the RCMP. He went on to say that there was more than one circumstance in which he had given information to the RCMP, and that he had never received a call back from the RCMP.

This situation is extremely serious, and the government should treat it as such. How many times has the Minister of Justice performed the function of a police informant?

Hon. David Tkachuk: Honourable senators, to follow up on the question by Senator LeBreton, the major function of the office of the Minister of Justice is to protect individuals from the power of the state and the potential misuse of the power of the police in the administration of justice and due process. We have heard reports, which are basically gossip, about certain people, all without evidence. If the Minister of Justice cannot protect a former prime minister from the excesses of the state and the misuse of the power of the police, how can we expect him to protect citizens in the course of the due process of law?

Senator Fairbairn: Honourable senators, these are very important issues and they are taken very seriously. One of the underlying tenets which has been repeated in recent weeks is that it would be completely wrong and inappropriate for a minister of the Crown to be involved in police investigations. My honourable friend has made some suggestions — and I use that word because I do not want to use another — about the operation of the RCMP in Canada which I find highly questionable and quite disturbing.

Senator Tkachuk: Honourable senators, I should like to follow up on that point. I am not a lawyer. However, I know that you cannot investigate someone for murder if there is no body. There must be evidence before police investigate citizens and write to other state officials about a matter.

We must have an investigation of the Department of Justice. There is a pattern here: Bill C-22 is going to court; Bill C-68 is going to court; I am sure that Bill C-110 will go to court. Now we hear this gossip, yet people are saying, "We should not interfere with the police investigation. We should let the police run amok and decide who they want to investigate, without due process."

Who will be responsible when nothing is found? Will it be the Minister of Justice or the Commissioner of the RCMP? Someone has to be responsible, and no one is responsible right now.

AUTHORITY FOR STATEMENT ON POLITICAL NON-INVOLVEMENT IN POLICE INVESTIGATIONS—GOVERNMENT POSITION

Hon. R. James Balfour: Honourable senators, would the Honourable Leader of the Government in the Senate state the authority for her statement to the effect that it is inappropriate in all circumstances for a minister of the Crown to be involved in a police investigation?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Balfour asks for an authority. It has been a convention of government for a very long time that it is improper and inappropriate for a minister of the Crown to be involved in the operational, investigative work of the national police force. That has certainly been the view taken by this government and, I suspect, by appropriate ministers in other governments.

Senator Balfour: My honourable friend has not answered my question. Would my honourable friend please cite the authority for the statement she has made?

Senator Fairbairn: Honourable senators, I am conveying to Senator Balfour the convention as it is regarded, certainly by this government and, I would suspect, by the governments preceding it, that for ministers to involve themselves in a police investigation is inappropriate. I would be more than pleased to seek background for that statement and furnish it to my honourable friend.

• (1450)

Senator Balfour: I assume my honourable friend's comment applies both to the Solicitor General and the Minister of Justice?

Senator Fairbairn: That is the information by which I am guided, Senator Balfour. The minister said this repeatedly: He is not involved directly, nor should he be involved directly, in the operations of the RCMP.

Senator Balfour: Would my honourable friend now agree that she is saying something quite different?

Senator Fairbairn: I am sorry, I do not see the difference, Senator Balfour.

Senator Balfour: By using the word "directly," I assume you do not mean that the Solicitor General would put on dark glasses and a false beard and follow the RCMP around in the day-to-day conduct of their duties. Earlier, I had understood the honourable leader to say that neither the Minister of Justice, nor the Solicitor General nor any other minister of the Crown, would be "involved" in a police investigation. Is that your position?

Senator Fairbairn: Yes, it is.

Hon. Gerry St. Germain: Honourable senators, I asked a question previously of the Leader of the Government in the Senate about the possibility of someone using the power of the Ministry of Justice against a political opponent. In view of what has transpired to date, and the fact that the Minister of Justice is telling the media that he received certain information just after the 1993 election, does the honourable leader still stand by her position that this whole RCMP exercise is not politically motivated, nor is it a witch hunt, as I had suggested it was and still believe that it is?

Senator Fairbairn: Honourable senators, I stand by the position very firmly that these events are not politically motivated, and certainly not, in the words of my honourable friend, a "witch hunt."

Hon. David Tkachuk: In other words, what you are saying is that when the state was running around interning Japanese during the Second World War, the Minister of Justice should have stepped in to ensure that due process was applied to all the people of Canada. That is what you are saying.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—KNOWLEDGE OF GOVERNMENT MINISTERS—REQUEST FOR PARTICULARS

Hon. R. James Balfour: Would my honourable friend tell us precisely on what dates the Minister of Justice and the Solicitor General became aware of the government-to-government communication, addressed under the letterhead of the Minister of Justice, to the authorities of the Swiss government concerning the Airbus matter?

Hon. Joyce Fairbairn (Leader of the Government): I will attempt to secure those dates for Senator Balfour.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—LIBEL ACTION BY FORMER PRIME MINISTER—SOURCE OF FUNDING FOR GOVERNMENT COUNSEL

Hon. Orville H. Phillips: Honourable senators, my question is for the Leader of the Government in the Senate. I want to know who is paying the fees for the attorneys to represent the Minister of Justice in the action launched by the Right Honourable Brian Mulroney?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I assume that the Government of Canada is paying the legal costs.

Further to the question from Senator Balfour, I have indicated before in this chamber that the first intimation the Minister of Justice had of a letter being sent to Switzerland was when he received a phone call from Mr. Tassé. I will check the date.

Hon. R. James Balfour: A letter being sent, or that a letter had been sent?

Senator Fairbairn: A letter had been sent.

Senator Phillips: In view of the sleazy way in which the Minister of Justice and the Solicitor General of Canada initiated this inquiry, would the honourable leader not agree that the Minister of Justice should at least pay for his own attorneys?

FOREIGN AFFAIRS

SIERRA LEONE—PROPOSED NATIONAL ELECTIONS—CONTRIBUTIONS TO SUPPORT FUND—GOVERNMENT POSITION

Hon. Allan J. MacEachen: Honourable senators, let me say that this is not a supplementary question to the previous questions.

In view of the proposed elections to be held, or expected to be held, in Sierra Leone in 1996, does the Leader of the Government have any information on the support that is being given by other countries to the election fund which is necessary to carry out this election? What has Canada contributed to the fund? What have other countries contributed? How much is still required to mount an effective election in that country?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot give my colleague any detailed information today on that matter, but I would be more than happy to seek out such information and transmit it to him.

ORDERS OF THE DAY

CORRECTIONS AND CONDITIONAL RELEASE ACT CRIMINAL CODE CRIMINAL RECORDS ACT PRISONS AND REFORMATORIES ACT TRANSFER OF OFFENDERS ACT

BILL TO AMEND—THIRD READING

Hon. Landon Pearson moved the third reading of Bill C-45, to amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act.

Bill read third time and passed.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

Leave having been given to proceed to Order No. 3, Reports of Committees:

The Senate proceeded to consideration of the nineteenth report of the Standing Senate Committee on National Finance (Supplementary Estimates (A), 1995-96), presented in the Senate on December 5, 1995.—(*Honourable Senator Murray, P.C.*)

Hon. Lowell Murray moved the adoption of the nineteenth report of the Standing Senate Committee on National Finance.

He said: Honourable senators, the Standing Senate Committee on National Finance has considered the Supplementary Estimates (A) for the fiscal year 1995-96, and we recommend them to you for your approval. As honourable senators are aware, an appropriations bill has received first reading and will be brought forward for second reading later this day.

As the committee report indicates, these are the first Supplementary Estimates of the 1995-96 fiscal year. Together with the Main Estimates for this year, they raise total budgetary estimates to $166.6 billion, which is some $3.1 billion more than the expenditure framework announced by the Minister of Finance in last February's budget.

When officials of the Treasury Board Secretariat appeared before the Standing Senate Committee on National Finance on November 23, they provided a number of reasons for this disparity. Some expenditure items were included in the Main or the Supplementary Estimates, even though they had already been charged to the expenditures of previous fiscal years. For example, there is a $1.2 billion statutory item in the Supplementary Estimates of the Department of Agriculture and Agri-Food for grants to grain producers under the Western Grain Transition Payments Act. Because the Auditor General has urged the government to treat such amounts as a kind of account payable at the time they are announced, the entire $1.2 billion has been charged to the 1994-95 fiscal year. Similarly, the Main Estimates included $800 million for multilateral debt relief payments charged to the previous years. Consequently, when budgetary expenditures are added up at the end of the current fiscal year, $2 billion will be removed for these items. This may confuse some. However, it will no doubt warm the heart of the Auditor General at whose instance it is being done.

The 1995-96 Main Estimates also did not anticipate the passage of Bill C-76 last June which repealed the Atlantic Region Freight Assistance Act, the Maritime Freight Rates Act and the Western Grain Transportation Act. Of course, if the estimates had purported to take account of legislation that had not been passed, then, of course, we would have another complaint. The subsidies payable under these acts were included in the Main Estimates but will be subtracted from budgetary expenditures next spring.

Now that central policy reserves have been eliminated, the funding for most new expenditures in the Supplementary Estimates must come from reductions in authorities previously granted by Parliament, or what the Treasury Board calls "frozen allotments." In other words, new expenditures in departments must come from within their existing budgetary allotments. For example, the Atlantic Groundfish Strategy, or TAGS, has a component in Fisheries and Oceans to buy back fishing licences and to encourage East Coast fishermen into other pursuits. The major income maintenance and training programs under TAGS are the responsibility of the Human Resources Department. Because the demand for income maintenance was higher and that for licensed buy-back lower than were forecast when the Main Estimates were prepared, the increased appropriation of $49.3 million in Human Resources Development is being funded by a decrease of the same amount under Fisheries and Oceans.

I am not sure whether the report of the Fisheries Committee of the Senate tabled the other day by our friend Senator Rossiter considered and commented on this phenomenon of a lower than anticipated licence buy-back. However, it is a matter that the Fisheries Committee of the Senate may want to look into in due course. In any case, only the increase is shown in the Supplementary Estimates. In other words, such transfers are double counted, to be corrected when the 1995-96 books are closed.

Another example is the $110.5 million being transferred from the Department of Foreign Affairs and International Trade to the Canadian International Development Agency which does not show up as a reduction in the department's estimates. This transfer was authorized by an Order in Council under the Public Service Rearrangement and Transfer of Duties Act to permit CIDA to assume what had been the department's responsibility for operating expenditures and the payment of grants and contributions in respect of "countries in transition," a term that is applied to the former Soviet bloc countries of Central and Eastern Europe and the former Soviet Union.

Your committee's chairman was surprised to learn during the examination of this expansion of CIDA's activities that there has never been any legislation authorizing CIDA and setting out its mandate. Instead, CIDA was established in the 1968 estimates and has its mandate and spending authorities renewed each year in the appropriation acts for the Main Estimates. This is a matter which, in the fullness of time, the Foreign Affairs Committee of the Senate may wish to consider.

Honourable senators, this completes my remarks on the report on Supplementary Estimates (A).

The Standing Senate Committee on National Finance is presently studying the implications for the public service of Bill C-76 and the likely effects of the Canada Health and Social Transfer on provincial programs of health care, post-secondary education and social assistance. We heard interesting testimony on the CHST from the Caledon Institute of Social Policy and a rather different perspective from representatives of the Fraser Institute. We also met with the Associate Deputy Minister of Health, Mr. Richard Van Loon; with the Deputy Minister of Health for Alberta, Dr. Jane Fulton; and with the Honourable Joy MacPhail, the Minister of Social Services for British Columbia in her capacity as chairperson of the Provincial Social Services Ministers of Canada.

We will complete the pre-Christmas phase of our hearings on December 14 when Dr. David Zussman and Sheldon Ehrenworth of the Public Policy Forum will discuss the government's program review and the prospects for renewal of the public service during and after the current downsizing program.

With those few remarks, honourable senators, I commend this report and the subsequent appropriations bill to your favourable consideration.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

EMPLOYMENT EQUITY BILL

REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. M. Lorne Bonnell, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, December 12, 1995

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred its report dated November 22, 1995 on Bill C-64, An Act respecting employment equity, has, in obedience to the Order of Reference of Thursday, November 30, 1995, examined the said report and has agreed to modify it as follows:

Your Committee now reports Bill C-64 without amendment, given the commitments made by the Minister of Human Resources Development to the Committee on this day, as follow:

That, by the first of March 1996, he will propose amendments to Cabinet to extend coverage of the Employment Equity Act to Parliamentary employers;

That he will prepare letters for the Standing Senate Committee on Internal Economy, Budgets and Administration and the House of Commons Board of Internal Economy urging them to establish the mechanisms and policies needed to implement the principles of employment equity as envisioned in Bill C-64; and

That guidelines and communication materials will be developed, in consultation with the Honourable Senator Noël A. Kinsella, other concerned Committee members, representatives of the Department of Canadian Heritage, groups representing members of visible minorities and covered employers, in relation to the proposed definition of "members of visible minorities."

The Committee expects that any improvements to this definition resulting from the consultations would be incorporated into the Employment Equity Act at the same time as amendments relating to Parliamentary employers are introduced. Regarding this last commitment, the Committee draws the Minister's attention to the proposed definition prepared by the Honourable Senator Noel A. Kinsella as follows:

Page 2, Clause 3: replace lines 5 to 7 on page 2, with the following:

"sons, other than aboriginal peoples, who are, because of their racial origin or colour, in a visible minority in Canada;".

Furthermore, the Committee, in light of the anticipated coverage of Parliamentary employers, urges the Minister to consider an amendment to clause 6 of Bill C-64 that would have the effect of safeguarding the merit principle where it occurs in existing policy or practice of these employers. The Committee, in this case, draws the Minister's attention to the proposal made by the Honourable Senator Ethel M. Cochrane as follows:

"*Page 6, clause 6*:

(*a*) add after line 9 the following:

"(*c*) with respect to the Senate, the House of Commons and the Library of Parliament, to hire or promote persons without basing the hiring or promotion on selection according to merit in cases where existing policy or practice requires that hiring or promotion be based on selection according to merit;" and

(*b*) re-number paragraphs (*c*) and (*d*) and any cross-references thereto accordingly."

The Committee recalls the commitment made by officials from Human Resources Development Canada about the development of guidelines related to the definition of "persons with disabilities." The Committee expects that these guidelines will likewise be developed following consultation with the appropriate stakeholders.

Finally, the Committee suggests that a letter also be prepared for the Parliamentary Librarian regarding the implementation of employment equity at the Library of Parliament.

Respectfully submitted,

M. LORNE BONNELL
Chairman

• (1510)

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

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

APPROPRIATION BILL NO. 3, 1995-96

SECOND READING

Hon. H.A. Olson moved the second reading of Bill C-116, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996.

He said: Honourable senators, Bill C-116 deals entirely and exclusively with Supplementary Estimates (A) for the fiscal year 1995-96. The explanation given by Senator Murray was particularly useful. However, in addition to what he said about a number of items in the report from the committee, I wish to draw one or two other things to the attention of honourable senators.

In total, these Supplementary Estimates (A) increase Canada's forecast net spending requirements by an additional $2.4 billion, representing planned expenditures provided for in the budget of February 27, 1995, or reallocations under the new expenditure management system. Approximately $936 million must be approved by Parliament through this appropriation bill. The remaining amount of approximately $1.5 billion represents the net changes to forecast spending pursuant to a number of statutory items that have already been approved by Parliament.

Some of the major items in these Supplementary Estimates are, first, an increase of $453 million for most departments relating to the operating budget carry forward to be used for various operational requirements. Senator Murray dealt with some of those.

Second, there is an increase of $1.2 billion for the Department of Agriculture and Agri-Food for payments in connection with the Western Grain Transition Payments Act. Senator Murray also dealt with this. He also dealt with the amounts of money withdrawn from the budget, the most important item being the $560 million that was paid as a freight subsidy in the last budget. Now, $1.2 billion needs to be authorized in connection with the transition payments. This exercise has not yet been completed, although the applications are in from the producers. In the future, they will be paying all of the amount that the railways will charge for grain transportation; something which, in the past, was partially paid for by the government at a cost of $560 million.

Third, there is an increase of $154 million for the Department of Finance for the assumption of debt related to Canada Eldor Inc., and to meet commitments by Canada under the Eldorado Nuclear Limited Reorganization and Divestiture Act.

Honourable senators, with those additional comments to Senator Murray's explanation of the report from the committee, I would commend Bill C-116 for favourable consideration by the Senate.

Motion agreed to and bill read second time.

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

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

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—VOTE DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Graham, seconded by the Honourable Senator Robichaud, P.C.,
>
> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Hon. B. Alasdair Graham, Deputy Leader of the Government: Honourable senators, if no other senators wish to speak on this motion, we have a house order for all votes on this matter to be taken at 5:30 this afternoon.

The Hon. the Speaker: If no other honourable senator wishes to speak, debate on this item is considered concluded, and the vote will be held at 5:30 this afternoon by order of the Senate.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT—VOTE DEFERRED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Graham, seconded by the Honourable Senator Lucier,
>
> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the motion and the Message referred to it on October 5, 1994, relating to certain amendments to Bill C-22, An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport.

Hon. B. Alasdair Graham, Deputy Leader of the Government: Honourable senators, I believe the same procedure would follow for this item on the Order Paper.

The Hon. the Speaker: Does any other honourable senator wish to speak? If not, the matter is considered debated, and the vote will be held at 5:30 this afternoon by order of the Senate.

QUEBEC

MOTION TO RECOGNIZE AS DISTINCT SOCIETY—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Graham,—That
>
> Whereas the people of Quebec have expressed the desire for recognition of Quebec's distinct society;
>
> (1) the Senate recognize that Quebec is a distinct society within Canada;
>
> (2) the Senate recognize that Quebec's distinct society includes its French-speaking majority, unique culture and civil law tradition;
>
> (3) the Senate undertake to be guided by this reality; and
>
> (4) the Senate encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, since the motion before us states the obvious, one can only wonder why the matter has even been raised. It is more a statement of fact than a subject for debate. Perhaps the Prime Minister anticipated such a reaction in this place, as his motion calling for recognition of Quebec as a distinct society is addressed exclusively to the house. One would have expected that a joint declaration would have been more appropriate.

Instead, Mr. Chrétien tabled his motion on November 27, and the Leader of the Government in the Senate tabled an identical motion in this place eight days later. One would have thought that, given the importance that the government places on the motion, it would have realized that a joint declaration of the two houses would have lent it more significance. Perhaps one can find in the notes accompanying the motion the reasons for not doing so.

The notes say that the motion does not amend the Canadian Constitution. "Nevertheless, it is a solemn and important commitment by federal elected representatives, who are the only ones to speak on behalf of all Canadians." The word "all" is underlined. What the Prime Minister is saying is that this chamber does not have the responsibility nor the obligation to speak for Canadians. He says in his notes that only federal elected representatives can speak on behalf of all Canadians.

I will leave it to my colleagues to ponder the significance of that statement. Certainly, if it is not an insult to the 104 members in this place, it is certainly a lack of appreciation of what our parliamentary system is all about.

In any event, honourable senators, what is before us is a symbolic motion, as was confirmed in Prime Minister Chrétien's remarks in the other place, and Senator Fairbairn's comments here in this chamber last week. However, it is more than that, unfortunately. It is largely a hasty reaction to the result of the October 30 referendum; a result which put the federal government in a state of shock and disarray, from which it has obviously not yet recovered.

Honourable senators, these motions have been received in Quebec with a large yawn, while causing consternation in much of the rest of the country. This is but a first step, says the Prime Minister, but he does not say a first step towards what. He has said that now is not the time for constitutional discussions because the Government of Quebec has indicated unequivocally that they did not want to take part in such discussions.

In that statement, honourable senators, can be found the reasons for the government's embarrassing floundering, but even more worrisome, it confirms the Prime Minister's refusal to accept obligations of national leadership. For if there is one issue which must be the ultimate responsibility of the head of the federal government, it is the one dealing with national unity. Mr. Chrétien may detach himself from the daily routine of government. However, he cannot remove himself from the obligation inherent in his office which makes national unity its main and constant priority.

Obviously all Canadians are suffering from constitutional fatigue. There is no question about that. From the patriation of the early 1980s to Meech Lake to Charlottetown, few days went by without the constitutional debate being in the forefront. When Mr. Chrétien became Prime Minister, he made it plain that the Constitution would be low on his list of priorities, if on it at all.

Events, however, particularly in Quebec, do not stop because Ottawa closes its eyes to them. The election of the Bloc Québécois, the election of the Parti Québécois, and the closeness of the referendum results have led the Liberal government to the conclusion that Quebec is riddled with separatists and that any attempt to modify the Constitution is simply a non-starter.

What Mr. Chrétien and his advisors do not understand is that many non-separatists voted for the Bloc Québécois because of their disenchantment with the two traditional main-line parties. They voted for the Parti Québécois in large numbers because of their belief that a change of government after nine years was essential. Many voted "yes" in the referendum because changes in federal-provincial relations were long overdue.

What Mr. Chrétien and his advisors do not understand is that nationalism is very strong, very pronounced and very permanent in Quebec and has been for over 100 years. You can condemn nationalism all you want, but you cannot make it go away.

Over the years, relations between Ottawa and Quebec, and Quebec and the other provinces, have been difficult, at times dangerously strained. One can think of the reaction to the Manitoba Schools Act, to Regulation 17 in Ontario, to the conscription crises during two world wars, les Gens de l'air. The list is much longer, but the conclusion remains the same. Who best to protect Quebec's majority society than Quebecers themselves?

I would remind honourable senators of those who, over the years, have been the most ardent proponents of greater recognition of Quebec's distinctiveness, people like Henri Bourassa, André Laurendeau, Maurice Duplessis, Jean Drapeau, Jean Lesage, Daniel Johnson, Sr., and Robert Bourassa, to name but a few. They were not separatists. They believed that the more control Quebec had over its own affairs, the better off it would be, without in any way compromising the unity of this country, perhaps even reinforcing it.

That feeling persists today. It may manifest itself in different forms, but there is one constant which remains: The vast majority of Quebecers want to remain part of Canada.

This is what Mr. Chrétien and his advisors do not understand. They interpret Mr. Bouchard taking over the premiership of the province and his blunt refusal to engage in constitutional discussions as reason enough to abandon every attempt to do so. In a way, I can understand the Prime Minister's reluctance to engage in any constitutional round until obliged to do so in early 1997.

Mr. Trudeau was unable to include Quebec as a formal party to the 1982 agreement. Mr. Mulroney was unable to see the Meech Lake Accord ratified and the Charlottetown agreements approved in the referendum. They were both severely politically damaged as a result. Nevertheless, whether or not one agrees with the objectives of both of them, as Prime Ministers they took the lead. While they may not have succeeded in achieving their goals, they did not fail in bringing leadership to that one overriding concern which falls to the Prime Minister of Canada to tackle and to cope with: national unity.

Mr. Chrétien fails Canadians not only by not taking the initiative but by trying to convince Canadians that his hands are tied because the Quebec government will not take part in constitutional discussions, as if Mr. Bouchard should be recognized as a valid spokesman of the vast majority of Quebecers who want to stay in Canada. Mr. Bouchard will no more speak for them than Mr. Parizeau has. It is for Mr. Chrétien to speak for them, as he must speak for all Canadians who want this country to remain united.

Provinces speak for themselves as individual entities which are part of the whole. The national government is the only one which can speak for the whole country as one indivisible unit.

This is a responsibility which Mr. Chrétien is refusing to take on by introducing a so-called "unity package" which, in his mind, fulfils vague commitments made only because of a last-minute decision to participate in the referendum campaign, after spending time in Western Canada assuring his listeners that the No side would win handsomely.

Yes, it could be replied that these are but first steps. First steps to where? Entrenchment in the Constitution? No, not for the moment anyway, because of the Quebec government's intransigence. To where? Silence.

April 1997 is when the Constitution will be revisited, at least as far as the amending formula goes. Does the government have any other proposals for discussion then? Silence.

They are silent because they are lost. Naively, they actually expected that by not raising the Constitution, it would fade into the background.

The Prime Minister should, as soon as possible, bring down a set of proposals which would be subjected to the approval of all supporters of federalism everywhere, including those in Quebec, who — it cannot be repeated too often — form the vast majority of its population.

Every federal government knows, or should know, that separatists and ultra-sovereignists will never be satisfied unless they and the provinces acquiesce to an association which is so tenuous that it can only lead to the breakup of the country.

Canadians are united with few exceptions in forging an alliance, for that is what a federation is all about, which will keep Canada one while accepting that some of its make-up deserves special consideration and treatment.

I suppose we should be reassured that the Liberal government has at least finally decided to accept the words "distinct society" in its vocabulary. The sudden conversion of those who so adamantly opposed the Meech Lake Accord is welcome, but really not that convincing. One only has to read the Meech Lake Accord when it refers to Quebec and compare it with what is before us.

I will ask for my colleagues' patience to allow me to read the proposed constitutional amendment of 1987. It stated:

> The Constitution of Canada shall be interpreted in a manner consistent with
>
> (*a*) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and
>
> (*b*) the recognition that Quebec constitutes within Canada a distinct society.

The motion before us has no reference to minorities. As to the words "unique culture," the less said the better after the Prime Minister's inability to define it himself last week.

What we have before us, in Senator Fairbairn's motion, is simply a general, but not all-inclusive, statement of fact, whereas the Meech Lake Accord was a formal commitment to a stark reality.

This is what is lacking from the Liberal government: both an intention and a commitment, as has been so embarrassingly witnessed by the inability of the Prime Minister to explain what he means by "culture," "Canadian," "Quebec" or other terms; and by the Minister of Justice who said he could not widen or increase the number of regions in the veto bill because it would cause a domino effect. Then, less than 24 hours later, he announced an amendment to the veto bill to include British Columbia as a region.

This sort of improvisation is a sorry admission that the Liberal government has no coherent policy on national unity, with the result that the forces of disunity have taken the initiative.

To make things worse, Mr. Chrétien said yesterday that the federal government might disallow a Quebec referendum if it did not agree with the question. That is unwarranted provocation which will enthral separatist supporters and cause dismay within the federalist majority.

Even Mr. Trudeau refused to go this far when he was asked to disallow Bill 101, the Quebec language bill, parts of which were later confirmed to be unconstitutional.

There is a disquieting restlessness in Canada these days. The provinces are again being treated as second-class partners, as Ottawa takes on the role of big brother, trying to flex a muscle it no longer has, the spending power. For, deliberately or not, the last federal budget, with its massive shifting of discretionary spending to the provinces, has introduced a new era in federal-provincial relations, one during which the federal government will inevitably withdraw from various jurisdictions and transfer them to the provinces. As the roles of each change, so must the relations between them.

It is hoped that the government will convene the premiers before 1997 to discuss whatever constitutional changes are required to meet the new realities of federal-provincial relations. The question is not so much what the Quebec government may or may not want, as it is what the vast majority of Canadians, including Quebecers, want.

The reason for the urgency, in my opinion, is that there may well be an election in Quebec before the summer, for the new premier will certainly be tempted to capitalize on his personal popularity to achieve from an election what he just missed achieving in the referendum — the mandate to negotiate new terms or to declare sovereignty.

The federal government must take the initiative now and submit clear and precise proposals for full discussion, even if they lead to reopening the Constitution, if for no other reason than that, I, along with the vast majority of Canadians, do not want to lose this country, certainly not by default, which may well happen if the inertia and paralysis which affects this government persists much longer.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, there is an old Irish proverb which says that it is better to be quarrelling than lonesome. If that is true, it could be said that at no time in our collective history have so many Canadians had so much companionship. All the rancour, all the bitterness and all the cynicism which cloud our great federation seem to have centered on the forthright and realistic initiative put forward by the Prime Minister. He has asked us to recognize Quebec as a distinct society and make constitutional change contingent on the approval of specific provinces and regions of the country.

As we all know, these proposals are not comprehensive, definitive or particularly novel. They are simply a framework for change and for a future "re-imagining" of Canada.

This "re-imagining" will depend entirely on the will of all the parties concerned to negotiate in good faith. Since that will is unclear, the Prime Minister could not logically commit himself at this time to anything other than honouring his word to Quebecers to start the process of change.

We have before us a very specific proposal, but what lies behind all of the specifics is really the unique reality of our country.

Too many voices across Canada see federalism as a zero sum game. Too many voices now tell us that cooperation cannot be possible because every gain for one region means an equal loss for another region. Such voices have become more numerous, increasingly bitter and, may I say, more futile over the last decade. They add to the rhetoric but contribute nothing to the solutions. "We want more," the voices say, "always more. What is more for us, is less for you. What is less for us is more for you."

Honourable senators, the zero sum concept of our federation is rooted in attitudes and ideas which consider compromise and cooperation, the glue of our great federation, to be impossible. I have said before in this chamber that Canada is an easy target for its enemies because it has been built on a vision and a dream based on tolerance, justice, cooperation and compromise. Once cooperation, tolerance and compromise become unfashionable and impossible, the dream dies.

On another front, over the last few weeks the world watched as the leaders of the Bosnian tragedy met in Dayton, Ohio. I thought, as I watched, "Pity we couldn't bring the three of them together on a speaking tour all across Canada to tell us what the ultimate cost of wanting even more really means."

As the Christmas season approaches, one might think of them as the latter day spirits of Jacob Marley spelling out a grim future for an unrepentant Scrooge. I wondered, "Is it that bad? Do we really need that lesson on this subject all over again?"

I thought, too, of the thousands upon thousands who wait in immigration offices around the world, seeking access to the best country on earth. These people do not think for one minute that the red maple leaf flies over a vast zero sum game which circumvents one-fifth of the globe. Otherwise, they would not seek access to Canada in such huge numbers. They want to come here to find peace, freedom, understanding, compassion and respect for the rights of the individual. Those are the values which bind all Canadians: Quebecers, Nova Scotians, British Columbians, Manitobans and aboriginal peoples who, together, keep alive the ideal of unity in a single natural harmony.

All of these values make up the soul of Canada of which the great Robertson Davies, whom we all mourned last week, once wrote, "...needs nourishment, exercise and above all, love, if it is to reach maturity." That nourishment will not come from indifference; it will not come from intolerance. The exercise will not come from rancour and mean spiritedness; it will come only from faith and hope and action; it will come from generosity and compassion. The national soul will not survive without the love of all of our citizens, all of our communities, all of our provinces, all of our regions.

Canadians showed the wealth of these human resources in the historic national unity rally in Montreal. As I stood in the crowd, I remembered, as no doubt so many did — no matter which solitude they came from — these are the resources which have won Canada respect and admiration in all parts of the world.

• (1540)

These are the human resources which helped liberate Europe and conceived an air bridge to Kigali amidst the horror and the slaughter in Rwanda. These are the human resources which conceived and built a compassionate, freedom-loving society north of the 49th parallel. These are the human resources which explored and threw open a continent, resources which found no mountain or no river too hard to cross.

Canadians were called upon to undertake all these adventures in wartime and peacetime. They did not say, "We want more, always more. What means more for you means less for us." No, Canadians did not say that. Quebecers did not say that. New Brunswickers did not say that. Ontarians did not say that. Newfoundlanders, Albertans, the people of Prince Edward Island and Saskatchewan did not say that. They said, "We are Canadians. We are ready. We will do what is needed. We will do what is necessary."

In Canada today, when so many voices so stridently observe that our country is only a zero sum game, it seems to me that we must reacquaint ourselves with the real truth about Canadians. When our people are asked to choose between hope and darkness, they choose hope. When our people are asked to choose between generosity and selfishness, we have, throughout our history, chosen generosity.

We must remember when times are tough and when times are bitter, as certainly they are in our country today. Most important, we must remember that national unity is a daily act of will. The national unity rally should not have ended in Montreal. National unity must be a never-ending campaign.

[*Translation*]

I think that the peaks of the rally were marked by ordinary Canadians. I think of the citizens of small cities who see to it that their children learn both official languages, or of the inhabitants of Lac-Saint-Jean who take their vacations in British Columbia or in Newfoundland, and of those who teach their children that we do not live in a vacuum in Canada, but that our distinctive trait is our strength, wherever we live.

[*English*]

We must fight, honourable senators, line by line, word by word, the campaign of lies and deception being waged by some people about the real meaning of our country. We must level the playing field of ideas, not only in Quebec but throughout the whole of Canada. We must ensure that in the struggle for the hearts and the minds of Quebecers, indeed of all Canadians, the forces of pan-Canadian vision are seen and understood in every small village and town, in every school and university, in every urban and rural forum possible.

We must ensure that all Canadians are reacquainted with our national soul. We must ensure that those forces within Canada today which reject compromise and compassion, which reject tolerance and social justice, and, in doing so, reject the values which are and have been the glue binding Canadians of all regions and all provinces, are seen and understood to be what they are — forces which debilitate and weaken the resolve and the will to be Canadian. We must remember that the red maple leaf is a symbol of hope for the future of the planet, and is recognized as such in all forums of the world community.

Honourable senators, we must level the playing field of ideas in this country with new conviction, because, as I have said many times before, history and the future, surely, must be on our side. I would never want to downplay the enormity of the challenges ahead, but I believe a little historical perspective might be in order.

In 1891, our young federation appeared to be at a critical crossroads, and in a letter to Edward Blake, Wilfrid Laurier confided his fears. I quote briefly from that letter:

> We have come to a period in the history of this young country where premature dissolution seems to be at hand. How long can the present fabric last? Can it last at all?

Now, 104 years later, many of us ask ourselves the same questions. It may be that, in another 104 years, new generations of Canadians will still be struggling with vital questions pertaining to the perfecting of the greatest multicultural federation on the face of the earth. That is what it has always meant to be part of the adventure of this great nation — always searching, always struggling to build a better and stronger country for all Canadians.

For this and future generations, we must not falter. We must not fail in this resolve and in this resolution.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, it is obvious that I will support the motion of the Leader of the Government.

I would like to take this opportunity for examination of the proposal to share some comments and the outcome of my research with you.

There is no doubt that the 1995 referendum has given us breathing space. The result was not conclusive when it comes to the reality of numbers, as no one can conclude that because 49.4 per cent of Quebecers aged 18 or more have voted yes, 49.4 per cent of Quebecers are separatist.

I do not think those are the conclusions to be drawn. However, there is one lesson to be learned from this: that Canada is certainly sick, and we must find a remedy.

Last week Senator Beaudoin spoke about a 16-month window of opportunity. I think this is a very realistic way of looking at the constitutional future of our country. Within 16 months, the premiers and the Prime Minister must reach agreement on the constitutional amending formula.

There is no doubt that Quebec's separatist political leaders will attempt to find in the outcome of this conference, which could be held earlier, the proof that Canada is truly ill, and that there is no cure.

I have read and reread the Prime Minister's statement to the House of Commons in order to seek some inspiration from it, and I must tell you that I was inspired. In my opinion, the Prime Minister has acknowledged, as he did in the referendum, the principles which underlie our history. I ought to interject here that I feel the only way this discussion can be held is in an extremely open and extremely positive atmosphere.

Senator Graham referred to the rally on October 27. I must say that the Canadians who were there were moved by hope and a vision that anything was possible, and that together we would be able to find a way to cure this malaise.

These Canadians, and others who unfortunately were not present but would have liked to be there, sent a very clear message to the politicians. The message was to stop their short term politics, set aside partisan considerations and find a solution, because they believed it could be done, and the politicians would have to find a solution because Canadians were convinced there was one.

Today, I want to be very positive and share a few thoughts with you. I think we have to ask ourselves a very important question. Why does the vast majority of Quebecers demand a statement recognizing the distinct identity of Quebec within Canada? I think we have to ask that question. As a Quebecer, I will try to answer that question, and I hope other Quebecers will have a chance to do likewise.

To be able to answer this question, we must look at Canada's past history and try to identify the roots of the celebrated compromise other colleagues have mentioned since we started the debate on this resolution.

We should recall that, in the course of the debate that resulted in the British North America Act, 1867, the Fathers of Confederation were faced with a political problem. The politicians of Upper Canada, with the demographics on their side, had clearly identified proportional representation as the way of the future. Politicians in Lower Canada agreed, while realizing that demographics might not be in their favour. However, that was a minor problem.

Economic considerations caused the representatives of Upper Canada and Lower Canada and the Atlantic colonies to craft a compromise. It was multilateral between four colonial entities with their colonial borders, but it was also bilateral; a compromise between two clearly identified communities, one francophone and the other anglophone.

Although a Conservative, John A. Macdonald was no strong proponent of a federal state, favouring instead a unitarian state, a single Parliament with proportional representation for everyone.

George Étienne Cartier, for his part, supported what would become a federal state. For him and for the representatives of the provinces — or rather, the Atlantic colonies at the time — the best and only way to protect their local reality was to give this new, emerging country a system with two levels of government that could best protect the realities of the mainly anglophone and francophone communities.

Let us not forget that the Quebec community is not limited to its francophone majority. Even then, Quebec had a thriving anglophone community. It was important for these two communities to be able to develop within Canada.

George Étienne Cartier's option prevailed. The existence of two cultural and linguistic communities, with different values but capable of joining forces to create a country, was finally recognized in 1867.

We could engage in a long debate on what Mr. Macdonald received in return. The federal government ended up with powers traditionally devolved to federation members. We, in Canada, decided to be more creative and to consolidate some of the powers at the federal level, leaving the provinces free to pass legislation to protect their realities, thus allowing Quebec to preserve its language, denominational system, including culture and civil law, among others.

Canada evolved on the basis of this compromise. It became sovereign through the Statute of Westminster. The Judicial Committee of the Privy Council and the Supreme Court of Canada tempered the over-centralizing effects of these federal powers. Some still remained, to the great displeasure of several Quebec premiers. I am referring in particular to the federal spending powers. Nevertheless, Canada has continued to evolve.

Then came the years 1981 and 1982. This is truly the critical point of my argument this afternoon. I believe Canada broke its own tradition during those years.

I told you about the collective rights that had been recognized in the BNA Act. In 1982, Canadians, except for Quebecers, adopted a charter of individual rights, without recognizing the existence of these famous collective rights.

By contrast, the charter recognizes the collective rights of aboriginal peoples. It recognizes, as an interpretative clause, multiculturalism in Canada, but it makes no reference to existing collective rights in Quebec, nor in the rest of Canada.

Earlier, an honourable senator referred to the linguistic duality found in the Meech Lake Accord. That duality is part of the Canadian reality. In 1982, there was no such interpretative clause. Since then, Quebecers have been trying to have that reality acknowledged.

The Meech Lake Accord was an attempt to solve the issue. Unfortunately, as we all know, it failed. Given what we have gone through since 1990, with the experience of Meech I am convinced that if we could turn back the clock we would get overwhelming support for the 1987 constitutional accord.

This is simply what Quebecers want. This is why we want a rule of interpretation in the Canadian Constitution which would say to the Supreme Court that there exists a charter of individual rights and that no one objects to it. Since 1982, everyone has become used to living with the charter.

However, the Supreme Court should not forget that there is also an interpretative clause which requires it, when determining whether an individual right exists or not, to also recognize collective rights.

Honourable senators, during the Meech Lake debate, the question was asked as to whether the collective rights of Quebec took precedence over those guaranteed by the Charter. Not one Quebecer can be found who will tell you that these rights should have precedence over the rights guaranteed by the Charter. However, both sets of rights must be considered at the same time; they must coexist. That is the challenge facing us.

In 1982, we agreed to recognize in our Constitution the existence of aboriginal or treaty rights. In 1995, we are looking for an expression of this coexistence. We do not have an answer yet, but we are looking for one. The people of Quebec do not get the impression that this quest for their collective rights is taking place in the rest of Canada. What they are asking for is not the end of the world. All they want is the natural historical consequence of the conditions set in 1867, and that prevailed, albeit imperfectly, until 1982.

Some will say that the legislative basis for the collective rights of francophones and of the anglophone minority in Quebec can still be found in the British North America Act. What role does the Charter play in all that? A major role.

The Hon. the Speaker: Honourable senator, your speaking time had expired. Is leave granted to allow the honourable senator to proceed?

Hon. Senators: Agreed.

Senator Nolin: I shall be brief. Could this rather technical interpretative clause have, for all intents and purposes, a merely symbolic value as well? Quite certainly. I have decided to support the motion now before us.

I hope that it will only be a first step, and that it will lead, within the 16 months remaining before the April 1997 deadline, to the entrenchment of this declaration in our constitutional documents, as the people of Quebec are demanding, and rightly so. It is not too much to ask to see this reality entrenched in our Constitution. They are asking for no more and no less than that.

I would like to read an excerpt from a booklet distributed to all households in Quebec during the referendum campaign. The booklet contains — and it was not easy to write — the beliefs of federalists and those of independentists-separatists. Under the Quebec Referendum Act, the Chief Electoral Officer must distribute to every home in Quebec a document like this. All three federalist political parties present in Quebec approved that text. We agreed on a text. There is a sentence worth reading carefully, under the heading "Quebec's Place in Canada."

> Because of our history and our francophone majority, we are a true national community. We have all recognized the existence of that national community. We have even done it on your behalf.

Now we have to deliver the goods. We will surely vote in favour of the resolution. In the remaining 16 months, we will have to do more than that. Let us not be afraid to travel throughout our regions; in particular, those of us who are from Quebec should go outside Quebec. Let us go and explain to people living in other regions that this is not so complicated. There are certainly other things that Quebecers will want to recognize in the changes announced at the time of the referendum.

The distinct society declaration is symbolic for Quebecers, but particularly for non-Quebecers. They have heard all kinds of nonsense about the meaning of the distinct society. Today, I tried to give you my version of that definition. It does not give Quebec more powers, but certainly not less. It is simply a recognition of history. We owe it to ourselves to spread that information. We have 16 months to do so. It is important for us to get on with this task with firm resolve, and with the conviction that we will succeed.

[*English*]

Hon. Richard J. Stanbury: Honourable senators, it is my privilege to join my colleagues on both sides of this house in supporting the resolution that we have before us, to recognize Quebec as a distinct society within Canada.

As a country, we have survived a turbulent history in recent decades while modernizing our Constitution. The most recent challenge was the most frightening. Canadians everywhere came face to face with the prospect of losing Quebec; Quebecers came face to face with the prospect of losing their special place in Canada. Canadians everywhere rallied together in support of a united Canada.

During the referendum campaign, the Prime Minister made a commitment to recognize that Quebec forms a distinct society within Canada. The first opportunity to do that in a constitutional way will not come until 1997. However, in the meantime, Parliament can bind itself to act on that principle, and that is what this resolution is about.

Quebec is a distinct society within Canada — we all know that. Its French-speaking majority, its unique culture and its civil law tradition all combine to make it a distinct society. Canadians throughout this land acknowledge and take pride in Quebec's distinctiveness. We are enriched by it. That was the message that resounded loud and clear during the referendum campaign.

Recognizing the distinctiveness of Quebec within Canada does not take anything away from the rest of the country. To the contrary, it continues the natural course of evolution of our country set in motion from its inception.

From the eighteenth century, the history of our emerging country has been one of tolerance, mutual respect and accommodation. The right of the Quebec people to maintain their historic language, religion and civil law was recognized in the very beginning. Our differences have put us to the test, but also, I believe, our differences lie at the heart of our greatest achievement: our distinctiveness, if you will, as a country.

Our ability as a country to accommodate cultural and linguistic differences has set us apart from other nations. We have fought the trend of assimilation to one North American mould. We have waged our battle through laws — laws such as the Official Languages Act, and constitutionally entrenched rights to minority language education; laws that express our character as one nation, uniting — without erasing — histories, cultures and languages into a single, united future.

To understand a country, I have always looked to its origins. Our soul as a country owes its strength and character not only to our European ancestors from Britain and France but also to the Inuit of the far north, the many tribes of native Indians and those people whose origins are of the English, French and Indian peoples, the Métis. These are the people who formed our foundation, who settled the rock and soil on which we live, who built our cities and established our institutions. This foundation of mutual respect and tolerance, our flexibility as a nation, has made Canada an attractive beacon for peoples of many different cultures, histories, religions and languages. It is together that we will forge our future.

By recognizing the distinctiveness of Quebec, we honour this heritage, the concept of our forefathers. We honour Canada. At the same time, we show our faith in our future, in our ability to find a path that both accommodates and unites us in our differences.

We cannot say that the English-speaking majority in this country has always understood how to accommodate our differences. We cannot say that no fissure has developed. The referendum vote was far too close for complacency. It signalled the need to recognize, in word and deed, a new phase in our nationhood. This resolution is an important step toward that goal.

I will tell honourable senators that I am worried, not about whether Quebec can retain its distinct character within Canada, for I have absolutely no doubt of Quebec's ability to thrive within this great country. However, I am worried because I wonder whether the separatists' goal is really about distinctiveness, or whether it is really about power. As politicians, I think we understand the danger of individuals manipulating national aspirations for political gains.

Our Constitution has allowed our provinces and regions to retain their own character and uniqueness. Quebec has been able to tailor its educational, industrial and social programs to meet its linguistic and cultural needs. The real battles which we all face are not over these matters; they are over the powers our Constitution gives to the federal government. They are over foreign affairs, financial and fiscal management and international trade. These are the powers that the separatists covet. There is nothing to suggest that Quebec's independent exercise of these powers would add a morsel of food or a penny of wealth to the citizens of Quebec. There is reason to consider that these problems are most efficiently addressed by a large and unified nation; but these issues are not discussed by the separatists in the debates on sovereignty. Our appeal must be to the people of Quebec, not to the officials who want those powers, and who make it clear that they are not interested in any other solution.

The Prime Minister has made a commitment to undertake changes that will bring services and the decision-making process closer to the citizens of Canada. The unemployment insurance system is being transformed in a manner that respects provincial jurisdiction in education and training. Labour market training is being revised to eliminate program duplication and foster a true partnership between the federal government and the provinces to help Canadians find jobs and ensure that they have proper skills for the technology-based job market that we now face.

I have confidence in the ability of Canadians everywhere, and especially of Quebecers, to pierce the fog of lies and misrepresentations that some have wrapped around this debate.

This resolution is a first important step to assure Quebecers that our country, united, can grow stronger and thrive in the economic, technological and cultural challenges of the twenty-first century. Together, we can meet these challenges. Together, we can maintain our unique character.

I invite honourable senators to join with me in supporting this resolution.

Hon. Orville H. Phillips: Honourable senators, it is not my normal nature to mix or associate with the politically famous or infamous, depending on your viewpoint. Rather, my pleasure comes from associating with normal people, such as the members of this chamber.

Today, I feel ambitious. I will rub elbows with some famous Canadian politicians and give my reasons for rubbing elbows with those particular individuals.

Senator Graham: Sit back and relax!

Senator Phillips: Do not relax, Senator Graham. I consider you among the well-known Canadian politicians.

The first individual with whom I will rub elbows is the Right Honourable Pierre Elliott Trudeau. In case honourable senators have forgotten, he was the Prime Minister during the 1982 Constitution talks. Mr. Trudeau shifted his position on every subject. He was like a ship without a rudder. When a breeze came along, he drifted with it. However, there was one subject on which he did not veer, and that was the distinct society clause.

Recently, Mr. Trudeau held an event in Ottawa in which he donated certain papers to the National Archives. I believe, too, there was a book-launching at the same time. On that occasion, Mr. Trudeau reiterated his opposition to the distinct society clause.

• (1620)

I recall the questions asked of him in the television interview. His response was, to paraphrase, "How can you be distinct from another Canadian?" I remind honourable senators of that comment.

It would come as no surprise to anyone if I said that Mr. Trudeau is not among my political heroes. However, having given him honourable mention on the distinct society clause, I hope I do not have to buy or read his book.

The Leader of the Government in the Senate was what I would describe as "the Marjory LeBreton of Mr. Trudeau's office." She exerted great influence on the Prime Minister of the time. She persuaded him to break every commitment and every promise except one, and that was his opposition to the distinct society clause. Mr. Trudeau never veered; he never hesitated. He was opposed to it.

After having spent the majority of her life telling the rest of us what a super human being, a super intellect and a super Constitution-maker Mr. Trudeau was, today Senator Fairbairn, in this motion, denies the whole thing. She says that Mr. Trudeau is a washout and a dud.

This raises an interesting question. There is only one explanation for why Senator Fairbairn, in that former incarnation, could persuade Mr. Trudeau to change his mind on everything except the distinct society clause, and that is that she supported him in his opposition to it. Today the Leader of the Government in the Senate, Senator Fairbairn, denies all of that. That is to say that Mr. Trudeau was a failure; a washout. Honourable senators, there has not been a denial like that since Peter denied Christ almost 2,000 years ago.

Senator Fairbairn goes beyond her own denial. She insists that Senator Hébert, Trudeau's old China hand, deny him also. I know that Senator Hébert has written a book on his association with Mr. Trudeau in China and elsewhere, and he made a fortune on it. However, I ask my honourable friend whether he would knuckle under to Senator Fairbairn and deny Mr. Trudeau.

Senator Gauthier: Damn right he will.

Senator Phillips: I suspect that will be the truth, Senator Gauthier.

I have a great deal of sympathy for the honourable senator when he is knuckling under. It must be very unpleasant for him.

Senator Gigantès, who is faced with very difficult family situations, a former wordsmith for Prime Minister Trudeau, will have to deny him as well.

I remember when the Deputy Leader of the Government in the Senate was president of the Liberal Party. He and the Prime Minister used to walk down Sparks Street, sometimes hand in hand, and provide photo opportunities. I recall that when that was happening one of the colleagues on his side said, "That is an example of the two extremes in intellect."

Will Senator Graham now deny the intellect of Prime Minister Trudeau? Will he say that he is a washout and a dud and condemn him? I hope not, because Cape Bretoners, and Nova Scotians in general, are usually very loyal. I hope that Senator Graham will keep up his Nova Scotian traditions and remain loyal.

No discussion would be complete without the participation of Senator Carstairs, another very distinguished Liberal with whom I am rubbing elbows today. I need not remind honourable senators of Senator Carstairs' history as the leader of the Liberal Party in Manitoba. She campaigned throughout Manitoba and, indeed, several other provinces, opposing the inclusion of the distinct society clause in the Constitution. Where is she today? She is, unfortunately, silent. Senator Carstairs was closely associated with Elijah Harper, the NDP member of the Manitoba legislature. You will recall that Elijah Harper delayed the Manitoba legislature.

Senator Carstairs is a very persuasive person, except in her arguments. She must have exercised a great influence on Elijah Harper, because he left the NDP and joined the Liberal Party and is now a member of the other place.

• (1630)

He joined the Liberal Party because that was his chance, his best opportunity, his most effective way —

Senator Thériault: — to get elected.

Senator Phillips: — of opposing the distinct society clause. I wonder how Elijah feels today.

Prime Minister Chrétien, in his book *Straight from the Heart*, expresses pride and, in fact, boasts about his prominent part in developing the 1982 Constitution. Honourable senators, I must confess that I read part of the book, but only part of it. I did not finish it. Enough is enough when you are reading that nonsense. I presume that, throughout the book, he supported the fact that the distinct society clause was not included in the 1982 Constitution, and that he was proud of his part in forcing the 1982 Constitution on Quebec.

He continued his opposition to the distinct society clause throughout the discussion on Meech lake, and he continued it throughout his discussion on the Charlottetown accord.

Has anyone forgotten the joyous meeting between Mr. Chrétien and Clyde Wells at the Liberal leadership convention? The television cameras were all in place, and Mr. Wells was making a belated entrance because he was busy opposing the Charlottetown accord in the Newfoundland legislature. Mr. Chrétien met Mr. Wells at the pre-arranged spot and thanked him for the delay he had caused.

In fact, Premier Wells does not seem to have given up his opposition. In October of this year during the referendum —

The Hon. the Speaker *pro tempore*: I apologize for interrupting, but the rules require that I point out that the honourable senator's time has expired. You may continue with leave. Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Please continue.

Senator Phillips: Honourable senators, this is most awkward for me because I have just begun. However, I will attempt to consolidate my remarks.

I was mentioning that Premier Wells, during the referendum, reiterated his statement that he would never agree to a distinct society clause that implied that his people were inferior in any way to those in the other provinces.

We in the Progressive Conservative caucus were rather fortunate to have in our midst the Honourable Arthur Tremblay to advise us on constitutional issues. Since his retirement from the Senate he has been an adviser to the PQ government.

Senator Cools: Shame! Shame!

Senator Phillips: He opposes the proposal before us.

We were equally fortunate in having the Honourable Senator Beaudoin as our constitutional adviser. I frequently ask Senator Beaudoin for advice on legal matters, not only constitutional matters but others, and he always advises me of the issues on both sides of any argument.

I watched him on CBC Newsworld when he was being interviewed as an expert on the Constitution. He said, "Well, if it is in the form of a resolution, it could be meaningless. If it is in the form of legislation, it could mean something." Then he came to the point that left me wondering. He said, "It all depends on how the courts interpret it."

I am not criticizing my honourable friend for that statement. It is a very valid point. What is there in this resolution that the courts must interpret? John Crosbie said, when we introduced the Constitution in 1982, that it would be 50 years before the interpretation would be complete. I hope that we are not getting into the same situation here.

During the October referendum, the Prime Minister ignored the predictions that the sovereigntists would win. Waving in front of the television camera, he would say, "Remember the 1982 referendum? I was there. I know. The polls were worse than they are today, and the people voted 60/40. They will do the same thing. It is a non-event. Do not worry about it."

It was not until the international monetary markets began to take note of the impending separatist win that Prime Minister Chrétien decided to take a serious look at the situation. His reaction was most interesting. He looked around and realized, "By God, I have no one in the Liberal cabinet or the Liberal caucus who can change this direction", so he called upon Jean Charest. Somebody had to save Canada. Jean Charest turned the tide, and he did not do it by making a lot of promises, constitutional or otherwise. He stayed with basic, economic questions. He was most effective when he asked, "What kind of future do you want for your children and grandchildren?" That, honourable senators, was the turning point in the referendum. He received very little credit or thanks. In fact, he was not allowed to speak on the CBC, nor was he allowed to speak in the House of Commons on this motion.

• (1640)

Senator Simard: Shame!

Senator Phillips: That, honourable senators, cannot be described as gratitude for saving Canada.

The Prime Minister introduced a rather pathetic package which he misnamed "the unity package." This raises an interesting point. How much time and how much study went into preparing this package? The Prime Minister spent most of November in Israel, Australia and New Zealand. Did Mr. Chrétien receive his inspiration for this package from the Star of Bethlehem, from gazing up at the Southern Cross, or did he receive his inspiration when he made one of his brief visits to the Northern Hemisphere, looked up at the big dipper, said, "Ah, there is the answer," and then dumped the whole contents of the big dipper over us?

The package is ill-conceived, ill-prepared — in fact, honourable senators, I would say that it was drafted by Michel Dupuy during Question Period.

The 1982 Constitution came "straight from the heart." I ask honourable senators: Where did this "misunity" package originate? I suspect that the Prime Minister has had indigestion as a result of the referendum and has regurgitated the Victoria proposals.

This "misunity package" has created more disunity than the October referendum. I say to the Prime Minister with respect: Jean Charest saved your bacon in October. It is time to send for him again, honourable senators, because Canada needs him.

I ask honourable senators this: Why the haste for a constitutional conference on this legislation? A constitutional conference must be held in 1997. I believe that in approximately 15 months from now we will have a constitutional conference. Why create all this discord and disunity? Why have provinces take a viewpoint now and entrench themselves in a certain position from which they will find it difficult to extricate themselves later on?

I would suggest, honourable senators — in fact, I recommend strongly — that we take time to prepare a package that will satisfy Quebec, the western provinces and, indeed, all parts of Canada. I feel that there is a movement towards separation in the western provinces that we are ignoring. If Quebec can have a referendum, so can the other provinces. This government is moving towards a financial crisis. Imagine what would happen to the dollar if we had a referendum in Quebec, a referendum in Alberta, and one in B.C.?

Honourable senators, I hope I am not interrupting the conversation over there.

Senator Prud'homme: I thought that was coming.

Senator Phillips: That is quite possible, honourable senators, if we ignore the aspirations of various parts of the country.

One of the things I wanted to mention — and I will condense this part, even though I should like to expand on it — is that one of the reasons for the discontent in Western Canada is the fact that the cabinet representation from Western Canada is the weakest I have seen on Parliament Hill since 1957. It is soft, secret and, above all, it is scared; scared to speak out for its region. The west now realizes that they cannot depend on the Liberals of Mr. Chrétien. Preston Manning and the unreformed are ineffective. Honourable senators, it is time to send for Mr. Charest again. Not only does Quebec need him, so does the rest of Canada.

Earlier, I mentioned the Constitution conference — and here, again, I will abbreviate my notes. I have a couple of questions; the Prime Minister may have answered one of them yesterday. What happens to the distinct society clause when the constitutional conference occurs in 1997? Does it expire? What happens to the regional vetoes? Do they expire? Have we given them just a temporary measure, only to say, "Here. Enjoy this for 15 months. We will then take it away later on"?

Prior to Hallowe'en, the stores in our area had sales on potato chips and Mrs. Phillips bought some to hand out to children on Hallowe'en evening. I noticed, as I passed them out at the door, that the kids would look at me and say, "Oh, no. Not more potato chips!" Honourable senators, I think Quebec will interpret this exactly that way. They will say, "Oh, no. Not more potato chips — and only until next Hallowe'en."

One omission from the so-called unity package that saddens me is any mention of Canada's native people. If the Prime Minister spent a little more time in Canada, he just might have remembered that the native people, too, have a language problem. They, too, have a cultural problem. It is in far more danger than the language of the majority of people in the province of Quebec.

It is my hope that the resolution, or at least Bill C-110, the veto bill, will go to a Senate committee. Once there, I hope the Senate will fulfil its function and remember that minorities are a very special part of our responsibility.

• (1650)

Frequently we hear the apologists for the unity package — and there are many, honourable senators — say that this is only the first step. A Chinese proverb says that every journey begins with a single step. Well, honourable senators, at my age, before beginning a journey, I like to know several things: I like to know where we are going and what to expect when we arrive there, plus the time of arrival. The idea of this being only a first step does not appeal to me. I want to know where we are going, why we are going there, and when we will get there.

Honourable senators, the past few months was a period of great emotion for Canadians. Surely all the emotion and the undue friction of the last months deserve a better answer than this pathetic motion from a posturing Prime Minister.

Honourable senators, forgive me for taking so long, but I could speak on this subject for hours.

In concluding, honourable senators, when you send your Christmas card to the Prime Minister, instead of writing on it "Enjoy your Florida holiday," write on it, "Send for Jean Charest; you need him again!"

On motion of Senator Bacon, debate adjourned.

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Davey, for the adoption of the Twenty-Sixth Report, as amended, of the Standing Senate Committee on Banking, Trade and Commerce (Bill C-103, An Act to amend the Excise Tax Act and the Income Tax Act, with an amendment), presented in the Senate on December 5, 1995.

Hon. Lowell Murray: Honourable senators, when I spoke at second reading debate on November 7, I indicated the support of my party for the principle and intent of this bill. In doing so, I was on pretty solid, historic ground.

The purpose of this bill is to maintain the integrity and effectiveness of a policy, the origins of which are to be found in the report of the O'Leary Royal Commission which had been appointed by Prime Minister Diefenbaker in 1961. That policy is to prohibit the importation into Canada of split-run editions of foreign periodicals. These are the bogus Canadian editions of large foreign publications. For the incremental cost of printing a few thousand extra copies on top of their U.S. press run, with a page or two of Canadian content, they are able to siphon off Canadian advertising dollars. The Canadian magazine industry could not have survived such competition. In any other field, these split runs would be defined as "dumping."

The Canadian magazine industry today is alive and relatively well in part because of the recommendations of the O'Leary Royal Commission. The legislation implementing that policy has been in force for 30 years. Until the arrival of the Reform Party in 1993, it had the support of all parties in Parliament. It is Conservative policy; it is Liberal policy; and, most important, it is understood at home and among our trading partners to be Canada's policy.

Some Hon. Senators: Hear, hear!

Senator Murray: It is an important part of our cultural policy protected under the Free Trade Agreement with the United States, under the NAFTA and, I believe, under the new GATT agreements as well.

The challenge to the policy, and therefore to the survival of the Canadian magazine industry, came in 1993 when Time Warner decided to circumvent the prohibition on the importation of split runs by using electronic transmission of page proofs and printing the so-called "Canadian editions" in Canada. Subsequent actions by the Mulroney government, by the Campbell government and by the Chrétien government have already been outlined in the debate on second reading and in the committee. They form the background to Bill C-103.

This bill was given second reading by the Senate on November 7 and was referred to the Standing Senate Committee on Banking, Trade and Commerce. The committee met in a marathon session of a day and a half on November 30 and December 5 and heard from all interested parties. Concerns were expressed, notably by the Canadian Bar Association, about the drafting of this bill. Also expressed were substantive policy concerns about perverse and unintended effects of the legislation such as preventing Canadian magazines, in the future, from penetrating the U.S. market using split runs. Ironically, the bill intended to protect the Canadian magazine industry also protects the U.S. against Canadian split runs. *Harrowsmith* magazine is an example of a Canadian magazine which has penetrated the U.S. market through split runs. *The Hockey News* may be another.

Honourable senators, I share these and other concerns. However, when the time came for the committee to report, I found myself in disagreement with my Conservative colleagues on the committee as well as with some of my Liberal colleagues on the amendment which is now before us. I believe, therefore, that I owe the Senate an explanation.

First, let me say that I did try at the committee to canvass the alternatives to Bill C-103. One alternative which appealed greatly to me was to amend the Tariff Code to capture electronic transmission.

Government witnesses deployed various abstruse arguments in an effort to discourage me from pursuing this alternative. I suspect, and I have some reason to believe, that behind their reluctance to try this policy is the conviction that it would be more vulnerable than is Bill C-103 to a challenge under international trade law. I am not in a position to dispute this. Under the circumstances, therefore, I must accept their judgment.

I also explored the possibility that Bill C-103 is unnecessary because the regulations brought in under the Investment Canada Act in July 1993 by the then minister, the Honourable John Charest, effectively closes the door to other foreign publications doing what *Sports Illustrated Canada* has done. It certainly seems as if the Charest regulations have been effective, because no other foreign publication has tried to follow in the footsteps of *Sports Illustrated* in the past two-and-a-half years.

However, the government and the Canadian magazine industry are absolutely convinced that many U.S. publications — *Vanity Fair* and others have been mentioned — could publish split-run Canadian editions without ever establishing a business, an office or even a telephone number in Canada, thus escaping the authority of the Investment Canada Act.

However, we are left with Bill C-103. The question before us is not whether to defeat it but whether to amend it in such a way as to grandfather 12 issues of *Sports Illustrated Canada*. This is not a matter of retroactive legislation. As Senator Davey pointed out in his speech here last Thursday, the excise tax on split-run editions will apply only to split-run editions that are published after the day on which the bill receives Royal Assent. The issues of Sports *Illustrated Canada* that have been published over the past months, and previous to the date of Royal Assent, will not be subject to the tax.

Why, then, should *Sports Illustrated Canada* be given a licence to publish 12 split runs a year in the future?

The chairman of the Standing Senate Committee on Banking, Trade and Commerce, in his speech last Thursday, expressed doubt that *Sports Illustrated* "had even been told that what they were doing was against government policy." The evidence, Senator Kirby suggested, leans the other way.

Honourable senators, the policy and the legislation prohibiting importation of split runs has been in effect for 30 years. There could not have been the slightest possibility of a doubt, especially on the part of an organization as sophisticated and experienced as Time Warner, as to Canada's policy, as to its purpose and its intent. Almost from the moment in January 1993 when Time Warner announced their plans to commence publication of *Sports Illustrated Canada*, repeated public statements by responsible government officials, elected and appointed, affirmed Canada's intention to uphold the spirit and intent of our policy and legislation, and to plug any loopholes that might be found.

Let me place a couple of those declarations briefly on the record. On January 13, 1993 — two days after the Time Warner announcement — the Minister of National Revenue, the Honourable Otto Jelinek said:

> The rules and regulations in place now are going to be applied and if they attempt to circumvent them, we will do whatever is necessary.

The news article from which I am reading goes on to state:

> Jelinek said the rules are meant to ensure that the struggling domestic magazine industry has access to advertising revenues and are not undercut by foreign giants that can offer lower rates.
>
> "We fought to maintain our cultural exemption under free trade," he said.

On January 20, 1993, it was reported:

> Marie-Christine Dufour, senior communications adviser to Minister of Communications Perrin Beatty, says that the approval of Investment Canada isn't enough, if other regulations aren't being met.

Talking about the Time Warner plan, she is quoted as having said:

> At first glance, this seems to be contravening the spirit, if not the letter, of the tariff. Perrin Beatty is committed to the Canadian magazine industry and we will do everything in our power to maintain that protection.

From the February 1993 issue of *Masthead* magazine, it was reported:

> The government's position seems solid all the way to the top. Asked if Beatty has the support of his cabinet colleagues on this issue, a senior Department of Communications official said, "The Prime Minister himself has said to the minister that he wants the department to come down hard on this." The official implied that the government wants to be seen as standing behind the cultural industries exemption in the Free Trade Agreement.

On February 3, 1993, Mr. Beatty is quoted as having said:

> We will do everything to support that policy fully. We're determined to ensure that the Canadian magazine industry is able to survive in the country.

Again, Mr. Beatty, on February 9, 1993, said that he wants to ensure the Canadian cultural policy is respected regardless of the technicalities. Here is the quotation:

> "If somebody were to find a loophole in the law we would want to find ways to ensure that the letter and the spirit of the policy were respected," he said.
>
> "We will defend the policy vigorously."
>
> Though Revenue Canada has not yet completed its review, Beatty suggested that Time-Warner, which owns *Sports Illustrated*, is at least violating the spirit of the federal magazine policy.

March 17, 1993 the Minister of National Revenue is quoted as having said:

> "If they're going to want to circumvent the rules, then we're going to look at changing the rules to protect the Canadian industry," Jelinek said...

Finally, on March 26, when we appointed the O'Callaghan-Tassé task force, the news release over the names of Communications Minister Beatty and Revenue Minister Jelinek announced that there would be a formal review of "the necessary measures to enhance its policy in support of the Canadian magazine industry."

A little later Mr. Beatty is quoted as saying:

> "The Government wants to ensure that the instruments within its current policy framework that have fostered the development of this industry are up-to-date and effective"....
>
> "Canada has produced a vibrant, home-grown magazine industry whose livelihood depends on Canadian advertising revenues," Mr. Beatty said. "It is a fundamental characteristic of our cultural policy," he added.

Finally, honourable senators, I ask you to pay particular attention to this statement from March 26, 1993, when we appointed the O'Callaghan-Tassé task force, a statement attributed to Mr. Jelinek:

> "The electronic transmission of page proofs across the border for printing and distribution in Canada was not envisaged when the policy instruments were established in 1965," the Minister said. "That is why updating enforcement mechanisms is absolutely vital."

Honourable senators, I do not think that those statements by responsible Canadian officials could have left any doubt — if any doubt existed — as to the intentions of the government, faced with the decision and the business plan of Time Warner and *Sports Illustrated Canada*. Time Warner found that technology could be used to circumvent the legislation and to frustrate its purpose and intent.

Honourable senators have heard the government statements of 1993 that I just quoted. Against this background, what Time Warner did was not illegal; just contemptuous of Canada, of Canada's policy and of Canada's interest.

I say, honourable senators, that the technology was widely available to other foreign publications, but other foreign publications were respectful of our policy and did not try to thwart it. Only Time Warner did so, and they now seek an exemption from this legislation to the extent of 12 issues per year of *Sports Illustrated Canada*

Honourable senators, I believe Parliament's answer, Canada's answer, must be "No" — no bonus, no dividend, no reward for thumbing your nose at Canada's long-standing policy.

Some Hon. Senators: Hear, hear!

On motion of Senator Kinsella, debate adjourned.

CODE OF CONDUCT

REPORT OF SPECIAL JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Special Joint Committee on the Code of Conduct (name change in French), presented in the Senate on December 6, 1995.

Hon. Donald H. Oliver: Honourable senators, I move that the report be adopted now.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it is now about three minutes before the time when we would interrupt the proceedings and ring the bells. The only item left is the adjournment motion.

If it is agreed, honourable senators, we will suspend the session now. The bells will start to ring at 5:15, as provided for in the rules.

Is that agreed?

Hon. Senators: Agreed.

The sitting was suspended until 5:30 p.m.

• (1730)

ELECTORAL BOUNDARIES READJUSTMENT BILL, 1995

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT NEGATIVED ON DIVISION

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Graham, seconded by the Honourable Senator Robichaud, P.C.:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the Message from the House of Commons, dated June 20, 1995, and on the motion of the Honourable Senator Graham dated June 28, 1995, regarding Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Kolber
Anderson	Lewis
Austin	Losier-Cool
Bacon	MacEachen
Bonnell	Marchand
Bosa	Milne
Bryden	Olson
Carstairs	Pearson
Cools	Perrault
Davey	Petten
De Bané	Pitfield
Fairbairn	Poulin
Gauthier	Rizzuto
Gigantès	Robichaud
Grafstein	Rompkey
Graham	Roux
Haidasz	Stanbury
Hays	Stewart
Hébert	Stollery
Hervieux-Payette	Thériault
Kenny	Watt
Kirby	Wood—44.

NAYS
THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
Balfour	Lavoie-Roux
Beaudoin	LeBreton
Berntson	Lynch-Staunton
Bolduc	MacDonald (*Halifax*)
Buchanan	Meighen
Carney	Murray
Charbonneau	Nolin
Cochrane	Oliver
Cogger	Ottenheimer
Cohen	Phillips
Comeau	Prud'homme
DeWare	Rivest
Di Nino	Roberge
Doody	Robertson
Doyle	Rossiter
Eyton	St. Germain
Ghitter	Simard
Grimard	Spivak
Gustafson	Stratton
Jessiman	Sylvain
Johnson	Tkachuk
Kelleher	Twinn—50.

ABSTENTIONS
THE HONOURABLE SENATORS

Nil.

PEARSON INTERNATIONAL AIRPORT AGREEMENTS BILL

MOTION TO INSTRUCT LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO TABLE FINAL REPORT NEGATIVED ON DIVISION

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Graham, seconded by the Honourable Senator Lucier:

> That it be an instruction of this House to the Standing Senate Committee on Legal and Constitutional Affairs that no later than Wednesday, December 13, 1995, it present its final report to the Senate on the motion and the Message referred to it on October 5, 1994, relating to certain amendments to Bill C-22, An Act respecting certain agreements concerning the redevelopment and operations of Terminals 1 and 2 at Lester B. Pearson International Airport.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Losier-Cool
Anderson	MacEachen
Austin	Marchand
Bacon	Milne
Bonnell	Olson
Bosa	Pearson
Bryden	Perrault
Carstairs	Petten
Cools	Pitfield
Davey	Poulin
De Bané	Prud'homme
Fairbairn	Rizzuto
Gauthier	Robichaud
Gigantès	Rompkey
Grafstein	Roux
Graham	Sparrow
Haidasz	Stanbury
Hays	Stewart
Hébert	Stollery
Hervieux-Payette	Thériault
Kenny	Watt
Kirby	Wood—45.
Lewis	

NAYS
THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Atkins	Kinsella
Balfour	Lavoie-Roux
Beaudoin	LeBreton
Berntson	Lynch-Staunton
Bolduc	MacDonald (*Halifax*)
Buchanan	Meighen
Carney	Murray
Charbonneau	Nolin
Cochrane	Oliver
Cogger	Ottenheimer
Cohen	Phillips
Comeau	Rivest
DeWare	Roberge
Di Nino	Robertson
Doody	Rossiter
Doyle	St. Germain
Eyton	Simard
Ghitter	Spivak
Grimard	Stratton
Gustafson	Sylvain
Jessiman	Tkachuk
Johnson	Twinn—49.
Kelleher	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil.

The Senate adjourned until Wednesday, December 13, 1995, at 1:30 p.m.

THE SENATE

Wednesday, December 13, 1995

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

Prayers.

ROUTINE PROCEEDINGS

PEARSON AIRPORT AGREEMENTS

THIRD REPORT OF SPECIAL SENATE COMMITTEE PRESENTED

Hon. Finlay MacDonald, Chairman of the Special Senate Committee on Pearson Airport Agreements, presented the following report:

Wednesday, December 13, 1995

The Special Committee of the Senate on the Pearson Airport Agreements has the honour to present its

THIRD REPORT

Your committee, which was authorized by the Senate on May 4, 1995 to examine and report upon all matters concerning the policies and negotiations leading up to, and including, the agreements respecting the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport and the circumstances relating to the cancellation thereof, has, in obedience to its Order of Reference, examined the said subject and now tables its report with the following observations.

Although your committee is satisfied that all essential elements of this inquiry have been produced and subjected to public scrutiny, it reserves the right to hold further hearings if additional relevant evidence emerges. It has therefore adjourned *sine die*.

Your committee notes that while it was granted a budget of $298,000, it has completed its study under budget. A full accounting of expenses will be given at a later time pursuant to Rule 105.

Respectfully submitted,

FINLAY MACDONALD
Chairman

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

On motion of Senator MacDonald, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

BRITISH COLUMBIA TREATY COMMISSION BILL

REPORT OF COMMITTEE

Hon. A. Raynell Andreychuk, Chairman of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Wednesday, December 13, 1995

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

TENTH REPORT

Your committee, to which was referred the Bill C-107, An Act respecting the establishment of the British Columbia Treaty Commission, has, in obedience to the Order of Reference of Wednesday, December 6, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

A. RAYNELL ANDREYCHUK
Chairman

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

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

SMALL BUSINESS LOANS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-99, to amend the Small Business Loans Act.

Bill read first time.

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

• (1340)

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Anne C. Cools presented Bill S-15, to amend the Criminal Code of Canada (plea bargaining).

Bill read first time.

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

On motion of Senator Cools, bill placed on the Orders of the Day for second reading on Tuesday, December 19, 1995.

NATIONAL PROTECTED AREAS STRATEGY

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES—COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition), for Senator Carney, pursuant to notice of December 12, 1995, moved:

> That, notwithstanding the order of Reference adopted by the Senate on Wednesday, April 27. 1994, the Standing Senate Committee on Energy, the Environment and Natural Resources, which was authorizerd to undertake a study of the policy options available to the government to complete the network of pristine areas that represent Canada's natural regions and the creation of a national protected areas strategy and to make recommendations thereon, have power to present its final report no later than Sunday, March 31, 1996, and
>
> That, notwithstanding the usual practices, if the Senate is not sitting when the report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate and the said report shall thereupon be deemed to have been tabled in the chamber.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. John B. Stewart, with leave of the Senate and notwithstanding rule 58(1)*(a)*, moved:

> That the Standing Senate Committee on Foreign Affairs have the power to sit at 3:15 in the afternoon today, Wednesday, December 13, 1995, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—APPROACH TO SWISS GOVERNMENT FOR INFORMATION—AUTHORITY FOR PROCEDURE FOLLOWED—GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, I have a question concerning the letter sent to the Swiss government inquiring about Swiss bank accounts in the Airbus situation. I want to preface my remarks by saying that, in this country, in order for the police to get into the bank account of a citizen, they would need a search warrant. In other words, they would have to ask a judge for permission, and evidence would need to be given to that judge before the police could proceed.

In respect of a letter being sent to the Government of Switzerland asking for access to a citizen's bank account, it would be necesary to follow some procedure, such as that under the Mutual Legal Assistance in Criminal Matters Act, or under a treaty between Canada and Switzerland, outlining how a Canadian citizen can protect his right to privacy.

I want to know under what authority, act or treaty the federal government acted in sending the letter to the Government of Switzerland regarding the alleged bank accounts of Mr. Mulroney and Mr. Moores.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am sure that I have answered before in this house that there was a clear procedure followed on the question of the letter that was prepared within the Department of Justice, on the request of the RCMP, addressed to the Swiss government. This same procedure has been followed on many previous occasions.

Although it seems to have occurred in this case, for whatever reason, no one can recall that there has ever been a breach of confidentiality in other cases in the past. The Swiss authorities have been very respectful of that confidentiality, and it has been very much a part of the form of correspondence in this case.

I believe there is a treaty with Switzerland — I think it goes back to 1993 — as to the exchange of this kind of correspondence.

Senator Tkachuk: Perhaps the honourable leader could respond to my question. The point I was attempting to make was that, in order to get into a bank account or an alleged bank account in Canada, one must obtain the permission of a judge. If the RCMP wants to get into a bank account, the government has said that there are lots of these kinds of actions or inquiries; that this kind of thing happens all the time; that since it is secret, therefore it can happen. I do not think that, just because it is secret, it can happen.

What is the procedure normally followed in these cases? Do the police need some kind of evidence before they can go on hunting and fishing expeditions into the personal affairs of Canadian citizens? What evidence was brought forward? Who authorized that evidence? Was it an official or a deputy? Who is named in the treaty as authorizing that this inquiry could proceed and that letter be written? That is what I should like to know.

Senator Fairbairn: Honourable senators, with respect to that specific part of my honourable friend's question, I will inquire as to what the answer is, and whether I can give it to him.

I would repeat to my honourable friend that I know he is making a case for how things may be done in Canada.

• (1350)

I have been relating to him and to other senators for many days now that there is a process which has been used repeatedly in the past. I will not argue the efficacy of that process with my honourable friend. I am simply stating that there is a process whereby these communications are transmitted to Switzerland. I am advised that, in this case, the same process was followed as has been followed in other instances when this kind of assistance was sought from Switzerland.

Senator Tkachuk: Honourable senators, I will try to end my queries on this last question. The leader has told me and other honourable senators that there is a process. I want to know what the process is, because I think it is important that citizens of the country know how they are protected under that process when actions are taken by the police and the state, and when letters are sent to foreign governments asking for information about them.

Please, therefore, do not tell me that there is a process; explain to me what the process is. Was the same process followed in the case of the Airbus inquiries to Switzerland as was followed in cases involving other citizens of Canada? If we do not need any evidence to inquire about such things, maybe we should change the process. I just want to know what the process is.

Senator Fairbairn: Honourable senators, I have explained what the process is.

Senator Berntson: No, you have not.

Senator Fairbairn: The RCMP, in the course of its inquiries, seeks assistance from the Department of Justice to transmit, government to government — in this case to Switzerland — a request for assistance. The process followed in this case is the same as the process that has been followed in other cases.

My honourable friend shakes his head. I can only give him the information that I have been given. The information I have is that this procedure is exactly the same procedure as has been followed in other cases.

Senator Tkachuk: Honourable senators, I must break my own rule here and ask another question. This is very frustrating. From whom do they ask permission? Does the secretary in the RCMP sergeant's office say, "Gee, I would like to write a letter to Switzerland and inquire about Senator Gustafson," or is there some process within the police department? Does some bureaucrat who is in charge of the cops have to authorize the request? Does it then flow to the Department of Justice? Do they write to the clerk in Saskatoon, or do they ask the deputy, the minister or some director in charge? Someone must be consulted.

It is not good enough to say that a letter was sent to the Department of Justice which then sends a letter to Switzerland. Who sends the letter and to whom? Who signs it off? Where does it go? Who couriers it over there? Who has access to it? What happens to it then? It is not good enough to say it goes from one department to the other. I want to know the process. I want to know the process whereby we protect Canadian people in such instances.

Some Hon. Senators: Hear, hear!

Senator Fairbairn: Honourable senators, I appreciate my friend's question, as I have appreciated his rhetoric and questioning before the Pearson inquiry committee.

Senator Berntson: What has that to do with it?

Senator Fairbairn: I am saying that Senator Tkachuk is in good form today. He is in predictable form. It is a very invigorating performance to witness; I simply make the comment.

My honourable friend has asked a myriad of very specific questions, the answers to which I am not sure I can provide, partly because a court case is in progress.

Some Hon. Senators: Oh! Oh!

Senator Fairbairn: Honourable senators, there is a matter before the courts, and I certainly would not be respecting my responsibilities if I were to say anything that would in any way affect or impede that process. That is all I am saying.

I will take my honourable friend's series of questions as notice and see what kind of answers I can provide.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—STAGE OF TREATY WITH SWITZERLAND AT TIME OF REQUEST—GOVERNMENT POSITION

Hon. R. James Balfour: Honourable senators, my question is also to the Leader of the Government in the Senate. Is it true that the treaty to which my honourable friend referred was not actually signed between the governments of Switzerland and Canada until some two months after the letter in question was dispatched?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will check that information.

Senator Balfour: Is my honourable friend saying she does not know whether the treaty was in force when the letter in question was dispatched?

Senator Olson: Ask Mulroney. He would know.

Senator Fairbairn: I am aware that there is a treaty, and I will check on Senator Balfour's question.

Senator Balfour: Honourable senators, I am nonplussed to learn that the Leader of the Government in the Senate was not aware that this agreement was not actually signed until some two months after the letter in question was dispatched. I would ask her to either explain her lack of knowledge or enlighten this chamber.

Senator St. Germain: Or resign from cabinet.

Senator Balfour: Are you asking a question, Senator Olson?

Senator Olson: Yes.

Senator Balfour: Would you stand in your place? I will yield.

Senator Olson: I cannot ask you a question.

Some Hon. Senators: Stand up!

Senator Olson: It is against the rules.

Senator Balfour: I will rephrase the question. Does my honourable friend not distinguish between civil proceedings, such as have been launched in connection with this Airbus matter, and criminal proceedings when seeking a reason why facts cannot be disclosed in this chamber?

Senator Fairbairn: Honourable senators, I am in no position to give a legal opinion. I have been trying, as best I can, to gather information to convey to this house. I want to be sure that the information that I gather is as complete as it can be. I am very respectful of my honourable friend's question. I wish to be able to give him a precise answer, and I shall do so to the best of my ability.

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—MOTIVATION OF MINISTER IN INSTITUTING INQUIRIES

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate. As we consider how the Minister of Justice operates and signs warrants that virtually challenge the Constitution on several pieces of legislation, whether it be Bill C-18, C-68, C-22 or others, and in view of this overambitious minister's contradictory statements as to when he received information and to whom it was given, is the minister prepared to stand in this place and say this process is not politically motivated or a fishing trip?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am absolutely prepared to stand in this place and say it was not politically motivated.

COMMUNICATIONS

RADIO CANADA INTERNATIONAL—FUTURE PROSPECTS FOR CONTINUANCE—REPORT OF SENATE COMMITTEE ON CONTINUED FUNDING—GOVERNMENT POSITION

Hon. Janis Johnson: Honourable senators, like many other Canadians, I am very upset about the demise of Radio Canada International. My colleague Senator Oliver raised the issue yesterday, and I am sure we have all read the articles in the papers today regarding the cuts at RCI. One hundred and twenty employees have received notice that the service will be closing on March 31. Radio Canada International's service is broadcast primarily on short wave in eight languages to more than 126 countries. It has been around for approximately 50 years now. I believe it has played an important role in delivering Canadian news abroad.

Will the Leader of the Government in the Senate tell us: What is the government's position on the cuts announced yesterday? Is it the federal government's position that Canada does not need an international service like the one provided by RCI? Does the government not have a responsibility to safeguard this service which promotes Canada abroad?

• (1400)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I sympathize with my honourable friend's point of view. The announcement in this matter was made yesterday afternoon. It has been the position of the government that it is the responsibility of the Canadian Broadcasting Corporation to decide the future of this international service.

As the honourable senator knows, the previous government transferred part of the funding responsibility for this service to the Department of Foreign Affairs in order to help maintain the service. Over the past year, however, there has been a fairly rigid regime of reductions and cutbacks. The Department of Foreign Affairs has found that it does not have the funding necessary to continue its contribution to this service, and makes that comment with great regret. Therefore, the CBC itself, in its budget reductions, has chosen this particular route.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, who reduced their budget?

Senator Fairbairn: This decision has come from the CBC. I cannot offer my friend any comfort today that the Foreign Affairs Department is in any position to pick up the cost of the service.

Senator Johnson: Honourable senators, I ask the leader to appeal to her colleagues, and make them aware that the Standing Senate Committee on Transport and Communications held hearings on this issue. We studied the matter and recommended in our report tabled last spring that funding for RCI be continued. It was a unanimous report of the Transport and Communications Committee.

I should like to have some assurance from the Leader of the Government in the Senate that she will bring this report to the attention of the ministers in cabinet. The work that has been done by the members of our committee regarding Radio Canada International was extensive. We certainly had a great deal to contribute to this discussion. Will the Leader of the Government in the Senate make a commitment to me to pass this information along to her government so that they can at least review the situation perhaps one last time?

Senator Fairbairn: I can make that commitment to Senator Johnson and, if she has the report handy, I would be pleased to make that commitment, as I did yesterday in answer to questions from my friend Senator Prud'homme. I did convey the concern expressed by Senator Prud'homme and others yesterday in this chamber. I will be happy to pass on the Senate committee's report and its conclusions to my colleagues.

Hon. Marcel Prud'Homme: Honourable senators, I am glad that Senator Johnson asked that question. I was also on my feet to ask the minister if my message of yesterday had been conveyed, and I am glad to hear that it has been conveyed.

I should like to emphasize that, even though it is the CBC's business to do what it wants with Radio Canada International, I think that the future of Radio Canada International is too important an issue to be left to the CBC. I am positive that it is a political question which should be decided at the political level, for the political interests of Canada. That, in my humble estimation, should precede the mandate of the CBC to decide whether or not to cut the funding for that service.

Since yesterday, we have been inundated — and very spontaneously, which is a little different from the gun control representation — with hundreds of thousands of calls from very genuine, unorganized groups of people who got in touch with me as soon as they learned of my interest and my question to you.

I wish to re-emphasize that this is not a partisan matter. This is very important.

[*Translation*]

This is of great significance for the power and glory of Canada. It is of the utmost importance that nothing be spared to save this institution which has served Canada well.

[*English*]

Senator Fairbairn: Honourable senators, I take my honourable friend's representation seriously, as I did yesterday. He would know, however, that his is not the only voice out there, because there is no question that this is a very respected and popular service of long standing in this country.

I wish I were able to give a different answer than I have given to him and to Senator Johnson. However, I will certainly transmit today's Hansard and the report of the committee to my colleagues so that they will have that information before them as well.

HUMAN RIGHTS

VISIT OF FEDERAL COMMISSIONER TO CHINA—REMARKS REPORTED IN MEDIA—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, my question is also for the minister. In *The Globe and Mail* of November 29, there was an article about Mr. Yalden's visit to China. He is quoted as having said that he:

> "...didn't come all the way out here to express misgivings about shortcomings. I'm not looking for some negative things to say."

When asked if he would raise the issue of human rights abuses with the Chinese, he is quoted as having said:

> "I don't suppose I'd take kindly if some Chinese visitor would start asking me about illegal abortions, for that matter, and whether (Dr. Henry) Morgentaler ought to be doing what he's doing."

Honourable senators, since I have expressed my concerns about human rights abuses in China in the past, perhaps the Leader of the Government in the Senate could tell us if Mr. Yalden is expressing government positions in these matters?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I presume that Senator Di Nino is referring to Mr. Max Yalden, who is the head of the Human Rights Commission. This was a visit of his own to China. However, I would be pleased to see Mr. Yalden's comments.

My honourable friend knows — because many senators in this house have exchanged views on this issue over the last many months — what the Prime Minister, the Foreign Affairs Minister and others have conveyed to the Chinese. I can speak only on behalf of my government colleagues. I would need to take a look at Mr. Yalden's remarks before responding to my honourable friend.

Senator Di Nino: Obviously, it will be seen as a position of the government. I think that should be clarified.

Could the minister obtain for us some report, if possible, of Mr. Yalden's visit and what results from such activity once he returns?

Senator Fairbairn: I will do my best, Senator Di Nino.

FURTHER INCARCERATION OF CHINESE DISSIDENT—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, if there is timidity in the position of the Chief Commissioner of the Canadian Human Rights Commission with respect to human rights abuses in China, could the minister inform this house as to the position of the Government of Canada with respect to the incarceration for another 15 years of Mr. Wei Jingsheng?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will seek information on my friend's question.

QUEBEC

DISTINCT SOCIETY MOTION—LEGAL OPINION SOUGHT ON INTERPRETATION OF WORDING—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I should like to ask the Honourable Leader of the Government in the Senate a series of questions arising out of the distinct society motion.

I do not wish to debate the distinct society issue, but contained in the resolution are the words "people of Quebec." I am sure that Senator MacEachen, for one in this chamber, will be aware of the fact that, internationally, we have scrupulously avoided the use of the words "people" or "peoples" in any sense, except when we refer to nations. In fact, bureaucrats, parliamentary delegations and others have been given advice over the years that we not use the words "people" or "peoples" and, in particular, within the International Labour Organization and the Human Rights Commission, that we not use this phrase because it leads to self-determination in the international law, practice, and international diplomacy fields.

• (1410)

In light of that policy, could the honourable senator advise me whether the international lawyers in the Department of Justice were asked for their comments? Were the lawyers in the Department of Foreign Affairs consulted as to the use of these words and the implications that they may have? Further, is the government concerned, or has it made a determination that the phrase "people of Quebec" in no way diminishes the rights of the aboriginal people in the Province of Quebec? Finally, does the government believe that this proposal could, in fact, lead to an opening of recognition by other countries of Quebec's desire for self-determination?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, this question will require inquiries on my part, except for one part of it.

I mentioned in my speech of last week that nothing in this resolution would detract in any way from the rights of the aboriginal people and the protection of their interests within the Constitution, and that very much includes their inherent rights.

Senator Andreychuk: Honourable senators, would the minister also include in the answer whether Department of Justice lawyers and/or lawyers within the Department of Foreign Affairs have given that opinion? It is my understanding that some officials have indicated that this portion was included inadvertently, and that lawyers were not consulted on this issue.

Senator Fairbairn: Honourable senators, my honourable friend would know that I cannot give to this house legal opinions given by the law officers of the Crown to the government. However, I have taken note of the honourable senator's questions, and I will seek to obtain whatever clarification I can for her.

Senator Andreychuk: Part of my concern is that it seems there has been quite a change, perhaps not in policy but in procedure, in the Department of Justice. In fact, the certificate that any particular act or piece of legislation complies with the Charter of Rights and Freedoms seems to be given rather freely with the comment that if we do not comply, citizens can take us to court. I am very concerned because the Department of Justice has a unique responsibility to each and every citizen to ensure that the Charter of Rights is upheld, as they uphold other laws.

Senator Fairbairn: I will certainly pursue my friend's question, but I would suggest to her that there would be no statement or documents put forward by the Department of Justice that would in any way impede the protection of Canadian citizens under the Charter.

[*Translation*]

Hon. Jean-Claude Rivest: Honourable senators, in light of the international dimension of the matter raised by Senator Andreychuk, could the Leader of the Government ask the Department of Justice to find examples in other legal or constitutional texts, in our constitutional law or our statutes, of the expression "aboriginal people" or even "Acadian people?"

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will add my honourable friend's question to the list.

AGRICULTURE

WESTERN GRAIN MARKETING—POSSIBILITY OF NATIONAL PLEBISCITE—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, my question to the Leader of the Government in the Senate is with regard to a grain marketing plebiscite.

As you know, the Province of Alberta held a plebiscite on whether there should be a choice in the marketing of grain, and the farmers of Alberta voted two to one in favour of choice. On May 13, 1993, in response to a question about barley marketing, the Prime Minister of Canada said that farmers should be consulted through a plebiscite.

Is it the intention of the Minister of Agriculture and the government to honour the promise that was made by the Prime Minister of Canada over two years ago, on May 13, 1993?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, we are aware of the plebiscite in the Province of Alberta, and the views and opinions of Alberta farmers are very important to the process that is currently under way in the Department of Agriculture.

My honourable friend will also know that this issue stretches beyond provincial boundaries in Western Canada. For that reason, the whole future of the marketing system is under debate, not just in Alberta but throughout the west. As a result, the government has launched the Western Grain Marketing Panel to review the entire process. That panel is doing its job. The plebiscite which took place in Alberta will be a part of that review process. I cannot tell my honourable friend when that process is scheduled to be completed and reported upon, but I will try to find out for him.

Senator Gustafson: Honourable senators, is the honourable leader aware of the urgency of this issue? Honourable senators will know that farmers have been taking grain across the border into the United States. In fact, one of the senators from the United States tried to bring grain into Canada, accompanied by a farmer at Estevan and was turned back. A number of truckloads of grain have crossed the border going the other way. There is a great deal of uncertainty here. Does the leader not realize that it is important that a solution be found to this difficult situation?

Senator Fairbairn: Honourable senators, I am aware of that. I am aware that there are very strong views on this issue. I am aware also of the strength of the views contrary to the plebiscite held in Alberta. For many years, this matter has been more than a prickly issue in Western Canada; it is a fundamental issue. As technology changes and different regimes are put in place, it becomes even more complicated.

It is for that reason that the current process of review is under way. It will not be just a process carried out in boardrooms, but in town hall meetings throughout the west. The question itself has caused some controversy in my province, and this broader process will involve the farmers, to hear what they have to say.

My colleague the Minister of Agriculture will want this process completed as expeditiously as possible. There are huge issues at stake here, including the one perspective of dual marketing and the other perspective of improving but still protecting the entity of the Canadian Wheat Board for the benefit of farmers. It is definitely not an issue to be taken lightly, as my friend well knows, and the minister is trying to gather the broadest set of opinions that he can. We will then have the tremendous responsibility of coming to a conclusion in the months ahead.

Senator Gustafson: Honourable senators, I am concerned about what is happening with a number of issues relating to agriculture, that they all seem to be ending up before panels, with no decisions being taken. It is my view that it is time the government took some responsibility and made some decisions in the best interests of farmers. We cannot continue to have blue, red and yellow ribbon committees. We are being "committeed" and "panelled" to death, but no decisions are being taken. That is not just my own view; it is what I am hearing from farm groups and others across the country.

• (1420)

Senator Fairbairn: Honourable senators, the best interests of farmers is the goal that is being pursued by this Minister of Agriculture. While one can become impatient, perhaps, with panel reviews, on the other hand an issue such as this, which involves access to a consultation process, is important in itself, even though it may take a little bit longer.

I cannot emphasize enough to my honourable friend the importance given to this particular issue by the Minister of Agriculture. He is hoping to be able to make a decision. However, he wants to be in the position of having a broadly based measure of opinion throughout the prairies before he makes such a decision.

COMMUNICATIONS

RADIO CANADA INTERNATIONAL—POSSIBILITY OF ALTERNATIVE FUNDING—GOVERNMENT POSITION

Hon. Raymond J. Perrault: Honourable senators, I am afraid that today I am not speaking with my usual vigour because of a bad case of laryngitis. It is a bit like a baseball pitcher developing a sore arm — you cannot work at your profession.

I should like to identify myself with the remarks made previously by honourable senators regarding Radio Canada International. An all-party recommendation of a few months ago suggested that Radio Canada International is doing excellent work, that it should be allowed to carry on and be provided with the necessary funds to do so. However, budget cutbacks are such that the CBC has had to reduce its commitment to RCI.

My question relates to the future of this valuable agency. This is not the time for Canada to get out of the international communications battle. It is a time when all our trading partners are communicating as never before. There are 24-hour news channels in Britain, Italy and Spain. The distinguished Leader of the Opposition is aware of that revolution, since he has his own satellite dish.

At a time of incredible global revolution in techniques such as digitalization and new methods of transmitting signals from one nation to the other, this is not the time for us to leave the scene.

I wish to ask the Leader of the Government in the Senate if consideration can be given to alternative suggestions and other ideas to maintain RCI's viability. Of all countries, there is now a degree of privatization in the Russian short wave service. Some of you, no doubt, have listened to Radio Moscow.

Hon. Pat Carney: Is this a question?

Senator Perrault: Yes, it is a question. I am sorry that Senator Carney seems so little interested in international trade and relations.

Senator Carney: I am fascinated by your question.

Senator Perrault: For example, the other day it was startling to hear a commercial on Radio Moscow concerning the Odessa steel factory. The commercial stated that the steel beams built in Odessa have a tensile strength equivalent to the best steel beams in the world. A phone number was provided for further information.

Is there a possibility that we can find some alternative funding for Radio Canada International — perhaps some of it in the private sector? What about the major trading entities in Canada providing some partial subsidization for RCI — an agency which is doing this country a great deal of good?

My question goes beyond assuring that Radio Canada International goes out with a bang, rather than a whimper. Beyond that, I would like to see it made sustainable so that it is possible for the agency to survive. A number of people in that organization have been striving gallantly for months to keep the entity alive. It has done great communications work for us. Let us hope that there are some alternatives.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Perrault with laryngitis still has a stronger voice than almost anyone I know.

I have listened to the honourable senator's question about alternative funding. I will take the suggestion, along with the other ones that have been made in this house, to the appropriate place. I now have the report from Senator Johnson. I will transmit the views of senators on both sides of this house to my colleagues in cabinet as quickly as I can.

Senator Carney: Honourable senators, I should like to add to Senator Perrault's suggestion with a specific question of my own.

Could the Leader of the Government look at the suggestion of the honourable senator that the Department of Foreign Affairs help fund the short wave system, beyond whatever contributions they may now be making?

Senator Fairbairn: Honourable senators, I will look into that matter as well.

ANSWER TO ORDER PAPER QUESTION TABLED

CANADA POST CORPORATION—REVIEW BY PRICE WATERHOUSE OF CONTRACTS IN SYDNEY, NOVA SCOTIA— REQUEST FOR PARTICULARS

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 102—by Senator Forrestall.

ORDERS OF THE DAY

AUDITOR GENERAL ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved third reading of Bill C-83, to amend the Auditor General Act.

Motion agreed to and bill read third time and passed.

[*Translation*]

EMPLOYMENT EQUITY BILL

THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved third reading of Bill C-64, respecting employment equity.

Hon. Thérèse Lavoie-Roux: Honourable senators, I would simply like to say a few words at the third reading stage of Bill C-64. Consideration of this bill has probably taken too long.

As a preamble, I would point out that this kind of thing happens all too often. This bill was tabled in the House of Commons in the fall of 1994, but we did not get it until October 1995. By then, there was a pressing need to pass the bill. This is a valid bill. Everyone agrees on the principle of the bill.

When the time came to put forward a valid amendment — that everyone, including Minister Axworthy, supported — I could not do so three weeks ago because there was not enough time. The House was about to adjourn. Every time they do not want a bill to be sent back to the House of Commons with an amendment — as happened this fall — they threaten to adjourn the House. We in the Senate cannot work like this.

Minister Axworthy wrote me that he had heard of my putting forward a very valid and articulate amendment. It was very nice of him. He said that if we sent the bill back to the House, he was willing to ask the cabinet and then the House of Commons to include an amendment in Bill C-64. This amendment would apply to both Houses and to the Library of Parliament, as it does to employers in the federal public service and the private sector. They will have to comply with the provisions of the bill in achieving equality in the workplace.

This amendment was first proposed in October by Senator Johnson. The minister agreed to include it in the bill. He came to see us this week. He made a real commitment to the committee concerning this amendment.

At any rate, because the minister made that commitment, we decided not to move an amendment, which would have forced the Senate to send the bill back to the House of Commons. Given the goodwill demonstrated by the minister and the commitment he made concerning this amendment as well as the other two that were put forward, one by Senator Kinsella, on which he may want to elaborate, and the other by Senator Cochrane, on which she may also want to elaborate, these amendments could be entertained by the minister, then submitted to cabinet and eventually included in the legislation.

The minister told us that, by March 1, 1996, amendments would be submitted to cabinet to ensure that the Act respecting employment equity also applies to parliamentary employers. It was totally inexplicable that this had not been provided for by the bill all along. Problems were expected because of the fact that outside pressure could be brought to bear on both Houses.

The amendment was prepared in consultation with the Senate's legal counsel. It provides for mechanisms safeguarding the house against any such interference. The minister also said that he would urge the Standing Senate Committee on Internal Economy, Budgets and Administration and the Board of Internal Economy of the House of Commons to develop the mechanisms and procedures necessary to implement the principles of employment equity contained in Bill C-64, previous to making the change he plans to make in March.

• (1430)

I will not elaborate on the other two amendments. After the minister made this firm commitment before the Standing Senate Committee on Social Affairs, Science and Technology, we Conservative senators decided that we had achieved what we had set out to do. We had no reason to doubt the minister's good faith. That is what mattered to us. We decided not to move an amendment, but rather to report on these particular points that the minister had raised. We shall wait and see how things turn out.

There is no doubt that the minister will carry out his commitment in March. In the meantime, both this place and the other place will have prepared to implement the legislation.

I regret that needless hassle has to be caused for lack of time. Had it not been for the vigilance of my two colleagues Senator Kinsella and Senator Cochrane, the bill would not have come this far.

Bill C-64 deals with the whole issue of defining the concepts of "visible minorities" and "persons with disabilities." It would not have been complete, even if we set aside the amendment I had moved to begin with. Bills like this one are drafted too hastily. It is difficult to explain how such deficiencies can creep into bills. We have found an example regarding the definition of "visible minorities" and "persons with disabilities."

[*English*]

Hon. Janis Johnson: Honourable senators, I want to thank my colleagues on the committee who helped us with Bill C-64.

Senator Bonnell: What about the chairman?

Senator Johnson: We did it despite the chairman. We came to an agreement with Senator Bosa in the chair.

I am very pleased to add to my colleague's remarks. I did respond to Senator Losier-Cool when she introduced the bill on behalf of the government, so, in very succinct terms, I should like to put exactly what has evolved.

My colleague Senator Lavoie-Roux has given you the history. We in the committee have had a lot of fun and games just trying to come to terms with the amendments, after concluding that we all agreed with the principle. As honourable senators know, we did come to the conclusion that we would recommend passage without amendment. However, there are some caveats, and they include several things to which some honourable senators have already referred.

When the work was undertaken, I wanted to include parliamentary employers under Bill C-64. That was my only major recommendation when I first spoke on this legislation. That recommendation turned into an amendment which led to other amendments as we continued to study the bill. I think we did a very good job of coming up with some other recommendations to improve the legislation.

As you know, we heard from a number of witnesses, many of whom indicated their support for the proposal to have this bill apply to Parliament, specifically the House of Commons, the Senate and the library as employers.

Yesterday morning, the minister appeared before us for the second time to talk about the bill. During his testimony, he agreed there would be some benefit to including Parliament employers under the Employment Equity Act. In his letter to Senator Lavoie-Roux on December 4 regarding our proposed amendments, he also stated that we had developed a sound and innovative legislative proposal for extending coverage of Bill C-64 to include the staff of Parliament.

The very fact that he appeared before us twice and wrote this letter to Senator Lavoie-Roux is some indication of how we have worked together to try to make this very positive legislation, rather than just opposing it and presenting negative amendments.

Also, the minister stated very clearly at yesterday's meeting that he supports our amendments to include Parliament. Last month, Max Yalden, the Commissioner of the Canadian Human Rights Commission, appeared and said that, in his view, the House of Commons and the Senate should be included, and that the law should apply to the two bodies.

Honourable senators, when Robert Marleau, the Clerk of the House of Commons, appeared before the committee, he was asked if it would make a difference to the pursuit of the principle of employment equity if the House of Commons was included under the bill. Mr. Marleau responded that it would make a lot of difference to the principle of employment equity awareness in the House of Commons, and that there would be a net benefit.

The testimony from witnesses before both the Senate and House standing committees reviewing this legislation indicates to me that Bill C-64 should apply to Parliament as employers.

I was delighted that my recommendation became an amendment, that it provoked this further discussion and that, because of it, the Social Affairs Committee took a closer look at the issue of including Parliament. Based on Mr. Axworthy's words and commitments yesterday, the bill will be reported without amendment, but with commitments which will, in time, become part of the legislation. Number one, by March 1, Mr. Axworthy will propose amendments to cabinet to extend coverage of the Employment Equity Act to parliamentary employers. Number two, the minister will write letters to both the Standing Committee on Internal Economy, Budgets and Administration in the Senate and the House of Commons Board of Internal Economy, urging them to establish the mechanisms and policies needed to implement the principles of employment equity as envisioned in Bill C-64. Number three, the minister made the commitment that guidelines and communications materials will be developed in consultation with my colleague Senator Kinsella and other concerned committee members, stakeholders and the Department of Canadian Heritage in relation to the proposed definition of "members of visible minorities."

• (1440)

Honourable senators, given the commitments made by the Minister of Human Resources Development, I feel that Bill C-64, a piece of legislation which clearly improves the existing Employment Equity Act, should be passed. I know and expect that the minister, being a good Manitoban, will keep his commitments and that parliamentary employers will soon fall under the act.

Thank you, honourable senators, for your cooperation on this important piece of legislation.

Hon. Noël A. Kinsella: Honourable senators, Bill C-64, now in debate at third reading, is an affirmative action piece of legislation which, as you know, is provided for under section 15(2) of our Charter of Rights and Freedoms. This employment equity bill rests upon sound constitutional ground.

As Senator Johnson and Senator Losier-Cool explained to you during second reading debate, the principle is supported by members on both sides of this chamber. In committee, unanimous agreement on the principle of the bill continued, but there certainly was no unanimous agreement on the quality of the bill. It is a very poor piece of drafting, in my judgment. That poor drafting speaks directly to a number of serious issues with which this Parliament, in particular, seems to be faced. In terms of quality control, it is my opinion that the examination of legislation in the committees of the other place is the worst it has ever been in the past 35 years. I am not too sure why that is the case. As some would suggest, perhaps it speaks to the composition of the opposition in the other place. Perhaps they are not providing for the kind of critical examination for which an opposition is responsible in examining legislation. The opposition is not always simply to oppose for opposition's sake. Rather, in the epistemological sense, they must attempt to find the best drafted legislation that will serve the public interest of Canadians. We have identified imperfections and sometimes even contradictions in other bills but, due to a variety of pressures, we have given the nod and let them pass.

Honourable senators, I am not excited about the content of the report that we have received. Even though we have identified flaws in this piece of legislation, a recommendation has been adopted, and the Senate has decided to accept the report of the Standing Senate Committee on Social Affairs, Science and Technology.

Part of the poor work on the drafting of this bill relates to one of the problems that was identified, namely, the definition of "visible minorities" in that act. This could have been obviated had the government done what it has been promising it would do for the past two years — that is, set up the Race Relations Foundation. It has yet to do it. This foundation was established by legislation brought forward by the previous government. The legislation has been sitting there, but no action has been taken to implement it. Here is an example of where the government could have used the expert knowledge of people who would have been working with the Race Relations Foundation. Such experts could have helped the government understand in contemporary terms why race is not accepted in any quarter as a scientific concept, and why it was so offensive to see "race" as part of the definition of "visible minorities." Then, of course, there is the absurdity, in my judgment, of the definition of "la race blanche" in the French text.

Honourable senators, the report has outlined these issues. I think it is a poor way to do business, but we sometimes find ourselves in the situation where, in the interests of larger considerations, we are prepared to take the word of a minister. It is not clear to me whether the commitment we have is from the minister or the government. I refer to the undertaking in the report that it will be a matter of government policy that we will see a new piece of legislation in the spring of 1996.

Hon. Peter Bosa: Honourable senators, I too wish to make a brief intervention on this subject.

Those senators present at the proceedings of the Standing Senate Committee on Social Affairs, Science and Technology on Bill C-64 have experienced first hand the worthiness of committee work in the Senate.

I agree with Senator Kinsella that Bill C-64 leaves much to be desired. Perhaps there is a good explanation for that. We have a crop of new members in the other place and, as has always been the case, they are much more interested in the intent of the legislation and getting re-elected than in refining the fine words of laws that are passed.

Senator Lavoie-Roux: That is quite serious.

Senator Bosa: It is serious, but that is the way it has always been. That is why committee work in the Senate is so important.

We were all in agreement, both opposition and government supporters, that Bill C-64 ought to have been amended. We heard an explanation as to why the staff of Parliament was left out of the bill. We were told that they were left out because Parliament is an entity unto itself and does not want to be subject to the rules of other jurisdictions. When the minister appeared before us for the second time, he agreed that that could be changed.

I should like to congratulate those members of the committee who worked particularly hard on this bill, namely Senator Lavoie-Roux, Senator Kinsella, with his amendment, Senator Johnson and Senator Cochrane.

Honourable senators, I think we have all learned a good lesson from this episode. If we keep the same spirit in the future, bills coming out of committees will be improved, and there will be a more harmonious feeling among the members who participate in the workings of those committees.

Hon. Sharon Carstairs: Honourable senators, I too wish to thank the Standing Senate Committee on Social Affairs for being so vigilant on this particular piece of legislation. Had they been able to make amendments instead of recommendations, this legislation would have been enhanced. There is no question in my mind about that. I look forward to further amendments to the employment equity bill which will bring about that enhancement. I congratulate and thank Senators Lavoie-Roux, Johnson, Kinsella and Cochrane for moving this piece of legislation in such a positive way so that employment equity will be found in all levels of the public service, including the two Houses of Parliament and the Library of Parliament.

Hon. M. Lorne Bonnell: Honourable senators, it is wonderful to find everyone thanking and congratulating everyone else for the great work of the Standing Senate Committee on Social Affairs, Science and Technology. However, as you know, whatever project you enter into today, you must have good leadership. Any project without leadership is a failure.

• (1450)

Consequently, with the leadership we had, we were able to bring in our report on the bill without amendments, and we were able to say that some of our senators had made a motion to make amendments and present them to the house. However, they backtracked on that when they heard the facts.

Senator Berntson: We will make them again at third reading, if you like.

Senator Bonnell: That is a good idea. However, there was one person who was not thanked, or even mentioned, and that was Senator Bosa. Senator Bosa acted as chairman for a short while the other day when I was caught in the storm. He looked after the committee meeting for me, and I want to thank him for that.

At the same time, I also want to thank Senator Cools, who raised the racial issue and the definition concerning visible minorities, and brought those matters to our attention in the first place. Our great senator from New Brunswick, Senator Kinsella — following the leadership from Senator Cools — added his support. That is why the matter came up in the first place and was suggested as the subject of a possible amendment.

The thing that surprised me, as a non-biased chairman, was that when the first amendment and the first report were before the committee, a couple of senators walked in just as the vote was being held. They had not heard any of the evidence or the witnesses — and they probably had not even read the bill — but they came in without saying one word and just voted to put the amendment through.

Senator Doody: They were probably well briefed!

Senator Bonnell: Some leadership somewhere else must have briefed them, then.

Honourable senators, I want to thank all of the members of the committee for their great, hard work. Even with the persuasion that they were subjected to from witnesses — although not from the leadership — they were able to see the light and bring the bill forward without amendments. I am quite sure that Canada will benefit from that.

In the Province of Ontario, they are doing away with such things as equity bills, whereas here, in the Senate of Canada, with all the Conservatives here, we are putting forth these equity bills in spite of what their government is doing in Ontario.

Hon. Rose-Marie Losier-Cool: Honourable senators, as the sponsor of this bill, and mostly as an ardent fighter for affirmative action and equity, I, too, want to thank all my colleagues for their participation in making this bill a better piece of legislation, as Senator Kinsella has just pointed out.

[*Translation*]

What is important today is that we now have a progressive law on employment equity, which will offer all Canadians the same opportunities in the job market.

[*English*]

The Hon. the Speaker: Honourable senators, the question before the Senate is the third reading of Bill C-64. If no other senator wishes to speak, I will put the motion.

It was moved by the Honourable Senator Graham, seconded by the Honourable Senator Losier-Cool, that Bill C-64 be read the third time now.

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

Motion agreed to and bill read third time and passed.

APPROPRIATION BILL NO. 3, 1995-96

THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government), moved third reading of Bill C-116, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996.

Motion agreed to and bill read third time and passed.

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—
MOTION TO ADOPT NEGATIVED

Leave having been given to proceed to Government Business—Reports of Committees:

On the Order:

> Resuming the debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Davey, for the adoption of the twenty-sixth report, as amended, of the Standing Senate Committee on Banking, Trade and Commerce (Bill C-103, An Act to amend the Excise Tax Act and the Income Tax Act, with an amendment), presented in the Senate on December 5, 1995.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak on Bill C-103, I will proceed with the motion for the adoption of the report.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators who are opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

Hon. B. Alasdair Graham (Deputy Leader of the Government): I understand there is an agreement for a 15-minute bell.

Hon. Noël A. Kinsella: Your Honour, my colleague Senator Hébert and I have agreed on a 15-minute bell.

The Hon. the Speaker: Honourable senators, the whips have agreed to a 15-minute bell. The bells will ring until 3:15. At 3:15, the bells will cease ringing and the vote will be held. Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Please call in the senators.

• (1515)

The Hon. the Speaker: It was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Davey, that this report be now adopted.

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Keon
Angus	Kinsella
Atkins	Lynch-Staunton
Beaudoin	Meighen
Berntson	Nolin
Bolduc	Oliver
Buchanan	Phillips
Di Nino	Rivest
Ghitter	Roberge
Grimard	Rossiter
Gustafson	Simard
Kelleher	Tkachuk—24

NAYS

THE HONOURABLE SENATORS

Adams	Kenny
Anderson	Lavoie-Roux
Austin	Lewis
Bacon	Losier-Cool
Bonnell	MacEachen
Bosa	Marchand
Carstairs	Milne
Cochrane	Murray
Comeau	Olson
Cools	Ottenheimer
Davey	Pearson
De Bané	Perrault
DeWare	Petten
Doody	Poulin
Doyle	Rizzuto
Fairbairn	Robertson
Gauthier	Robichaud
Gigantès	Rompkey
Grafstein	Roux
Graham	Sparrow
Haidasz	Spivak
Hays	Stanbury
Hébert	Stewart
Hervieux-Payette	Thériault
Johnson	Watt—51
Kelly	

ABSTENTIONS

THE HONOURABLE SENATORS

Carney—1

Hon. Pat Carney: Honourable senators, I want the record to show that I abstained because of a possible conflict of interest.

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

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

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, as you know, several committees have been scheduled to sit at this time, this being committee day. We have quite a heavy Order Paper yet to go, but there has been discussion between the leadership on both sides, and discussion with those honourable senators who have items on the Order Paper. There appears to be general agreement that we would stand all remaining orders, and ensure that, on Thursday and other occasions, we give all honourable senators an opportunity to voice their opinion and debate the very important motion standing in the name of Senator Fairbairn.

I would urge all honourable senators who are members of the committees that are sitting at the present time to go directly to those committees, but I would first ask if there is agreement that we proceed in the fashion I have outlined.

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, December 14, 1995

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

TWEED AND DISTRICT HISTORICAL SOCIETY

Hon. Marcel Prud'homme: Honourable senators, on Saturday, December 9, 1995, I attended the inauguration and opening of a heritage house by the Tweed and District Historical Society. I was invited to attend by the Reeve, Dr. Gibson Allen, and his wife, Dr. Barbara Allen. Tweed is located in the County of Hastings, Ontario, some 30 minutes' drive from Belleville.

During the inaugural ceremony, the members of this small but vibrant community demonstrated the importance of preserving their traditions and remembering their communal roots. One of the rooms was named The A. Gibson and Barbara Allan Gallery in recognition of the wonderful contribution that this couple has made to the community. Dr. Barbara Allan, a doctor of psychology, was the village reeve before her husband. In the 12 years she occupied that position, the village was able to develop, and her husband is now continuing the work.

I met interesting people such as Mrs. Eileen Geen, the President of the Tweed and District Historical Society, who enlightened me on the fascinating history of the region. I had the pleasure of meeting Mr. Evan Morton, who is a fabulous curator and also the deputy reeve. Last but not least, I met a grand and charming lady named Grace Porrit, who is, by her own admission, 93 years young and the proud granddaughter of the gentleman who built this house in the District of Tweed.

Honourable senators, I am proud to have been invited to such an event. I have a great deal of respect for people who can say, like others, "Je me souviens," of what Tweed has been for so many years.

I hope that the next time you go back to Toronto, you will take the scenic route through Carleton Place, Smith Falls and Perth, to stop in Tweed and visit the heritage house of the Tweed and District Historical Society. I can assure you of an unbelievable reception. If you say you are from the Senate of Canada, I am sure Dr. Allen and Mrs. Allen will be more than delighted to receive you and that Mr. Evan Morton, the curator, will be more than happy to explain to you the history of the region.

HUMAN RIGHTS

TIBET—INSTALLATION BY CHINESE OF PANCHEN LAMA

Hon. Consiglio Di Nino: Honourable senators, for the past three decades or more, Canadians have engaged in a debate to ensure the survival of a distinct and unique Canadian culture in Quebec, an objective we all support.

During this same period, we have been witnessing one of the world's oldest and unique cultures being systematically destroyed. I speak, of course, of the situation in Tibet. Added to all the other horror stories coming out of that country for the last 45 years is the most recent shameful act perpetrated by the Chinese against Tibetan culture.

Last week, the Chinese government installed its own Panchen Lama, Tibetan Buddhism's second highest religious authority, and apparently abducted a young boy and his family, whom his Holiness the Dalai Lama had selected as the Panchen Lama after following a strict, traditional search in accordance with Tibetan Buddhism. The Chinese chose their candidate by drawing lots. The whereabouts of the young Panchen Lama and his family are unknown, and the Chinese government has stonewalled all inquiries about them.

Honourable senators, Beijing's actions are part of a planned systematic extinction of a rare and important world culture. Shamefully, the world is standing by, waiting for business deals, while the cries of agony and despair from Tibetans and a few other brave souls who are not willing to prostitute themselves on the economic altar are ignored. I wonder how we would respond if what is being eradicated was a plant or an animal species.

• (1410)

ROUTINE PROCEEDINGS

NATIONAL DEFENCE

SPECIAL COMMISSION ON RESTRUCTURING OF THE RESERVES—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. M. Lorne Bonnell: Honourable senators, I have the honour to present the thirteenth report of the Standing Senate Committee on Social Affairs, Science and Technology, which deals with the report of the Special Commission on the Restructuring of the Reserves, tabled in the Senate on November 7, 1995.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* of this day.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see today's* Minutes of the Proceedings of the Senate.)

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

On motion of Senator Bonnell, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FORTIETH REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, December 14, 1995

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTIETH REPORT

Your committee has examined and approved the supplementary budget presented to it by the Standing Senate Committee on National Finance for the proposed expenditures of the said Committee for the fiscal year ending March 31, 1996 to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it as authorized by the Senate on February 22, 1994. The said supplementary budget is as follows:

Professional and Other Services	$ 70,200
TOTAL	**$70,200**

Respectfully submitted,

COLIN KENNY
Chairman

FORTY-FIRST REPORT PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, December 14, 1995

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTY-FIRST REPORT

Your committee has examined and approved the supplementary budget presented to it by the Standing Senate Committee on Energy, the Environment and Natural Resources for the proposed expenditures of the said Committee for the fiscal year ending March 31, 1996 to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it as authorized by the Senate on April 27, 1994. The said supplementary budget is as follows:

Transportation and Communications	$42,420
TOTAL	**$42,420**

Respectfully submitted,

COLIN KENNY
Chairman

FORTY-SECOND REPORT PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, December 14, 1995

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTY-SECOND REPORT

Your committee has examined and approved the budget presented to it by the Special Joint Committee on a Code of Conduct for the proposed expenditures of the said Committee for the period of August 31, 1995 to March 29, 1996, for the purpose of its consideration of a code a conduct for Senators and Members of the House of Commons, as authorized by the Senate on June 28, 1995. The said budget is as follows:

Printing	$28,592
Advertising	335
Witnesses' Expenses	2,345
Miscellaneous	670
TOTAL	**$31,942**

Respectfully submitted,

COLIN KENNY
Chairman

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

On motion of Senator Kenny, reports placed on the Orders of the Day for consideration at the next sitting of the Senate.

CONSTITUTIONAL AMENDMENTS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-110, respecting constitutional amendments.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

NATIONAL HOUSING ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-108, to amend the National Housing Act.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*Translation*]

INTERNATIONAL ASSEMBLY OF FRENCH-SPEAKING PARLEMENTARIANS

SEMINAR HELD IN PORT-AU-PRINCE—REPORT TABLED

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 23(6), I have the honour to present, in both official languages, the report of the Assemblée internationale des parlementaires de langue française concerning the seminar for exchanging views and information on parliamentary democracy in action, held at Port-au-Prince, Haiti, November 16 to 19, 1995.

[*English*]

REPORT OF CANADIAN DELEGATION AND FINANCIAL REPORT OF TWENTY-FIRST SESSION HELD IN OTTAWA AND QUEBEC CITY

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 23(6), I have the honour to present, in both official languages, the report of the Canadian delegation to the International Assembly of French-Speaking Parliamentarians and the financial report of the twenty-first regular session of the AIPLF held in Ottawa and Quebec City respectively from July 7 to 12, 1995.

JUSTICE

REQUEST OF MINISTER FOR INVESTIGATION BY CANADIAN JUDICIAL COUNCIL INTO REMARKS OF QUEBEC JUDGE—NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1), (2) and rule 57(2), I give notice that, two days hence, I shall call the attention of the Senate to the request of December 12, 1995, by the Minister of Justice, the Honourable Allan Rock, to the Canadian Judicial Council for a full investigation into the behaviour of the Honourable Mr. Justice Jean Bienvenue of the Quebec Superior Court; and to the fact of Mr. Justice Jean Bienvenue's express apology for his comments regarding the Holocaust; and also to Mr. Justice Jean Bienvenue's expressed shock at the deliberate cruelty of the accused, Tracy Theberge, in the murder of her spouse by the use of a razor blade to cut his throat.

CONSTITUTION ACT, 1867

POWERS OF SENATE—NOTICE OF INQUIRY

Hon. Anne Cools: Honourable senators, pursuant to rule 56(1) and (2) and 57(2), I give notice that I will call the attention of the Senate to:

> Section 31(4) of the Constitution Act 1867, which reads, "If he is attainted of Treason or convicted of Felony or of any infamous Crime," being the powers of the Senate to attaint Senators; and to the Senate's powers, including the powers of judicature, the powers to pass bills of attainder and bills of pains and penalties, the powers of impeachment, and the powers of judicial review as per the ancient customs and usages of Parliament in accordance with the Constitution and the Law of Parliament; and to section 18 of the Constitution Act, 1867.

[*Translation*]

QUESTION PERIOD

HUMAN RESOURCES DEVELOPMENT

CHILD CARE—FEDERAL OFFER OF FUNDING—PROVINCIAL CUTS TO PROGRAMS—GOVERNMENT POSITION

Hon. Roch Bolduc: Honourable senators, my question is directed to the Leader of the Government in the Senate. This morning we received a press release from Mr. Axworthy, the Minister of Human Resources Development, announcing that the government wants to inject $720 million into a new national child care program. The minister says this is what they promised in the Red Book, but Mr. Martin, the Finance Minister, says there is no more money, that we must live within our means and tighten our belts. Could the Leader of the Government in the Senate make some sense of all this?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as Senator Bolduc would know, the issue of trying to increase child care spaces in this country has been one pursued by this government and the one before it. Yesterday, the minister announced measures that he hoped would result in a substantial increase, partly through cooperation with the provinces, of child care spaces in this country. He will be engaged in discussions with provincial governments and ministers on their suggestions and their interest in sharing in this program.

This child care proposal has been out there for some time. According to Mr. Axworthy, interest has been expressed by a number of provinces in sharing with the federal government the plan to increase the levels. He is offering up to $630 million over the next three to five years for these kinds of partnerships with the provinces and the territories, with ongoing funding being available afterwards.

I take the point of my honourable friend's question. Each level of government, at the moment, is certainly under restraint and constraint in very many areas. In this one, I believe a very dedicated effort will be made by both the provinces and the federal government to join together to access funding which will increase child care spaces.

To complete the answer, although this is not germane to my honourable friend's question, the issue of child care commitments was further addressed yesterday with a $72-million commitment for First Nations and Inuit child care; and with an $18-million fund over three years for a research and development program.

[*Translation*]

CHILD CARE—FEDERAL OFFER OF FUNDING—
FISCAL INEQUALITY AMONG PROVINCES

Hon. Roch Bolduc: Honourable senators, the provinces are in a tight spot because the federal government is reducing transfer payments to the provinces. The provinces are closing hospitals. They are closing hospitals in Quebec. Meanwhile, the federal government proposes a child care program. To me, this makes no sense at all. Only the provinces that have enough money will participate.

First of all, it means there will be no transfer; second, a major consequence of this policy will be to make some provinces more equal than others. Third, there will be no transfer within society itself, because the middle class has the advantage and the little guy is paying, as usual.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Bolduc has stated that only the provinces with money will profit from this measure. We will have to wait and see what results from discussions with the provinces, because it certainly would be the hope of the federal government that all the provinces would join in this program.

My honourable friend knows that it is not simply a case of providing child care spaces in this country. A huge number of employable people, single mothers in particular, are kept out of the workforce because there is no place for their children to be cared for during the working day. It is much more than a social problem; it is an economic problem. The freedom to enter the workforce should be available not only to women in middle-income areas but also to those at the lowest end of the opportunity scale.

This issue must be of concern to every level of government because it is not just a social issue; it is an economic issue as well.

Hon. L. Norbert Thériault: Honourable senators, I rise on a supplementary question. Although I do applaud the announcement by the government, I do have a concern. Did I hear the minister correctly when she mentioned a long-term commitment?

Formerly, as a provincial politician, my concern was always that federal governments would start programs, finance them for a few years, and then drop out of them, leaving the provinces to carry on alone.

Would the minister be kind enough to tell the Senate what she means by "long-term commitment"?

Senator Fairbairn: Honourable senators, although I should have the dollar figure here, I do not. These spaces will be set up over some three to five years, using the initial amount of $630 million. After that time, the government has committed itself to an annual payment to the provinces, at a smaller level of course, to facilitate the continuation of the program.

Senator Thériault: Honourable senators, it was my understanding of the announcement that was made that the costs in the next three to five years will be split 50-50. Does the minister mean that, after three to five years, the contribution will be less than 50 per cent?

Senator Fairbairn: Honourable senators, I cannot answer the question of whether the contribution will be less than 50 per cent. The sustaining money will be less than the initial investment to set up the spaces.

The federal government has placed on the table the offer of a continuing, sustaining contribution to the provinces. I will obtain the correct details for response to my honourable friend's question about the percentage of sharing.

[*Translation*]

CHILD CARE—FEDERAL OFFER OF FUNDING—LACK OF CONSULTATION WITH PROVINCES—GOVERNMENT POSITION

Honourable Marcel Prud'homme: Honourable senators, I find that these programs smack of improvisation and lack of consultation.

I served thirty years in the House of Commons. I remember very popular programs being created and then abandoned, fobbed off on the provinces. What I find unusual here is the talk of reorganizing the giant federal machinery.

One of my colleagues across the way refers to employment, wanting to get people back to work. I hope that does not refer to some of us. Some people are capable of paying for their children to be looked after, if that is necessary.

I wish to make it clear immediately that I am not opposed to these projects, but to the lack of consultation with the provinces. Who knows how long the program will last? If the federal government no longer looks after existing programs, the provinces are faced with a very difficult problem. On the one hand the projects are good, but on the other the provinces are in danger of running into huge problems when they cannot withdraw from something that started out on a 50-50 basis but ends up with all on them.

Is this a definitive program or just a statement of the federal government's intentions? Will there be meetings with the provincial counterparts to find out whether or not it is acceptable? I have nothing against the announcement itself. It was in your Red Book during the campaign; I am not surprised. Now that the program is announced, now that the decision is out on the table, will there be consultation with the provincial governments? If the provincial governments say no, they will not take part —

[*English*]

— will they lose that money? Will they have a knife held to their throat and be told, "If you do not accept, you will lose the money"? It is embarrassing to lose 50 per cent of a good program. It is a lot of money, especially in Quebec and Ontario.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as Senator Prud'homme would know, during the social policy review that was carried out well over a year ago, the question of child care was central to those broader discussions. The issue is well known to the provinces, and they have been asked to consider options as to how they might wish to implement it.

Mr. Axworthy made his announcement yesterday based on funding that was laid aside in the budget, pursuant to the promise that, after the economy achieved a period of three per cent growth, which it did, that money would be available for child care. He has written to his colleagues in all of the provinces asking them to communicate their views to him and inviting them to get together to discuss this issue.

I cannot answer what really is, at this point, a hypothetical question as to what would happen if some did come on board and some did not. The minister's goal is to try to reach an accommodation that would permit this program to become a national program. He understands — and he made the point in his statement — that the delivery of this type of program rests within provincial jurisdiction. In that sense, he is respectful of the provinces, but he is saying, "Let us get together now. We have the financial capabilities to initiate this program. Let us work together and do it on a national basis."

That is the goal of the minister. I am sure all honourable senators would wish these particular federal-provincial discussions success.

[*Translation*]

CHILD CARE—FEDERAL OFFER OF FUNDING—COMMENTS IN MEDIA—GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, are we to believe the media, which are reporting on the reaction of surprise on the part of the Minister of Finance, Mr. Paul Martin, at the extemporaneous and chance announcement by his colleague Mr. Axworthy yesterday? How do we interpret this surprise expressed by Mr. Martin? Are we to understand that this is another aspect of the strategy of improvisation, which is based on the polls, to bolster Mr. Chrétien's current popularity?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, absolutely not. Senator Simard should believe that if a sum of money as large as $720 million were involved in a program, the Minister of Finance would be well informed on the program, well informed on the announcement, and well informed on the source of the money. He is completely aware of the program and extremely supportive of it.

[*Translation*]

CHILD CARE—FEDERAL OFFER OF FUNDING—DISCUSSIONS WITH PROVINCIAL FINANCE MINISTERS—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: Honourable senators, why did the Minister of Finance not discuss the matter with his provincial counterparts, if he already knew?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, there were a great many issues on the agenda for the ministers of finance. I am not aware personally of whether or not this issue crept into their discussions. Certainly, this subject, and the imminence of its announcement, has not really been a secret in terms of the federal-provincial discussions that go on continuously, not only between the Minister of Finance and his colleagues but also between the Minister of Human Resources Development and his colleagues.

[*Translation*]

PEARSON AIRPORT AGREEMENTS

SPECIAL SENATE COMMITTEE—REQUEST FOR PARTICULARS OF EXPENDITURES ON CONSULTANTS

Hon. Pierre Claude Nolin: Honourable senators, my question is on a wholly different matter. Yesterday afternoon, we were given the third report by the special Senate committee on the Pearson Airport Agreements. We learned, with considerable interest, that the committee did not spend its entire budget of $298,000.

We discovered, from a cursory read of the committee's main report, that your government had hired consultants to help it along during the deliberations of the special Senate committee. I would like to know how much your government spent on specialty firms of lawyers and accountants to help it develop its strategy during the deliberations of the Special Senate Committee on the Pearson Airport Agreements.

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will certainly try to obtain an answer to the honourable senator's question. At the same time, I congratulate the committee itself for coming in under budget.

HUMAN RESOURCES DEVELOPMENT

CHILD CARE—FEDERAL OFFER OF FUNDING—RESTRICTIONS ON CATEGORIES OF PROVIDERS—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, my question is directed to the Leader of the Government in the Senate, and it goes back to the child care question.

In the newspaper coverage of the announcement, I read that two conditions were attached to the minister's proposal. This money is to go towards affordable and quality child care.

Will there be any restrictions on whether the child care is non-profit or private? Must the child care institution be of a certain size? In particular, will any child care chains receive funding?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will need to ask my colleague Mr. Axworthy for particulars on this question. I am sure these issues will be part of the federal-provincial discussions. It is a good question, and I will obtain an answer for the honourable senator.

Senator Spivak: Is this to be "government-to-government"? By that I mean, will it be administered by the provincial governments?

Senator Fairbairn: Yes.

HUMAN RIGHTS

FURTHER INCARCERATION OF CHINESE DISSIDENT—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, yesterday Mr. Wei Jingsheng was sentenced to 14 years in China for peacefully advocating that democracy was necessary in that country. In light of the fact that stability is important for our trade and investment in China, and that stability requires economic and social development for peoples, as we perceive democratic principles and good government, could the Leader of the Government in the Senate tell me what steps of protest the government will be taking in regard to this action in China?

Hon. Joyce Fairbairn (Leader of the Government): Honourable Senators, I will take that question as notice. The situation of Mr. Wei Jingsheng was raised yesterday but, as yet, I have not received a response. I will add the honourable senator's question to those asked previously.

Senator Andreychuk: Will this affect in any way the Prime Minister's visit to Asia and his dealings with any of the Chinese leaders and delegations?

Senator Fairbairn: Honourable senators, as my honourable friend would know, the Prime Minister's visit to the Far East in January does not include China. I will also add that question to my list.

Hon. Ron Ghitter: Honourable senators, as a supplementary question, surely the fact that an individual in China has been placed in jail for 14 years for expressing a political point of view must be so disgusting and distasteful to a country like Canada; the fact that our Prime Minister has done nothing and has been silent, as far as I know; the fact that the minister does not even know what statements have been made by him; and the fact that Canada is losing its reputation as being a defender of human rights, I would suggest, are of such importance that it is not sufficient for us to take matters like this under advisement.

We should all be standing up yelling and screaming at China and at our government's inactivity. We should be doing something about it, rather than hiding behind whatever we are hiding behind.

Senator Fairbairn: Honourable senators, I know Senator Ghitter's passion on these issues, and I respect it.

If he wishes, he can level blame, or whatever he wishes to do, on me, because I have been unable to respond in the last 24 hours. I have undertaken to answer the questions posed by honourable senators. I will do that to the best of my ability, having had the opportunity to consult with my colleagues and find out the answers.

I am not prepared on this, or on any other subject in the Senate — and my friend Senator Murray has been in this position before — to stand up here on my own, not having completed my homework, and give an answer in this house.

Senator Ghitter: Honourable senators, I very much appreciate the position in which the honourable leader finds herself. However, in making her inquiries, would she please express to the Prime Minister and cabinet the utter dismay and concern, if not disgust, of many of us, at the inactivity of the federal government and their lack of courage in responding to such a terrible situation? We expect to see more courage being exhibited by our government; we do not expect them to sit back or to hide. Perhaps our Prime Minister should eat something different for breakfast.

Senator Fairbairn: Honourable senators, I will wait for Hansard to be printed. I will then be pleased, as I always am, to circulate the views of the Senate to my colleagues in the cabinet and in the caucus. I am sure that my honourable friend would wish me to do so in the language he has used, which is certainly not language I would use.

Senator Ghitter: You may use my language any day!

VIGILANCE TOWARDS SITUATIONS DEVELOPING IN OTHER COUNTRIES—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I should like to ask a supplementary on this issue.

I would ask the Honourable Leader of the Government in the Senate, in her response to my question, not to limit my question to whether or not the Prime Minister will visit China. He will visit Asia.

My concern, honourable senators, is that we are somehow reticent to speak up on human rights issues which arise in larger countries in Asia, yet we seem to feel free to speak out on those issues as they relate to smaller countries.

I would like to be sure that the answer I receive includes an answer to this question: Do we wait until executions occur before we find multilateral environments in which we can speak out? Must we lose valuable and important lives before we take a stand on human rights issues?

It would seem to me that we should not always wait until the most dastardly steps are taken before we speak out or impose sanctions. Nipping human rights issues in the bud is the way we should proceed, whether on a bilateral, regional or multilateral basis. Is the government moving on any one of those three fronts?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, my first comment would be that every life is important, regardless of what country it is in.

I also would dispute, with great vigour, the suggestion that there is anything cowardly about the Prime Minister of Canada. There is not.

Honourable senators may not agree, and some do not agree on the other side — perhaps all those on the other side — with the Prime Minister's policy on human rights and trade and international affairs. That, of course, is part of our political, democratic process in this country. However, the fact of the matter is that the Prime Minister of Canada has, on numerous occasions, expressed his views privately and publicly on the question of human rights. That is a fact.

Some Hon. Senators: Hear, hear!

Senator Fairbairn: Whether he has done it in the manner or using the language which my honourable friends opposite would wish him to use, is another question entirely.

I have given a commitment, first, to try to find out the facts that are being sought in the questions asked of me; and, second, I have made a commitment, rather than paraphrasing the views of my friends opposite, to ensure that, word for word, passion for passion, extreme language for extreme language, their questions will be passed on. That is what I intend to do.

Hon. Marcel Prud'homme: Honourable senators, we have had this debate before. I am very much on the minister's side on this question. You will all remember that we have debated the matter of picking and choosing who we should be more inclined to defend in the area of human rights.

I remember the teachings of my father who said, "I hope that when you get up in the House of Commons to talk about human rights, you do not pick and choose. You either believe in the universality of human rights, or you do not. If you start to pick and choose, then you are biased." Therefore, I hope that you will extend your examination of the issue to other cases throughout the world.

On the eve of a great celebration in Canada, I do not wish to throw out the names of people who are rotting in prisons in certain parts of the world, their sole crime being that they have informed us of nuclear possibilities and technologies which exist in some parts of the world.

• (1450)

I am purposely being vague and general, in order not to offend anyone in the Senate. In the past, certain individuals have drawn to our attention certain events that are taking place in certain countries, but we have never raised those issues. Therefore, although some honourable senators have mentioned a name that is very well known internationally, there are other cases.

I hope that, from time to time, we will have full debate on the subject of human rights, in order that we will not be seen to pick and choose but to be universal. The same policy should apply to China, which is very big, as applies to smaller countries. It makes me very uncomfortable to see people give so much attention to one particular case and seem to be ignoring other cases that are occurring throughout the world.

Would you, therefore, kindly extend your inquiries and provide us with the names or other studies that have been done? I assure you that I will read them all.

Senator Fairbairn: Honourable senators, I appreciate my honourable friend's position. I will certainly convey his views, as I will those of other senators, to my colleagues in cabinet. As I said, we can ratchet up the rhetoric all we wish in this house but the fact remains that everyone in this house, and everyone in the Canadian government, is gravely concerned about human rights and human rights abuses, wherever they occur in the world.

INDONESIA—UPCOMING VISIT BY PRIME MINISTER—DISCUSSIONS OF ABUSES IN EAST TIMOR—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, my question is directed to the Leader of the Government in the Senate and is on the same topic.

In the next few weeks, the Prime Minister will be leading a delegation to Indonesia. Indonesia has been the subject of inquiry by the International Commission of Jurists, by Amnesty International, by the United States of America's State Department Country Reports, and others, the concensus of which are universally that there are very serious problems in relation to the respect for human rights in Indonesia.

In light of the fact that there is ample objective evidence to suspect that there are serious violations of human rights occurring in Indonesia, does the Prime Minister of Canada intend to raise the question of human rights during his visit to Indonesia?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I assume that Honourable Senator Kinsella is referring to violations occurring in East Timor. Again, I will seek specific information from the Prime Minister. However, Senator Kinsella should know that this issue was discussed by the Minister of Foreign Affairs with the Indonesian foreign minister at the recent APEC meeting in Osaka, and our embassy in Jakarta makes Canada's views on this situation known to the Indonesian government on a very regular basis.

[*Translation*]

CAMPAIGN PROMISE OF ANNUAL REPORTS—GOVERNMENT POSITION

Hon. Pierre Claude Nolin: Honourable senators, since we are talking about human rights, during the election campaign your party promised to publish annually a report on the status of human rights. I recall that we have asked the same question several times since then, and we are still waiting for this report your government was supposed to publish. What is the situation so far?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will check on that matter for my honourable friend.

[*Translation*]

HUMAN RESOURCES DEVELOPMENT

UNEMPLOYMENT INSURANCE REFORM—PROGRAM FOR STUDY OF LEGISLATION—GOVERNMENT POSITION

Hon. Jean-Maurice Simard: My two questions concern Bills C-111 and C-112 and the employment reforms announced several months ago, and now being considered in the House of Commons.

These reforms continue to cause considerable concern and even panic among the people of New Brunswick, especially among seasonal workers in the Atlantic provinces and probably across the country as well. The New Brunswick press has been reporting on this panic situation for the past month.

In this morning's edition of *L'Acadie nouvelle*, the province's francophone newspaper, Nelson Landry writes that Liberal ministers should stop playing minister for a few days, forget about Pearson airport and the sale of CN, and take some time to explain these controversial bills. It is suggested they come to New Brunswick and stop hibernating in Ottawa.

What time-frame is the government considering to ensure that the Senate will be able to give full consideration to both bills? Will the Senate again be the victim of a persistent, unilateral rumour that the current session will be terminated?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Honourable Senator Simard is aware that Mr. Axworthy's proposals have been placed before a House of Commons committee which, in the period when the House of Commons will be adjourned, has pledged to begin wide-ranging studies on this legislation, which has indeed received a great deal of interest and a great deal of support in all parts of Canada, including Atlantic Canada, for the principles which it puts forward. As my honourable friend knows, there have been concerns expressed as well.

• (1500)

It may be my honourable friend's belief that members of Parliament, whether they be in the House of Commons or in the Senate, are hibernating in Ottawa, doing nothing. However, let me assure him that Atlantic Regional members of Parliament, both senators and members of the House of Commons, from this side of the house, have been absolutely engrossed with this legislation. Their influence has been felt on this legislation through the many months in which it has been developed, revised and re-revised.

The question of seasonal workers has been one of the most important areas that members from Atlantic Canada have been pressing upon Mr. Axworthy. Parts of this legislation are definitely sensitive to the seasonal nature of the work that many people in Atlantic Canada and the province of Quebec experience.

Senator Simard: I appreciate the Leader of the Government in the Senate's rhetoric in her answer. However, New Brunswickers do not take comfort in what might be done by their own provincial and federal ministers or MPs in Ottawa. They want to see them in New Brunswick. face-to-face, and many newspaper editors are supporting such a meeting.

I hope that during the Christmas holidays these members will be seen and heard, and that they will not, as has been the case in the last month, send civil servants as messengers to explain and defend this government's legislation. I hope Ministers Young and Robichaud will do their job.

My second question on the same subject —

Some Hon. Senators: Oh, oh!

Senator Simard: If honourable senators opposite want to cut me off, they may do so. I will tell New Brunswickers that, again, Liberals have precluded me from asking questions on their behalf.

Senator Di Nino: Ask the question.

Senator Simard: Is the government considering Bill C-112 as budgetary legislation? I think I am on the right track when I say that budgetary legislation, or policies, or programs flowing from the budget, can come into force before the legislation is passed. Is that the nature of these bills, or will the —

[*Translation*]

Will these bills come into force after Royal Assent, or in January?

[*English*]

Senator Fairbairn: Honourable senators, I should like to go back to my friend's first question. I do not know where all these newspaper editors to whom he refers spend their idle hours, but I can tell the honourable senator that we have had our representatives from Atlantic Canada out doing town hall meetings before, during, and after the release of this information. They have brought back to the minister the concerns of Atlantic Canadians. I am told that Senator Rompkey has attended eight meetings himself, and has informed the minister of the views of the people of Newfoundland and Labrador. The people from New Brunswick —

Senator Simard: Answer my question.

Senator Fairbairn: My honourable friend can say what he wishes, but I would not even attempt to use the word "rhetoric" in his presence, he being a master of rhetoric. However, there is no one in the federal cabinet who brings a more sensitive and impassioned approach to this issue than Minister Fernand Robichaud. He has done an absolutely splendid job on this issue.

In the case of the honourable senator's second question, as I recall it —

Senator Graham: It was a long time ago.

Senator Fairbairn: The program put forward by the Minister of Human Resources Development is based on the budgetary provisions that he has enunciated, not something that will be produced in the future. He has brought forward a program with a solid foundation, and it will be carried out in that manner.

The hearings that will take place on this issue will be important and interesting. The issues that will be disputed and the options put forward during those hearings will be considered carefully by my colleague Lloyd Axworthy.

Senator Simard: Honourable senators, I will take just 30 seconds. The minister has not answered my second question.

My question is this: When will this legislation come into force? Will it be January 1, 1996, before this house has had a chance to approve this legislation, or six months from now, or two years from now?

Senator Fairbairn: Honourable senators, the legislation must be passed first. It will not come into force until it is passed by this house.

Senator Simard: Thank you. Stay tuned.

JUSTICE

RE-ESTABLISHMENT OF LAW REFORM COMMISSION— LEGISLATIVE AGENDA

Hon. Finlay MacDonald: Honourable senators, my question is for the Leader of the Government in the Senate. I think she will agree with me that there is no government of any political stripe that has a monopoly on the introduction of dumb legislation.

Senator Gauthier: Right on.

Senator MacDonald: The last government introduced legislation which I and a few of my colleagues voted against, even though it was our own government. It involved the dissolution of think-tanks and agencies of that particular kind. Think-tanks are the type of things of which bureaucracies are terrified.

One of these was the Law Reform Commission. It was with delight that I learned from either the Red Book or the Speech from the Throne that the present government would re-establish this commission.

Senator Haidasz: It has been done already.

Senator MacDonald: I realize that, but I do not know where that legislation is exactly. That is the question.

Over the noon-hour period, I was listening to comments about sweeping reforms in the Criminal Code, as introduced by Mr. Rock. Could the minister indicate what priority is being placed on — honourable senators, the Table Officer has just handed me Bill C-106, which deals with the introduction of the Law Reform Commission of Canada. This is an independent agency, as we know, totally separate from the Department of Justice. Is there any priority for this legislation? Will we receive it this term? Where is it now?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the Law Reform Commission legislation, as the honourable senator knows, is still in the House of Commons. I do not think the Minister of Justice has made any secret of the fact that the legislation is a priority with him. The House of Commons has had a crowded calendar. I agree with my honourable friend when he says that the sooner this commission is restored, the better. I will be delighted to take his concerns, together with mine, to the Minister of Justice.

PRIVILEGE

Hon. Marcel Prud'homme: Honourable senators, yesterday there was a vote. By agreement between the two whips, as indicated in the *Debates of the Senate*, the bells calling the senators rang for 15 minutes. I have had this problem before. I have no whip, and I was unaware that there was to be a vote after a 15-minute bell.

This situation could be embarrassing to me in the future. I have never missed a vote since coming to the Senate. I was here until 3 p.m. I was in the other chamber while the vote was taking place. I am not informed when there is an agreement between the two whips. I would like to have as good a record as possible, but there is no method of informing me of quick decisions in this regard. I regret this situation, because I usually receive cooperation from people in the Senate.

• (1510)

ORDERS OF THE DAY

BRITISH COLUMBIA TREATY COMMISSION BILL

THIRD READING

Hon. Len Marchand moved the third reading of Bill C-107, respecting the establishment of the British Columbia Treaty Commission.

Motion agreed to and bill read third time and passed.

EXCISE TAX ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-103, to amend the Excise Tax Act and the Income Tax Act.

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

Hon. Lowell Murray: Honourable senators, we do not intend to hold up the third reading of this bill. However, I think I should make a few comments for the record.

There has been an unfortunate and potentially troubling turn of events relating to this bill. This is perhaps the result of everyone trying to deal with a legislative overload at this time of year. I know some of my Senate colleagues on this side feel strongly about this matter, and I wanted to flag some of those concerns for honourable senators.

At the recent meeting of the Standing Senate Committee on Banking, Trade and Commerce, the Canadian Bar Association presented a brief which raised what I, as a layman, consider to be serious legal problems surrounding Bill C-103. Without going into detail, these issues relate to the liability which the bill would impose on persons such as printers, distributors and wholesalers, without notice of that liability and without sufficient knowledge of their liability. It is obvious that the government is trying to find someone from whom to collect the potential tax. Of course, the government is dealing with a situation in which the real culprits or offenders may be resident in some other country and not within our ambit. Hence, the government cannot collect the tax from them.

Some of these problems had been identified when the bill was before the House of Commons Standing Committee on Finance. I should note here that just before they passed the bill in the House, almost the last words out of the mouth of the chairman of that committee, Mr. Jim Peterson, were — and I paraphrase here — "Well, perhaps they can fix it up in the Senate."

Honourable senators, when the bill came to the Senate committee, the Canadian Bar Association, which had not presented a brief to the House of Commons committee, appeared before our committee and raised these issues.

Following the Canadian Bar Association presentation, the Minister of Canadian Heritage, the Honourable Michel Dupuy made a presentation. Mr. Dupuy assured us that if we did not insist on amending the bill along the lines suggested by the Canadian Bar Association, he would produce a letter of undertaking to fix up the bill at the earliest or some future opportunity.

As honourable senators know, in the Standing Senate Committee on Banking, Trade and Commerce, we are accustomed to that kind of understanding. As far back as the days of Senator Salter Hayden's chairmanship, which is when I came here, the committee routinely accepted from the government undertakings to make future amendments to a bill that the committee found deficient in one respect or another. That gave me no difficulty at all, provided that the substance was satisfactory, especially to my legal colleagues on the committee.

After at least one false start, we finally got a letter from the Minister of Finance, Mr. Martin, incorporating the undertaking that Mr. Dupuy had given. So far so good.

The essence of the undertaking that Mr. Dupuy had given was that the government would exempt the first issue of any future split-run edition before imposing the taxation penalty on anyone. I must say that I do not find that particular undertaking offensive at all, although some do. I do not find it offensive because I believe that that is the way the tariff code has operated lo these past 30 years.

The tariff code that has been in place for 30 years to my knowledge has never been invoked officially against any import. What has happened on occasion is that when the first edition of some split-run magazine comes into the country, Revenue Canada looks at it, and they flash a red light at the perpetrators. They tell them, "This is not in compliance with our laws, and you must stop it or we will invoke the tariff against you; here is what you must do to find yourselves within the four corners of our law." That is the way that the Customs Tariff has operated, as I understand it, and it has been effective. That is the way in which the Government of Canada has enforced the policy in the legislation over the years.

Honourable senators, I do not find the undertaking given by Mr. Dupuy and Mr. Martin offensive on that point, although, as I say, some honourable senators do.

Aside from that, honourable senators, the Canadian Bar Association still finds the government's proposals, and Mr. Martin's letter, substantively defective. That is what I think I should place on the record.

Under today's date, a memorandum is addressed to the Chairman of the committee, Senator Kirby, from the Canadian Bar Association. They state:

> As a practical matter, granting a tax exemption for the first split-run issue would provide little protection. Further, the alleged undertaking by the Minister that the split-run tax will not be applied against distributors, printers and wholesalers —

who really are innocent parties in all this, I think —

> — except upon notice that a particular issue offended the provisions of the *Excise Tax Act* will be of little comfort unless that protection is in the legislation.

They go on to deny the contention of the government that it is very difficult to hold the publisher, in some cases, liable. They state:

> Provided the legislation was properly drafted and enforced, the tax burden should ultimately, and effectively, fall on the publisher. The participants in the distribution chain likely would take steps to ensure this result (through indemnities *et al.*), but the actual collection burden for the tax would rest with the government rather than with persons only remotely connected with the publisher (and advertisers).

I will not put the whole letter on the record, but the final paragraph reads as follows:

> While we concede that collection difficulties may occur under the CBA's proposed amendments, that does not justify Bill C-103 in its present form. Those same collection concerns occur in other taxation areas, yet the possibility of non-compliance in those areas has not led to such extreme collection mechanisms.

Honourable senators, these legal concerns that have been expressed by the Canadian Bar Association have been responded to in various ways by the officials and by the Minister of Finance. I thought it important to put them on the record. We will not try, although we did seriously consider, putting forward formal amendments as proposed by the Canadian Bar Association, which would force a division and possibly send the bill back to the House of Commons, with unpredictable results.

• (1520)

Our friends opposite should understand that we have a potentially serious problem here. If this law is struck down some months down the road, the government will have nobody to blame but themselves. I would have hoped that, over the past few days, the government officials from Mr. Martin's department and the people from the Canadian Bar Association might have put their heads together and come up with a satisfactory formula. This should not be beyond the imagination and expertise of people in the legal and accounting professions, and among tax professionals. I do not think they tried hard enough. I hope we will not pay the price by having this bill struck down in the courts a few months from now.

Honourable senators know how I feel — and how we all feel — about the principle and intent of the bill. We are taking a lot on faith in this matter. Indeed, we have taken on faith from the Department of External Affairs and International Trade the fact that this bill is the least vulnerable of all the alternatives under international trade law. I hope they are right about that, too, because if the Canadian Bar Association is right, and if some of the critics of the provisions as they affect international trade law are right, then we will be in much worse difficulty some months down the road than we are now.

Senator Oliver has taken a keen interest in these matters, and if he had been in the chamber, I would have deferred to him rather than intervene myself. He is here now and is nodding his approval, at least on the last point.

We will not hold up third reading of the bill. However, as we say, on your heads be it if this law runs into trouble some months down the road.

Hon. John B. Stewart: Would Senator Murray entertain a question?

Senator Murray: Of course.

Senator Stewart: I was not in the chamber to hear all of the address of Senator Murray so I do not know whether he put before the Senate the letter from Peter Grant of McCarthy Tétrault?

Senator Murray: Honourable senators, my friend dignifies my intervention by calling it an address.

I did not put Mr. Grant's letter on the record, although I do have it. A more official response to the Canadian Bar Association would be to place on the record that letter and the letter from Mr. Martin, along with the considered response of the Department of Finance found in notes which, to my knowledge, are in the possession of the Deputy Leader of the Government in the Senate. Perhaps Senator Graham would wish to place those notes on the record?

Mr. Grant is a lawyer with McCarthy Tétrault who represents a number of Canadian-owned periodical publishers. He also acts generally for the Canadian Magazine Publishers Association.

Senator Stewart: I ask the question, honourable senators, because of Senator Murray's suggestion that we were proceeding on the basis of faith. I am not a lawyer, so I must be careful about what I say.

I will read a few sentences from Mr. Grant's letter to suggest that this is not entirely an act of unfounded faith:

> The focus of the bill on distributors and wholesalers therefore makes eminent good sense, particularly when coupled with the undertaking by the Minister not to act against them except upon notice that a particular issue offended the provisions of the Act. This will then be self-policing, since in cases where the publisher is not itself able to be taxed, and the distributor, wholesaler or printer is notified instead, that distributor, wholesaler or printer will simply contact the publisher and decline to print or distribute future issues unless given appropriate evidence or assurances by the publisher that the subsequent issues are not published on a split-run basis, or that the original assessment was improperly made....
>
> Far from being "design flaws," therefore, we think that the structure of the Bill is appropriate to make it effective, and we believe the Minister's undertaking provides an entirely useful response to the concerns raised by the CBA.

It is true that this is a case of lawyers disagreeing, and I suppose that is how they make a living.

Senator Murray: The CBA would want to see those undertakings written into the act. That is clear from their submission.

I must say, personally, that we are placing quite a burden on wholesalers and distributors and the like. They would not be "guilty" parties.

Hon. Keith Davey: Honourable senators, I have a copy of the same letter. I accept the observations made by Senator Murray, which are generous indeed. There may be a problem, but let us get this bill through now.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, these observations are valid. It is the government's intention to address this concern by amending the legislation in the new year to exempt the first split-run issue of a periodical in cases where a distributor, printer or wholesaler would be otherwise responsible for paying the tax.

The amendment will assist distributors, printers and wholesalers by giving them time to become aware of the existence of new split-run titles in the case of high-profile magazines such as *People* or *Newsweek*. The identity of a new split-run title would likely become widely known among the general public.

In the case of smaller trade magazines, industry associations could monitor the emergence of any new split-run titles and inform their members accordingly. Where a particular publication became known as a split-run title, a printer, distributor on wholesaler could seek a contractual indemnity from the publisher before agreeing to handle future issues of the publication. These amendments are intended to be included in legislation in the new year.

The Hon. the Speaker: Before I put the vote for third reading, are there any other senators who wish to speak on this bill?

If not, it was moved by Honourable Senator Graham, seconded by the Honourable Senator Perrault, that the bill be read the third time now. Is it your pleasure, honourable senators, to approve the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

SMALL BUSINESS LOANS ACT

BILL TO AMEND—SECOND READING

Hon. Céline Hervieux-Payette moved the second reading of Bill C-99, to amend the Small Business Loans Act.

She said: Honourable senators, this legislative measure is based on two basic key components of the government's program: employment and growth. The first of these is the important role played by small business in the development of the Canadian economy. The senators are well aware of the role small business plays in the new economy of Canada in the 1990's, an economy characterized by rapid technological growth, lively competition and innovation. As the world economy grows, the small players begin to play an increasingly significant role. Small business has the flexibility required to take advantage quickly of new markets, to adapt to change and to exhibit a spirit of dynamism and innovation.

Today, Canada has some 2 million small businesses, one third more than in 1982. Ninety-nine per cent of all registered businesses have fewer than 100 employees. Since 1992, small businesses have created almost all of the new jobs in Canada. Canadians will continue to look to small business for job creation and economic growth. Small business and self-employment create close to two-thirds of private sector jobs and represent 60 per cent of our economic production.

In addition to their essential role in our economy, small businesses face unprecedented challenges. In a climate of intense competition, they need to upgrade their administrative capacities, find employees with skills that suit their market niche, acquire the technology required for innovation, and very quickly develop the capacity to take advantage of foreign markets. They have to bear the burden of regulation, which takes up the precious time of administrators who ought to be spending it on urgent business decisions. Despite the fact that the federal tax on small business in Canada is one of the more generous in the world, the tax burden continues to be a big problem for small business.

The government has solved these issues as they relate to small business in various ways, and the senators are familiar with many of these already. Nevertheless, the bill we are examining today addresses one of the most universal and confusing problems faced by small business: the need to find sufficient funding.

Lending institutions have a tendency to look for minimum risk, and small businesses are generally more risky than big ones. In addition, the cost to a bank or to a venture capital fund for preparation of a business plan and financing proposals, as well as for monitoring the progress of a business, is more or less the same whether a big or small loan is being applied for. Lenders are less likely to handle small loans which do not bring them much profit, yet they are aware that today's small business may be tomorrow's multinational.

However, lenders have shown that they are quite prepared to lend to small businesses if the federal government is prepared to share the risk. That is why, since it came into force in 1961, the Small Business Loans Act has played a fundamental role in helping small businesses acquire the capital they need.

The program based on the Small Business Loans Act offers loans for capital spending. The money may be used to finance the purchase of property required for the operation of a business. The borrower may also use the money for renovating, improving, updating, expanding, building or acquiring business premises. A small business may take advantage of the program to purchase, install, renovate, improve or update equipment.

The small business loans program provides lenders with a government guarantee to cover losses connected with such loans. The rate of coverage has changed over the years. When the Small Business Loans Act was passed in 1961, the government provided 100 per cent coverage. In 1985, the rate of coverage dropped to 85 per cent. Since April 1993, the rate has been 90 per cent, and as of January 1, 1996, it will again be reduced to 85 per cent.

While guaranteeing repayment of loans approved under the Small Business Loans Act, the government has established a program administered by private sector lenders who make their own decisions on approving loans. At Industry Canada, the Small Business Loans Administration Branch registers all loans approved by lenders under the Small Business Loans Act. If a loan is repaid promptly, the SBLA is no longer involved. If there is a payment default and the lender submits a claim under the Act, the SBLA gets involved.

The program is very successful. Since 1961, more than 400,000 loans have been approved under the small business loans program. These loans total more than $15 billion.

The program has expanded considerably in recent years. The annual dollar amount of loans approved under the program did not exceed $100 million till 1978. Between 1978 and 1980, this amount increased rapidly to $500 million. Between 1980 and 1983, the total annual amount varied from $400 million to $750 million, except in 1985, when it peaked at one billion dollars.

Since 1993, as the average maximum loan increased from $100,000 to $250,000 and the annual income of eligible businesses rose from $2 million to $5 million, there has been a considerable increase in the amounts borrowed under the small business loans program. In 1994, loans totalled $2.5 billion, and in 1995, they topped $4 billion.

This is good news, honourable senators. It means that small business loans have become an invaluable tool for small businesses which need capital to expand.

However, the increasing popularity of the program has its downside, and here I should mention the second pillar of the government's *Agenda: Jobs and Growth*, which is a consideration in the bill before us today. The first pillar is the need to support small business, and the second is the need to reduce government spending.

The government feels this is essential to protect the interests of small businesses. Lenders may decide to pay all or part of the administration fees instead of charging them to borrowers, so as to compete with other lenders. Small businesses would, as a result, have access to financing at a lower cost.

Furthermore, if administration fees are included in the rate of interest, small businesses would have a better idea of the real cost of a loan approved under the Small Business Loans Act. As a result, they would be more inclined to investigate the possibility of getting a loan at lower cost elsewhere.

Clause 4(3) amending subsection 7(1) of the Act, which provides that the minister may propose regulations on a host of subjects, would enable the minister to propose regulations amending the costs. Under the former legislation, the minister could propose regulations on the rate of interest. It will be possible to react more quickly to new circumstances under the Small Business Loans Act and thus recover costs.

The other amendments concern certain technical aspects of the Small Business Loans Act.

Clause 1(6) gives the minister discretionary power to ignore certain minor violations of the law with respect to the payment of a claim if he considers that they were unintentional, that they did not change the amount of the loss, and that they were corrected before default, or within two years of the initial payment of the loan. This clause provides more flexibility, taking into account the difficulties that sometimes plague small business.

Clauses 3(1) and 3(2) concern the extent of responsibility for the percentage guaranteed and serve to reduce the responsibility according to the amount of the loan. This measure, known as the rule of 90, 50 and 10 per cent, was established to encourage low volume lenders to use the program.

Thus, small businesses, particularly those outside major urban centres, will have greater access to capital.

The Small Business Loans Act paid up to 90 per cent of amounts below $125,000; 50 per cent of the part of the loan below $500,000 and 10 per cent of loans above $500,000. Following the amendments, the amount to which the highest rate of guarantee applies is doubled to $250,000. The highest rate of guarantee will be changed to 85 per cent on January 1,1996.

Under clause 4(1), the minister will be able to propose regulations on the discharge of securities, including personal guarantees, a lender may require during the term of the loan. This amendment will mean the administration of the Small Business Loans Act will more closely follow current commercial practices where, in certain instances, a borrower may be discharged of a security required to guarantee repayment of a loan.

Honourable senators, these amendments will improve the Small Business Loans Act and make it even more effective in helping business find the financing it needs. It should also be said that the amendments will help the Small Business Loans Act achieve these objectives at no cost to taxpayers. The program will recover the costs.

We can see how much the program has helped people start up new businesses and how it has helped young businesses grow. In 1994, more than 14,000 start-up loans were granted, representing a third of all loans. Fifty-three per cent of loans were given to businesses in operation for less than three years.

This is why Bill C-99 is important for the government's program to promote jobs and growth. It helps adapt the Small Business Loans Act to the 1990s. Thus this legislation will remain a practical resource for lenders and borrowers in weighing the pros and cons of a proposed business. It will give business people a hand, since access to financing can make the difference in turning their dream into a reality. It will give small business access to the capital it so desperately needs in order to expand. This will be made possible through the lenders' keen business sense and the recovery of costs.

I hope honourable senators will join me in supporting this bill.

• (1540)

[*English*]

Hon. Donald H. Oliver: Honourable senators, I wish to congratulate the Honourable Senator Hervieux-Payette for the excellence of her presentation on Bill C-99, to amend the Small Business Loans Act. Her outline of the bill was so complete and comprehensive that there is very little that we want to add to it from this side.

As she has already stated, the main purpose of Bill C-99 is to move the small business loans program from partial to full cost recovery. Through the Small Business Loans Act, the federal government guarantees private sector loans to small businesses. The program dates back to 1961.

Basically, there are five major things being changed by way of this bill. The first is that it reduces the maximum loan guarantee to 85 per cent of a loan from 90 per cent. Second, it provides for an annual administration fee; lenders would only be able to pass on the fee through interest rates. Third, it allows the government to impose a claim processing fee. Fourth, it allows the government to regulate the release of security and personal guarantees given by borrowers; this is so that the full amount of the security will not continue to be held after a sizeable portion of the loan has been paid off, as in the past. Finally, it allows the government to make future changes to the level of guarantees and program fees through regulation.

It is the issue of regulation that the senators on this side would like to canvass somewhat. It is the understanding of those of us on this side that the committee will meet tomorrow morning, and at that time it is to be hoped there will be some representations from the minister in relation to the regulation-making power. In addition, we hope there will be some commitment from the department that we can see these regulations before they are brought into force.

With those remarks, honourable senators, we would be prepared to have this bill go to committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Hervieux-Payette, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

NATIONAL HOUSING ACT

BILL TO AMEND—SECOND READING

Hon. H.A. Olson moved the second reading of Bill C-108, to amend the National Housing Act.

He said: Honourable senators, I want to say a few words of explanation regarding Bill C-108. I want to assure my honourable colleagues that my speech is down to about 25 per cent of what I had originally intended to say.

I am pleased to speak in support of Bill C-108, to amend the National Housing Act. The purpose of this bill is to increase the ceiling for mortgage loan insurance under the National Housing Act. This will enable the Canada Mortgage and Housing Corporation to continue underwriting home mortgage loan insurance within the legislative limit.

NHA mortgage loan insurance works in the following fashion: Most lenders cannot grant a mortgage for more than 75 per cent of the value of a property without mortgage loan insurance. What this means is that those Canadians who are not able to save a down payment of 25 per cent would be locked out of home ownership without mortgage loan insurance.

NHA mortgage loan insurance provides approved lenders with insurance against borrower default on residential mortgage loans. With NHA mortgage loan insurance, Canadians can take out a mortgage with an approved lender, and they need a down payment of only 10 per cent of the value of the property, or, indeed, only 5 per cent if they are first-time home buyers.

Bill C-108 will increase the existing limit on outstanding loan insurance from the current $100 billion to $150 billion. The bill also includes a provision to increase the ceiling further through appropriation in the future.

I would advise honourable senators that similar increases have come to the Senate before, in particular in 1988 and in 1992, and the amendments on those occasions were uncontested. While the amendments contained in this bill represent administrative matters, passage of this bill is essential if CMHC is to continue the operation of this loan insurance program.

In 1994 alone, CMHC mortgage loan insurance helped to house over 300,000 Canadian families at no cost to the government. This means that last year approximately 40 per cent of the residential mortgage stock in Canada involved financing by CMHC mortgage insurance. Without mortgage insurance, Canadians who do not have a 25 per cent down payment would generally never have access to home ownership.

The CMHC mortgage insurance fund is self-financing and self-sustaining, and therefore does not cost the government anything. In fact, CMHC policy requires that it be self-sufficient, financed strictly from the premiums and the fees that it charges over the long run. Premiums are charged as a percentage of the loan, based on the amount of the loan and its ratio to the value of the home. Premiums are set so as to ensure that the fund is sufficient to cover any claims.

There has been some suggestion that the government should get out of the business of mortgage loan insurance and leave it to private industry. It is important to point out, though, that without CMHC providing mortgage loan insurance, Canadians would face a private sector monopoly which would inevitably result in higher prices and, unfortunately, fewer choices. Housing would then be less affordable, especially for first-time buyers who make up the majority of NHA borrowers.

It is also important to keep in mind that CMHC mortgage loan insurance provides relatively equal access to mortgage financing for Canadians regardless of where they live in the country. In contrast, the chief competitor, the GE Capital Mortgage Insurance Company, only operates in 18 areas of the country.

Competition is the best way to keep prices at the lowest possible level and to ensure innovation in the mortgage industry to meet the changing needs of Canadian housing and finance consumers.

Besides helping Canadians to become homeowners, CMHC mortgage insurance has also been a key to the health of the housing industry in Canada. By fully protecting approved lenders against default on the part of borrowers, mortgage insurance encourages investment in residential construction. Housing constitutes an engine of economic growth responsible for creating many thousands of jobs and business opportunities in communities all across the country.

It should be pointed out that housing accounts for about 7 per cent of GDP, over half of all construction, and one out of every 12 jobs in Canada. House construction and renovation create jobs and business opportunities. For every $100 million of construction spending, 2,310 person-years of employment are created on site and in directly related supply and service industries.

Today, the private housing market is able to meet the housing needs of the vast majority of Canadian households. There is no doubt that CMHC mortgage loan insurance has played a critical role in that achievement.

Honourable senators, I have much more information on this topic which I would be glad to provide to you. However, I feel I have said enough to persuade you that this is a very useful measure, and we should proceed with it immediately.

Hon. Roch Bolduc: Honourable senators, this bill will allow the Canada Mortgage and Housing Corporation to insure up to $150 billion in mortgages, an increase of $50 billion from the current limit.

I am fully aware that without mortgage insurance many Canadians would never get mortgages at anything less than very high rates of interest, if they could get a mortgage at all. I have no problem with the CMHC continuing to provide this valuable service.

This insurance is provided on a cost-recovery basis, although it should be noted that there were losses in both 1993 and 1994. Last year, the loss was $93 million, which will be made up in future years.

I have a problem with the $50-billion increase provided in clause 1 of this bill, as we are given no information on the projected growth of the mortgage insurance portfolio.

In 1993, CMHC's only private competitor, the Mortgage Insurance Company, withdrew from the market. No doubt this has caused CMHC to think it needed such an increase in its limit, which was exceeded last year.

By way of an aside, honourable senators, I find it troubling that CMHC could surpass its statutory limit, as it did in 1994, and not find out about it until well into the next year.

Honourable senators, in considering this request for a higher mortgage insurance limit, it should also be borne in mind that earlier this year a new private-sector competitor entered the market. GE Capital Mortgage Corporation has acquired the residential mortgage insurance assets of the Mortgage Insurance Company of Canada. Perhaps $150 billion is needed; perhaps not.

The main problem with this bill does not lie in the $150-billion limit outlined in clause 1. The main problem with this bill is clause 1(*b*), which says that this amount may be increased at any time by a one-dollar vote in a supply bill. Honourable senators, I consider that to be a problem because of the lack of opportunity to study and debate any future increases. Supply bills in the other place are introduced and passed under a "guillotine" process. There is rarely any debate.

Estimates are supposed to be examined in committee, but it is not unusual for such a meeting not to be called, or for the committee not to report back. While a supply bill is automatically passed by the House of Commons on the last day of the supply period, there is nothing to stop the government from tabling a supplementary estimate containing a one-dollar vote just a couple of days before.

Individual items in a supply bill often receive limited scrutiny. These same supply bills come here and we are put under pressure to pass them quickly. It is a very serious matter for the Senate to amend or defeat a supply bill. In any event, supply bills are supposed to authorize spending, not insurance limits, not borrowing, and not the creation of new programs.

A one-dollar vote has already been used twice in this Parliament in connection with the CMHC. Last year, a one-dollar vote authorized the government to guarantee up to $50 billion of the residential mortgage insurance portfolio of the CMHC's former competitor at an estimated cost of up to $350 million; and a one-dollar vote was used to permit CMHC to borrow up to $15 billion on the Crown guarantee.

Honourable senators, I am concerned about these and other uses of one-dollar votes, as they strike at the very heart of Parliament.

I am sure that, if Senator Stewart were around, he would ask some questions about it.

In another bill now before us, Bill C-116, a one-dollar vote is being used to allow the Canadian International Development Agency to expand its mandate to include "countries in transition." This would create a whole new program, and should be the subject of separate legislation. However, there is no legislation governing CIDA, a corporation with a budget of more than $1.5 billion which was created by an order in council. That, in itself, is a cause for concern.

Earlier this year, one of our senators — I believe Senator Tkachuk — raised the matter of a one-dollar vote being used to grant unlimited borrowing authority to the Canadian Museum of Nature. What will be next? Will it be a one-dollar vote to allow the Minister of Finance to borrow any amount he wishes? If the opposition in the other place are asleep at the switch, who knows; it might happen.

In the debate on this bill in the other place, the focus was on the proposed $150-billion ceiling. I have news for the Bloc Québécois and Reform Party members in the other place: Once this bill passes, the limit may not stay at $150 billion for long, because it will be easy to increase it. Through a single vote in a supply bill, $150 billion could easily become $500 billion or more, or whatever other number the government chooses to insert.

[*Translation*]

In terms of parliamentary control, it is not a good method. The end of a session may not be a good time to review paragraph (*b*). This, in my opinion, is rather disturbing. I think that an appropriation bill is not the best way to authorize additional amounts for the purposes of insuring loans. It should still be done through a statutory law providing for a specific amount. If the amount allowed is exceeded, an additional amount will be authorized.

[*English*]

Senator Olson: Honourable senators —

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Olson speaks now, his speech will have the effect of closing debate on the motion for second reading of this bill.

Senator Olson: Honourable senators, I listened carefully to the troubles with respect to the manner in which this legislation is put forward. I will undertake to ensure that the honourable senator's concerns are conveyed to those responsible.

I would point out, however, that when the Estimates are tabled before both Houses of Parliament, they are sent here, and they are almost immediately referred to the Standing Senate Committee on National Finance. If the honourable senator, the chairman, or any members of that committee would like to specifically consider the situation respecting CMHC, they may do that immediately.

The committee does not need to wait for anything. It will always be subject to the scrutiny of Parliament, but it is up to the committee to decide which item in that enormous book of Estimates they wish to select for special study. At any time, the honourable senator could focus the committee on that particular subject.

It is a great experience to attend meetings of the National Finance Committee. I believe the committee exists for the purpose of the opposition to select items they wish to investigate in depth. In most cases, the examination is better than that carried out in the other place because we examine the expenditure of money before it is spent. The House of Commons Public Accounts Committee examines expenditures after the money is spent, in conjunction with its examination of the report of the Auditor General.

This house has the opportunity and structure to deal with all of my honourable friend's objections at any time he wishes to raise them. I know that he is an active member of that committee, and, therefore, he can do it.

Hon. William M. Kelly: Would Senator Olson entertain a question?

Senator Olson: Of course.

Senator Kelly: Having just heard Senator Bolduc's remarks and the response of Senator Olson, I certainly hope that Senator Olson is not saying that objections of this sort ought not to be raised in this chamber. He is surely not saying that these matters should be dealt with in committee, and that the chamber should not be bothered with these things.

Senator Olson: The honourable senator can rest assured that I was not suggesting anything of the kind.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Olson, bill referred to the Standing Senate Committee on National Finance.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leaving having been given to revert to Motions:

Hon. Lowell Murray, with leave of the Senate and notwithstanding rule 58(1)(*f*), moved:

> That the Standing Senate Committee on National Finance have power to sit at five o'clock in the afternoon, today, December 14, 1995, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

CONSTITUTIONAL AMENDMENTS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Joyce Fairbairn (Leader of the Government) moved second reading of Bill C-110, respecting constitutional amendments.

She said: Honourable senators, I am pleased to have the opportunity today to introduce Bill C-110 in this chamber. Through this bill, the federal government is recognizing the interests of each of the regions of Canada in future proposals for constitutional amendments.

As honourable senators know, this legislation is the fulfilment of one of the three commitments for change made to Quebecers by the Prime Minister during the referendum campaign. As the Prime Minister said in Verdun on October 24:

> Any changes in constitutional jurisdiction for Quebec will only be made with the consent of Quebecers.

Another part of that commitment that he made includes the resolution on the distinct society of Quebec, passed by the House of Commons this week and now being discussed in the Senate. Then there is the broader commitment, also discussed on a number of occasions during the referendum, with regard to the desire, not only of Quebecers but of all Canadians, for a change in the way their governments work with each other; the resolution of the issues of overlap and duplication in jurisdictional areas; and, as my colleague the Minister of Human Resources Development has indicated by his new employment measures, the recognition and respect for the responsibility of the provinces in the areas of education and labour market training.

As honourable senators will agree, the desire for change is not a sentiment exclusive to the people of Quebec. Canadians in every part of this country want to see a better working relationship among the different levels of government. They want to see more cooperation and less duplication, and more efficient and effective government at all levels. These measures are also a response to that desire. As such, they do not at all represent a culmination of our efforts on national unity. Rather, they represent a new beginning for Quebec and, indeed, for all of the provinces within a united Canada.

With the legislation before us now, the Government of Canada is sending a clear signal to the people of Quebec and all Canadians that we want to move this country forward. This is an important message to Quebecers in view of the single-minded obsession of the current government of Quebec, the Parti Québécois, and the Bloc Québécois to separate that province from the rest of Canada.

During the referendum campaign, there was — and many of us were part of it — a heartfelt outpouring of emotion from people all across Canada. They believe in this country. They want Quebec to remain part of us, and they want us to continue to build a stronger country together in all parts of Canada: east, south, north and west. This bill is an attempt by the federal government to reflect that emotion and reinforce and strengthen the bonds that exist among all Canadians across this land.

The provisions of Bill C-110 are a practical way of guaranteeing to all Canadians, including Quebecers, that we will not proceed with constitutional change without the support of each of the regions of this country: Atlantic Canada, Quebec, Ontario, the Prairies, and now British Columbia. It represents a strong political commitment, supported and backed up by an act of Parliament, that the federal government will use its veto power to protect the regions against constitutional proposals that go against their best interests. That is what the federal government does in determining what is in the national interest. In the case of general constitutional amendments affecting the whole country, it does not make practical or political sense to proceed in the absence of a national consensus.

• (1610)

As all colleagues recognize, this legislation does not change the Constitution of this country. It will not change the current amending formula, or the delineation of powers, or any other aspects of our Constitution. It guides, however, the federal government in making a decision on whether or not to give federal consent to a proposed amendment.

A concern has been expressed in some circles that this legislation could have the effect of hindering the recognition and the implementation of the aboriginal and treaty rights of Canada's first peoples, but these rights are already recognized and protected in the Constitution Act, 1982.

The government takes the position that the inherent right of self-government is an existing right in the Constitution. My colleague the Minister of Indian Affairs and Northern Development is working in cooperation with aboriginal peoples and the provinces to move forward with the job of turning the recognition of these rights into a reality for the first peoples of this country. This legislation does not affect that process, nor should it.

During the discussion on the distinct society resolution, Senator Kinsella raised the question of how the veto legislation might be interpreted to relate to other acts of Parliament, so-called ordinary legislation. One of his concerns, as I understood it, was whether we could somehow find ourselves in a position of having to have regional agreement on regular legislation. I should like to assure Senator Kinsella and others that the bill before us cannot be interpreted as applying to anything other than proposed constitutional amendments. What we are discussing here is exercising the federal constitutional consent to constitutional change in such a manner as to ensure that any future proposal will not go forward without a consensus in each of the regions of Canada.

As honourable senators may know, some western premiers have suggested that Bill C-110 will make it virtually impossible in the future to amend the Constitution in certain areas. What they are referring to is that, by expanding the veto under Bill C-110, more people will now have to agree to constitutional change, or at least not to say "no," than under the current constitutional amending formula, which requires the agreement of a minimum of seven provinces with 50 per cent of the population.

As it now stands, the federal government holds veto power by virtue of the fact that it must agree to any proposed change. The whole point of this legislation is to give each of the five regions protection, through the loan of the federal veto power, against future constitutional amendments to which the 7/50 rule applies and with which the people in those areas do not agree.

Obviously, with more people having recourse to a veto, there will be more of an emphasis on the provinces finding agreement among themselves, and clearly, in taking advantage of this new authority, the provinces would take great care to first give serious consideration to the consequences.

I wish to say again, as I did last Thursday, that I support the amendment to this legislation announced last week and passed this week, which will provide a veto for British Columbia. As I said before, the object of this bill is to bring Canadians from every region together, not to make them feel left out. The people of British Columbia feel strongly that their province has attained full regional value, and have done so for many years now.

The government has listened to the people in Western Canada, to views from members of its own caucus, and to other parliamentarians in the House of Commons and the Senate. It responded to the expressed need to reflect British Columbia's status as a specific region of this country. With its fast-growing population, size, economic growth and unique Pacific orientation, British Columbia deserves to be designated a region.

Senator Carney: We knew that.

Senator Fairbairn: This alteration has not only strengthened the role of that province in future constitutional discussions but it has also strengthened the role of each of the three prairie provinces. The amended bill will give a veto to two or more of the prairie provinces, Alberta, Saskatchewan and Manitoba, representing at least 50 per cent of the population. While in practical terms this results in a strong hand for Alberta in refusing consent on an amendment, since it has more than half the population of the area, the other two provinces increase their influence as well. The requirement is that consent to an amendment must come from at least two of the three prairie provinces, and therefore Alberta requires either Saskatchewan or Manitoba in order to give prairie approval.

For years, the argument coming from that part of the country has been the same, and it can best be described by the slogan, "The west wants in." I would submit to you, honourable senators, that with this amendment, the west is in a much stronger and more significant position than it has ever been in the past. This also demonstrates that Prime Minister Chrétien and the government are ready and willing to be flexible and to respond to the wishes of a significant and important area of this country.

As we enter into a discussion about veto powers and possible future constitutional change, we should also remember that individual provincial governments already have significant veto powers in several important areas of our Constitution, and this legislation in no way diminishes those existing powers. For example, every province has a veto on all changes requiring the unanimous consent of all the provinces. These refer to changes in the office of the Queen, the Governor General, and the Lieutenant Governor of a province; changes in the minimum provincial representation in the House of Commons, which currently cannot be less than the number of senators from each province; the use of English and French nationally; and the make-up of the Supreme Court of Canada.

Another type of change contemplated by the Constitution provides that wherever there are proposed changes that affect one or more but not all of the provinces, those provinces affected by the proposals have an absolute and unconditional veto over any such amendment. Some of our colleagues here will remember the constitutional amendment that was adopted to build the fixed link between New Brunswick and Prince Edward Island. Prince Edward Island was guaranteed a permanent ferry service in the British North America Act. It was a precondition to their joining Confederation, and an amendment to the Constitution was required to change the wording, allowing for a bridge to be built to ensure that a connecting link would still be maintained. The change was made, the bridge is in fact being built, but it could not have gone forward if that province had decided to exercise its veto.

• (1620)

Provinces also have virtual veto power over some amendments made by the existing general amending formula, which requires seven provinces with 50 per cent of the population to approve certain changes. Where an amendment approved under this rule reduces any provincial power, right or privilege, any province can opt out and not participate in the changes. If it is on a matter involving a transfer to the federal level of jurisdiction over culture or education, the federal government is required to financially compensate the opting-out province.

The only areas in which there is no existing veto is where the general amending formula applies, but where the opting-out provision does not. It is these types of amendments to which the bill before us is directed. Honourable senators, this basically includes three categories: One is in amendments which would add powers to the provinces rather than reduce them or take them away. We remember that in the Charlottetown accord of 1992, it was proposed that some such categories as natural resources, forestry, mining and municipal institutions become provincial responsibilities which would fall under this particular part.

The second category involves changes in national institutions, such as the powers of the Senate, the principle of proportionate representation of the provinces in the House of Commons, and changes in the Supreme Court other than its composition.

The third category is in the creation of new provinces or the expansion of the territories of existing provinces. Senator Lucier expressed his concern last week that adding a regional veto to this provision could have a serious impact on the Yukon and the Northwest Territories as they move toward the goal of eventual provincehood. As I mentioned to him when he raised the issue,

the federal government is committed to doing everything it can to create a degree of consensus that will allow us to improve our federation. Senator Lucier and others in this house have made all of us very conscious of the position of the territories, particularly on this important question. As I said earlier, I believe that the existing provinces would not take advantage of their new authority without giving very serious consideration to the consequences of doing so.

Honourable senators, the federal government has indicated that it is likely that the regional veto formula contained in this bill will be on the table at the first ministers' conference which must take place no later than April of 1997. There may be other proposals on the table, but this would be one of them. As honourable senators know, that conference is constitutionally required to discuss the issue of the amending formula. This bill builds a bridge between now and that conference in 1997.

Honourable senators, there is also the issue of how a province indicates consent for constitutional change, a matter which has been raised by Senator Kinsella, Senator Beaudoin and Senator Nolin. This bill in no way changes the general amending formula, nor does it change the constitutional requirement that provincial authorization for making an amendment must come through a resolution of the legislative assembly. Provincial legislatures retain all the powers and vetoes that the Constitution Act, 1982 provides. The provincial consent, which is being talked about in Bill C-110 as a trigger to proceeding with federal consent to an amendment may, for example, be expressed by a formal provincial legislative resolution or by a decision of the provincial government itself. A third option could be to give consent by an act of the legislature.

The government is indicating that before we get to the legal procedure involving an amendment, it wants those conditions met; that is, that any constitutional proposal in the areas I have mentioned is acceptable to the people in the five regions of this country. If it is not acceptable to the people in one of those five regions, we will not proceed.

The bill we are considering today, honourable senators, is a self-imposed restriction on the consent authority of the federal government. As such, it is very much in the same legislative category as that of the provisions of provincial governments such as Alberta and British Columbia, which have obliged themselves to carry out referenda to determine the wishes of their populations. That is what occurred during the Charlottetown accord.

What, then, of the regional veto itself? As honourable senators know, the idea of a regional veto as part of the amending formula for our Constitution has long been a component of endless constitutional discussions. The Victoria Charter of 1971 contained an amending formula with a regional veto. It was based on four regions, not five as this legislation provides. That formula was supported by the federal government and all of the provinces. While it did not proceed for other reasons, it helped set the stage for further consensus on constitutional change. Similar proposals were contained in constitutional studies, such as that of our friend Senator Beaudoin and Jim Edwards on the Beaudoin-Edwards committee in 1991, and, on our side, at the 1992 convention of the Liberal Party of Canada. That became part of one of our resolutions.

I mention these previous proposals, honourable senators, only to make the point that, in presenting this legislation today, the Government of Canada is not engaged in promoting some wild new concept. The idea has been around for many years. I believe there is a consensus that such a proposition makes sense as a way of further protecting the interests of the regions of this country. While this legislation will not change the Constitution itself, it will complement the current amending formula and serve as a bridge to the day when agreement on constitutional change and constitutional amending formulae can be reached.

Honourable senators, this bill is about building a stronger Canada; it is about giving our support as a government and a Parliament to the aspirations of all Canadians. As the Prime Minister said when he spoke in the House of Commons last week:

> In Canada, we overcome our difficulties through a spirit of compromise and mutual respect. The spirit of cooperation and partnership that inspires us should motivate us to continue building this country in an atmosphere of generosity and respect. The measures we are taking today mean change without revolution, progress without breakup.

I sincerely hope that all members of this chamber will see these proposals for what they are — an honest attempt to respond to the aspirations of Quebec and to all regions and all Canadians, and an honest reflection of our deep commitment to build a stronger and more united Canada.

Therefore, honourable senators, I would urge all members to support this legislation, and to do so in a time frame which is fair and reasonable given the commitments made during the recent referendum in Quebec.

• (1630)

Hon. Lowell Murray: Honourable senators, I am pleased that my honourable friend, the Leader of the Government in the Senate, has touched, if briefly, on some of the concerns about this bill expressed by the leaders of aboriginal associations. I wish to offer a word from my own perspective on this matter. Even if by some miracle this formula of regional vetoes were to be constitutionalized as an amending formula, I do not believe it would be any more difficult than it is now to achieve what the aboriginal peoples — and most citizens, I think — desire, which is a constitutional amendment on aboriginal self-government.

As matters now stand, such an amendment requires the consent of the Parliament of Canada and seven provinces having at least 50 per cent of the population. However, up to three provinces that dissented from such an amendment could opt out of it because, obviously, such an amendment would likely affect provincial powers. If those provinces were British Columbia, Alberta and Saskatchewan, where most of the aboriginal peoples live, the constitutional amendment would not be of much practical effect, if I may put it that way. I tend to think that, as a practical matter, we need near-unanimity to get an amendment that will truly protect and serve the interests of the aboriginal people.

As I said, even if by some miracle that amendment becomes constitutionalized, I do not think the situation in respect of an amendment on aboriginal self-government would be much more difficult.

I want to say that I do understand and appreciate the frustrations and the concerns of Chief Mercredi, who is First Chief of the Assembly of First Nations, and who has been the spokesman on many of these matters. I do hope that the government will take the extra step to try to reconcile their policy with the concerns of the national organizations.

However, in the present circumstances, lacking as we do a constitutional amendment on self-government, I believe that the path being followed by Mr. Irwin is a constructive one. Perhaps it is the only practical course open to us at the present time. I may be wrong about this, but I think there is at least a possibility that these self-government agreements that may be negotiated with various aboriginal groups could be entrenched in the Constitution. I certainly hope so because that, in itself, would provide a basis of experience with aboriginal self-government that might well hasten the day when we can achieve a constitutional amendment on aboriginal self-government.

Honourable senators, as the Leader of the Government has pointed out, the immediate background to this bill is a commitment made by the Prime Minister during the referendum campaign in Quebec in October. I want to say a word about the referendum result, and about the challenge it poses to all of us; a challenge to the existence of our country and, of course, the relationship of this bill and the issues it addresses to that challenge.

Some 94 per cent of Quebecers exercised their franchise in the referendum of October 25. Almost one half of them voted yes to a question which was intended to lead to the separation of Quebec from Canada. For a federation as old as ours, for a country as successful as ours and as blessed as ours, that referendum result was just pathetic.

Let us be clear about the causes of this state of affairs: Let us not be misled by superficial explanations offered by some commentators attributing the result to charisma, or the lack of it, of various leaders, or to deficiencies in the campaign strategy and tactics of the federalist organizers. No doubt such factors did play a part. However, a 94 per cent turn-out, honourable senators, is indicative of a highly motivated electorate.

What must concern us is the size of the vote for sovereignty and the reasons behind it. That vote was driven by a profound sense of rejection and alienation in Quebec, the most recent causes of which are the imposition on Quebec of the 1982 Constitution by the federal Parliament and the nine English-majority provinces, and by the failure of the Meech Lake Accord in 1990.

We know that a significant proportion of those who voted yes are not convinced separatists. They are discouraged federalists who believed that a no vote would be a dead-end for Quebec's hopes of redress and security in Confederation. Now we must win back those discouraged federalists. Sometime within the next 24 months, almost certainly, there will be another Quebec referendum, as Mr. Lucien Bouchard has promised it, or perhaps an élection référendaire. Some published public opinion polls in Quebec show that support for sovereignty has increased since the referendum. The existence of the country is hanging by a thread.

The central issue, the only issue, that has the possibility of breaking up the country is Quebec's place in Confederation. Yet almost everywhere one looks today outside Quebec, one sees reluctance to confront the issue, attempts to temporize with it, and stratagems to finesse it by addressing other issues. With the greatest of respect to those who are properly concerned about such matters as overlap and duplication in the management of the federation, it was not overlap and duplication that drove 94 per cent of Quebecers to the polls on October 25; it was something much more profound than that.

Honourable senators, this bill addresses one key element relating to Quebec's place in Confederation — a formula for amending the Constitution. The bill would establish a process that would let Quebec and any one of four other regions control the federal veto on certain amendments over which every province does not now have a veto, notably the Senate, the Supreme Court and the creation of new provinces.

It has to be said about this bill, as it has to be said about the distinct society resolution which is also before us that, if passed, these will become acts of the federal Parliament; they will not, as the Leader of the Government has said, be part of the Constitution.

• (1640)

It cannot be said too often that the security which Quebec needs in Confederation, through recognition of her distinctive character, and through her role in the amending process, can only be achieved by entrenching these matters in the Constitution. If, by the time of the next referendum campaign, the other provinces and the federal government cannot deliver these fundamental guarantees, then I believe that the federalist leaders and the federalist cause in Quebec will have been gravely compromised. No patriotic rally in Montreal or anywhere else will save us.

Mr. Lucien Bouchard could not be more clear: He is counting on us to fail in our quest for constitutional guarantees so that he can give the final, successful push to send separation over the top in 1997.

If, however, the nine provinces and the federal government can agree on several key constitutional proposals to secure Quebec's place in Confederation, and, even better, if they can pass such proposals through Parliament and their legislatures, preferably before 1997, then it is Mr. Bouchard and the separatists who will be on the defensive. If they accept such proposals, then Quebec's place in Canada would be confirmed and secured. If they refuse, they would lose the moderates whose support has been so crucial to them. Either way, separatism will have been defeated.

One hears Prime Minister Chrétien say that he is not offering constitutional proposals, because Mr. Bouchard and his future colleagues in Quebec City refuse to negotiate anything other than separation. However, our strategy in Ottawa and the nine provinces is not to try to convert Mr. Bouchard and his colleagues to federalism. We are not trying to satisfy the separatists. Our goal must be to reinforce the federalists in Quebec and to win back those whom we lost in the last referendum. A credible constitutional offer from Ottawa and from English Canada, an offer that is generally acceptable to federalists in Quebec, is the worst political nightmare of Lucien Bouchard and his colleagues.

The government wanted to make good on the commitment of the Prime Minister in the referendum campaign — a laudable enough objective. I regret to have to say that they have been incredibly inept in bringing this bill forward. This bill, according to ministers, was to be a bridge to the first ministers' conference on the Constitution, which must be held in 1997. Some bridge. Without a plan, without a sound foundation, Mr. Chrétien and Mr. Rock have cobbled together a jerry-built structure that has not at all improved our chances of succeeding in 1997, when the price of failure could be the break-up of our country.

[*Translation*]

It seems obvious that the government had not consulted the premiers of Alberta and British Columbia before tabling Bill C-110 in the House of Commons.

It is also obvious that, in the entourage of the ministers responsible for constitutional issues, there is a deplorable lack of advisors who know and understand the western provinces. This is a serious problem which must be addressed immediately.

In her speech, the Leader of the Government traced some of the history of that famous Victoria formula. She does not appear to have drawn the conclusions that are obvious. By trying to resuscitate the Victoria formula, the government made a huge mistake.

The concept of a Canada with four regions has been unacceptable to British Columbia for a long time. The very idea of regional vetoes, although accepted in Victoria and advocated by Mr. Trudeau in 1980, was rejected by the premiers in 1982.

I know that the Victoria formula was no more acceptable to the western provinces during the negotiations that preceded the Meech Lake Accord in 1987. In the amending formula to Meech, we applied the unanimity rule to several issues that, since 1982, could have been amended by seven provinces representing 50 per cent of Canada's population. These included amendments affecting the Senate, the Supreme Court and the establishment of new provinces. Thus, in the Meech Lake Accord, we had succeeded in reconciling Quebec's demand for a veto with the principle of equality for the provinces.

Even our colleague Senator Beaudoin suggested this Victoria formula. I do not challenge its merits. He recommended it in the report of the Beaudoin-Edwards committee. However, the provinces opposed it once again. As everyone knows, the tabling of Bill C-110 in the House of Commons, two weeks ago gave rise to an uproar in Alberta and British Columbia. Mr. Rock and the government finally yielded to the pressures of these provinces. They amended the bill to grant a regional veto to British Columbia. However, that late move did not succeed in calming things down, particularly in Alberta.

As the Leader of the Government pointed out earlier, Alberta, by virtue of its demographic weight, will control the regional veto of the prairie provinces. Yet, Premier Klein still seems opposed to the idea. The premiers of Saskatchewan and Manitoba, who welcomed the original version of the bill, are now much less enthusiastic.

If Bill C-110 had been approved by the House of Commons in its original form, Conservative senators would probably have proposed replacing the four regional vetoes with a version of the Meech Lake formula, namely the unanimity rule.

In its present form, the bill will be reviewed by a committee, which will hear provincial government officials. I feel that any interim, unilateral legislative measure passed by the Canadian Parliament must have a reasonable chance of being constitutionalized at the 1997 conference. Otherwise, Bill C-110 would be futile.

[*English*]

I must say, in light of the reception accorded Bill C-110 in various parts of the country, I am not very sanguine that this formula can achieve the unanimous consent that would be necessary to incorporate it as part of the Constitution in 1997.

• (1650)

Prime Minister Chrétien's commitment, as I understood it, was that until an amending formula acceptable to Quebec was adopted in the Constitution, the federal government would not proceed with any constitutional amendments affecting Quebec's place in the federation — those are my words, my interpretation of his commitment — without Quebec's consent.

That straightforward commitment could have been backed up by a parliamentary resolution. We would have had a proper bridge, in the interests of Quebec, to the 1997 conference. Instead, the Prime Minister resurrected the idea of four, then five, regional vetoes. With that idea arose all manner of rivalries, resentments and divisions.

Bill C-110 has failed the most elemental test of a national unity initiative: It has proven —

The Hon. the Speaker: Honourable Senator Murray, I hesitate to interrupt you, but your time has expired.

Is there leave for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Murray: I thank honourable senators.

It has failed the most elemental test of a national unity initiative: It has proven to be divisive.

Now, however, it has landed in our laps. A Senate committee, and ultimately this chamber, must try to deal with it without doing further damage to the prospects of success — that is to say, the prospects of Canada's survival in 1997. Let me be clear on the question of Quebec's veto. Permit me a personal reference. It was 14 years ago this week that I stood in this chamber, a few feet from where I am now standing, to oppose the Constitution Act of 1982. On that occasion, December 7, 1981 — and this is the first time that I have done this, namely, quote myself — I said:

> Whatever I know of the history of our country, and everything I know or believe about the nature of our country, tells me that no Canadian Constitution can endure that does not have the support of both Quebec and English Canada in general.
>
> The evidence indicates that this measure lacks the necessary support of Quebec. The evidence shows that a majority of the National Assembly of Quebec, representing government and opposition parties, does not support the measure.

I then asked:

> Does Quebec have a veto? The courts will be called upon to render a judicial decision on that. I believe that most Canadians acknowledge, as an essential fact of our national existence, that Quebec has had and does have a veto on changes which affect her own status and the powers of her legislature.

Later, I said:

> This measure was born of a constitutional consensus of which Quebec is not a part. The Charter of Rights, the fact that we will now have an amending formula, even the achievement of patriation, in my opinion, are vastly outweighed by the definitive, historic fact of Quebec's exclusion and opposition. That being the case, this Constitution cannot last and will not last. It does not have the dual consensus of support which is an essential element of survival in this country.

Honourable senators, not long afterwards, the Supreme Court ruled that Quebec did not have a veto. For 117 years — that is, until 1982 — no federal government proceeded with any significant constitutional amendment over the opposition of Quebec.

Even Mr. Trudeau spoke, after the fact, of Quebec's "traditional veto." I think I am quoting him exactly — I had better be. I am referring here to an exchange of letters that he had with Premier René Lévesque.

Honourable senators, what we are talking about here and now in 1995 is whether Quebec, the only majority French-speaking society in North America, is to have the security of knowing that its place in Confederation — specifically its place in institutions such as the Senate and the Supreme Court — will not be changed without its consent. My party has always respected that principle, and I trust and believe that we will continue to do so.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Pierre De Bané: Honourable senators, I listened carefully to Senator Murray's important contribution. I listened to his criticisms. I did not agree with some of his comments, nor with some of the points he raised in this chamber. I must say, however, that I am grateful for his great sensitivity to Quebec's situation.

That being said, after hearing him say how things should be done today, when he himself was very involved for several years in an effort that failed despite all his hard work, in that area and in others, I think that we should perhaps leave well enough alone. We should set an attainable goal rather than aim for an unreachable ideal. The honourable senator himself spent an enormous amount of energy on this. He knows how that effort failed in 1990.

Like the Leader of the Government, I maintain that this bill is an extremely important step precisely to reassure Quebec about the changes that could affect it.

As the Prime Minister pointed out, this bill fulfils one of the three commitments he made on behalf of the federal government during the referendum campaign: not to go ahead with any constitutional change that could affect Quebec without Quebecers' consent.

[*English*]

The bill does more than respond to that undertaking. It ensures that constitutional amendments concerning all Canadians will not be made without substantial support from all regions of Canada, Quebec included.

As the Prime Minister said, the Government of Canada recognizes the legitimacy of Quebec's long-standing desire that its consent be given before major constitutional changes are undertaken. The Prime Minister went on to note that the government equally acknowledges the interest of all parts of Canada in such amendments. If they are to be supported widely by Canadians, they should be the result of a broad consensus throughout the country.

It is for these reasons that the government is committing itself, through this legislation, to exercising its veto over proposed constitutional amendments that do not enjoy sufficient support in all five regions of Canada.

[*Translation*]

Honourable senators, in the absence of a constitutional amendment — which is impossible as long as the Government of Quebec refuses to consider any constitutional amendment for the renewal of the Canadian Constitution proposed by the federal government or other provinces — this bill fulfils the commitment made by the Government of Canada not to assent to any general constitutional amendment without the consent of the regions, including Quebec.

[*English*]

Some will ask: Why a bill rather than a proposal to amend the Constitution?

• (1700)

While I have just given the very pragmatic reason for the approach the government is taking, it does lead me to ponder whether governments in Canada have perhaps become obsessed with the idea that Canada's constitutional problem can be resolved only with constitutional amendment, rather than looking to more practical solutions. Let us give ordinary legislative administrative changes a chance.

How will this regional veto work? To answer this question, it is first necessary to outline the relevant amending formulas found in Part V of the Constitution Act, 1982. The three key formulas are the unanimity formula, the bilateral formula, and the general amending formula. For amendments under the first two, each province has a veto. The unanimity formula covers such pivotal matters as changes to the use of French or English at the national level, the composition of the Supreme Court, and changes to the amending procedures themselves. None of these can be changed without the consent of every province. Consequently, provinces have no need of the federal veto to protect them against these kinds of changes.

The so-called "bilateral formula" is used to make amendments to provisions of the Constitution that apply to less than all provinces. In particular, it covers changes to boundaries between provinces and to minority language rights within a province. Changes to this type of provision can be made only with the consent of Parliament and of each province to which the amendment applies. Again, every concerned province has a veto and does not need additional protection from the federal government.

The general amending formula applies to two categories of general amendments. One includes changes to the institutions of the national government and expansion of existing provinces or creation of new provinces. The other covers all other general amendments that cannot be made under another formula, such as changes to the division of powers or changes to the Canadian Charter.

[*Translation*]

The only right comparable to the veto granted to the provinces under this new amending procedure is the power to opt out of any amendment that restricts the rights or legislative powers of the province. To that extent, the provinces have a real veto power, as they can prevent a given amendment from being applied on their territory.

For the rest, a general amendment not sanctioned under the 7/50 general amending formula could, however, be binding on the provinces. It is against these kinds of general amendments, which cannot be opted out of, that the bill will afford the provinces protection through a regional veto.

In short, at present, only the House of Commons has an absolute veto that it can use against just about any constitutional amendment. This bill ensures that Quebec, Ontario, British Columbia. as well as the Atlantic region and the Prairies have a general veto on any constitutional amendment in areas over which they currently have no veto or opting-out right. They will be able to impose this veto on any change to national institutions such as the Senate, to the foundation of new provinces and to any change in the distribution of powers or in the rights and freedoms guaranteed under the Charter. In that regard, I think that we are going as far in here as in the Meech Lake Accord.

[*English*]

The bill does not attempt to provide a veto for every province since this would be simply to compound the problems which unanimity brings. It does provide an overlay on the operation of the 7/50 formula which commits the federal government to ensuring that, before it decides to have the House of Commons or the Senate consent to an amendment, it is satisfied that the amendment enjoys the requisite degree of consent from every region of Canada.

Under the bill, a constitutional amendment would have to receive the consent of at least seven provinces, including Quebec, Ontario, British Columbia, two provinces from the Atlantic region representing more than 50 per cent of that region's population, and two provinces from the prairie region representing more than 50 per cent of the prairie population, before the federal government could propose it to Parliament.

I should like to speak about the amendment to Bill C-110 which the government introduced to add British Columbia as a fifth region under the bill. As the Minister of Justice stated when introducing the amendment, it is the result of the government's having listened to members of its own caucus, members of Parliament and senators from British Columbia, and to the population of British Columbia who clearly and convincingly expressed their views and those of their constituents to the effect that the time has come for the province to be recognized as a region for the purposes of this bill.

Bill C-110 as amended responds to the need for a realistic reflection of British Columbia's status as a specific region of Canada. British Columbia is one of the most rapidly growing provinces, with 12 per cent of the country's population in 1991, 12.5 per cent in 1994, and it is projected to be 13.2 per cent in 2001. While it is smaller than Ontario, at 37 per cent, and Quebec, at 25 per cent, it has almost 42 per cent of the population of the western provinces and it is projected to have 45 per cent by 2001. The size and the population of British Columbia, its contribution to the Canadian economy, and its unique Pacific positioning were factors that contributed to the recognition of B.C. as a fifth region.

Under the bill, the federal government could not proceed to introduce an amendment if one of the five regions refused to give its consent, even if the requirements of the 7/50 formula were met.

[*Translation*]

The bill does not amend the Constitution; however, a statute enacted in Parliament does create a legal obligation and the federal government will be required to comply with that law.

There has been some suggestion that this represented an unconstitutional obstacle to an area of federal jurisdiction or an indirect change to the procedure of constitutional amendment. It is our feeling that the bill would hold up to a legal challenge of its validity in that it is within the normal purview of Parliament to limit or direct the actions of government. The bill is not intended to create a revision procedure which would take precedence over the amending mechanisms set out in the Constitution. It is merely a mechanism which can guide the federal government with respect to a provincial and regional consensus sufficiently strong to justify a general constitutional amendment approved by the Commons and the Senate.

As far as Quebec is concerned, this veto is along the same lines as our intent in the same respect in the Meech Lake Accord.

[*English*]

There will be a first ministers' conference by April, 1997 on the amending formula. At that time, constitutional changes could be discussed. However, this government did not want to wait so long. We should not forget that the current Quebec government's agenda is separation. Canada has to find ways to modernize our great country in unity. Our country has been recognized by the United Nations as one of the best places in the world in which to live because of our quality of life. We should keep making improvements to the federation while respecting the specific needs of the various regions of the country.

• (1710)

I would ask honourable senators to support this bill which gives to Quebec a regional veto and which goes a step further in giving regional vetoes to Ontario, British Columbia, the prairie region and the Atlantic region.

Hon. Pat Carney: Honourable senators, I rise today to speak against Bill C-110, respecting constitution amendments. This is a very short bill; only six paragraphs long, slightly over one page. It contains only two clauses. The first clause deals with the veto, and the second clause deals with definitions. Yet, this tiny scrap of paper, this bridge to Confederation, has already proven capable of demolishing much of the goodwill created by the very close referendum result in Quebec. I will give you a random sample of headlines from British Columbia's media at the time: "Chrétien's West blunder sparked anger in B.C."; "Adding fuel to B.C. ire"; "Chrétien on Monday worsened Confederation's chances"; "Misdeal"; "Dated ideas underlie Ottawa's willingness to offend B.C."; "Chrétien plan 'insult to B.C.'"; "Mighty misguided"; "Mr. Chrétien knows how to unite B.C., if not Canada"; "Plan condemned as offensive view of the country."

I could go on, honourable senators, but you can see why the efforts of the government to unite Canada on such an important issue has already been destroyed by the contents of this bill, even in its amended form.

I will use my time, honourable senators, to tell you what British Columbians have been saying about this bill. However, before I talk to you today about the reaction of British Columbians, I wish to make two important points.

First, British Columbians generally love our country. Canadian unity is important to us as a Pacific province, and we are proud to be part of Confederation. As a matter of fact, we feel that we contributed to Canada when we joined Confederation in 1871 as an equal, independent colony. We can claim to have created the present concept of Canada by joining Confederation. We made possible the vision of a country that stretched from sea to sea to northern sea. Some of us can ask with justification: Where would they be today — the rest of Canada — without us? What if we had joined instead with our natural, geographic allies, Alaska and the Pacific Northwest? Would the prairie provinces, dependent on ice-free Pacific ports to ship their grain, have joined central Canada when they were carved out of the Northwest Territories? Would the maritime provinces have stayed in a smaller scale of Confederation, or would they have joined the expanded United States of America?

This is a point that was understood by our first Prime Minister, Sir John A. Macdonald, who was very conscious of the role of British Columbia as a land bridge to the Pacific. In talking about the railway, which was the rainbow that was to unite us, he wrote to Sir Stafford Northcote, who was Chancellor of the Exchequer in Benjamin Disraeli's cabinet. He said:

> Until this great work is completed, our Dominion is little more than a "geographic expression." We have as much interest in B. Columbia as in Australia, and no more. The railway once finished, we become one great united country with a large interprovincial trade and a common interest.

You can see, honourable senators, that Canada has always benefited from the participation of British Columbia.

However, the view of British Columbia and our angry reaction to much of this bill reflects the view that it has caused disunity. It has strained the tired and torn body of Confederation. It looks backward to the past when we should be looking to the future. Not only is the content of the bill flawed because it will impose a straitjacket on the future and make it difficult to change our Constitution by the rent-a-veto to the provinces, but the very process itself is flawed. I want to remind honourable senators how important it is.

Our Confederation has evolved from the original Fathers of Confederation and the original union. We added British Columbia. We carved the prairie provinces out of the plains and out of the Northwest Territories. Even this week in the new territory of Nunavut, which has evolved in the last few years from the Northwest Territories and the old Rupert's Land, the people of that area have voted and chosen Iqaluit as the new capital of their region. We have, as the Leader of the Government in the Senate pointed out, the issue of provincial status for the Yukon. In order to grow, thrive, adjust and adapt, we need a Constitution and a confederation that can be more flexible. This bill will hobble that approach.

In terms of the flawed process, it is of course a unilateral attempt by the federal government to impose change through the back door which it cannot achieve through the front door.

I was a member of the cabinet that introduced and brought forward Meech Lake. I was a member of the Parliament that approved Meech Lake. I did that not because it was so great for Quebec, which of course we believed it to be, but because we believed that it was good for the unity of the entire country. It was good for B.C., Alberta and all of the provinces. We do not have that view of the bill before us today.

Before I discuss the view of British Columbians, I would mention some of the views put forward by the Liberal government. First, we have the statement by the Prime Minister that this bill, even as amended, is good for British Columbia. He told British Columbians:

> Some people are trying to characterize this tremendous progress as a setback. Do not believe them. It is the opposite. It's the start of a new era of British Columbia's strength in Canada.

We always knew we were a region. I do not see why it took so long for other people and Liberals in central Canada and Ottawa to understand that. There was very clear knowledge among B.C. Liberals that we were a region. I am surprised that Prime Minister Chrétien did not understand that.

Then we have the comments of the minister responsible for national unity. This is what the western member of the unity committee of cabinet, Anne McLellan, is reported as having said in *The Ottawa Citizen* about British Columbia's claim that it should be treated like Ontario and Quebec:

> "I don't understand the basis for their claim. It can't be population, because their population is nowhere close to Quebec's and Ontario's. It's much closer to Alberta's than either of the other two. They are not the homeland of one of Canada's two founding people or Canada's first peoples. I think one needs to inquire about the basis of the claim..."

If Minister McLellan had been a little more attuned to British Columbia's reality, she would know that one of our claims is that B.C. was probably the original multi-cultural, multi-ethnic part of Canada. Chinese Canadians were among our earliest non-aboriginal citizens. Fifteen hundred of them died attempting to build the railway that united us, one for every 450 yards. As Liberal Ted McWhinney pointed out, that is one of the unique aspects of our province.

Hedy Fry, is MP for my former seat of Vancouver Centre —

Senator Cools: Splendid woman.

• (1720)

Senator Carney: We have a good record in Centre, three out of three in the last few elections, two Conservatives, one Liberal.

Ms Fry has written in the *Vancouver Sun* that, while many were angry that British Columbian MPs voted to move Bill C-110 to committee, one only has to look at the process, and she goes on to argue that the bill was dealt with in a reasonable way in committee. We should be aware of the fact that the bill was introduced in the House of Commons on November 29 and reported and passed with amendments on December 13.

In that period, there were only 11 days to deal with this tiny piece of paper which is now before us, and which has such an impact on British Columbians as well as the rest of Canada.

Let me just share with you some of the views of British Columbians reviewing this bill. First of all, we have Premier Harcourt who, on December 12, just this week, wrote to the Right Honourable Jean Chrétien. He pointed out that it was gratifying that the government decided to recognize British Columbia as a region in its own right, as has been noted in this house. He wrote:

> However, the change from four regions to five does not address the fundamental problems inherent in the regional veto approach itself. The proposed veto structure puts us in a situation where change in the interests of the West are almost impossible.

I should like to remind honourable senators about the responsibility of this chamber. This chamber represents the regions. British Columbia has now been recognized as a region by the Liberal government through this bill. Does that mean we will get our share of regional representation in the Senate? The region of British Columbia, as defined by this bill, only has six senators. The region of the maritimes has 30. Is that equal? Is that fair? The region of Quebec has 24 members, and so does Ontario. Even the tiny provinces of Atlantic Canada have more senators than the region of British Columbia.

I am asking the Liberal members of this chamber: Where will they be if British Columbia decides that it wishes to have more senators, perhaps elected senators? Prime Minister Mulroney was the first prime minister to appoint to this chamber an elected senator, the late Stan Waters from Alberta. If initiatives like that of Reform MP Jim Abbott proceed, so that senators can be elected in B.C. and then appointed to this chamber by the Prime Minister, will you be so supportive of our efforts? Will the Quebec government and the province of Quebec be supportive of our efforts to increase our share of Senate seats to that consistent with a region? We will wait and see.

Senator Berntson: Of course, you would have to give six more to the prairies.

Senator Carney: The senator from Saskatchewan agrees that, of course, the west's representation in the Senate will require beefing-up, according to this regional veto which has been introduced.

To return to the Premier's letter to the Prime Minister:

> The position of British Columbia remains that Bill C-110 is seriously flawed and should be withdrawn.

The minister in B.C., Andrew Petter, who is chair of the cabinet working group on national unity, did not have an opportunity to even appear before the Justice Committee. I am pleased and gratified that members of this chamber will give him that opportunity to appear before the committee set up by the Senate. His position is that:

> ...simply granting British Columbia a veto, while preferable to the current proposal —

That is, before the amendment.

> — will not address the myriad of other problems with the federal government's proposed "rental" veto.
>
> The fact that Ontario and Quebec obtain provincial vetoes while other provinces are relegated to being part of a region, creates two classes of provinces, with special status for Ontario and Quebec.

And now, of course, British Columbia.

> The regional veto is an attempt by the federal government to amend the constitutional amending formula through the back door. Because Bill C-110 will change the way that the amending formula works in practice — for instance, proposed amendments which meet the current 7/50 test could be defeated by one region exercising its veto. The 7/50 amending formula was adopted in 1982 and the provisions for regional vetoes were rejected.
>
> The proposed scheme does not even pass its own test. The scheme does not have the requisite approval of the western region.

If this piece of legislation were in effect today, it could not pass because British Columbia, as the region, opposes it and Alberta, the *de facto* majority in the region of the Prairies, opposes it, let alone Quebec's opposition. This law could not even pass under the test of its own implementation. That is the flaw that Minister Petter so correctly points out in this bill.

We have also heard from Mel Smith, who is known to many of you. He was, for a period of 20 years, the senior constitutional advisor to four successive British Columbia premiers. He is very familiar with this issue. He points out:

> The fact of the matter is that in 1981 governments considered that they put the amending formula issue to rest after 54 years of negotiations.
>
> We already paid for the amending formula that we have in the Constitution. We should not have to pay again in 1997 to remove this offensive legislation from the books.
>
> The amending formula agreed to at that time was the *quid pro quo* for accepting Mr. Trudeau's Charter of Rights, a formula that recognized to a substantial degree the judicial equality of the provinces with a high degree of flexibility so as to protect provincial interests.

He makes the point which I and other British Columbians have made:

> British Columbia badly needs reform of the National institutions of the country so as to give it more power in Ottawa. Obviously, the results of Bill C-110 would be to effectively block such reform and, in my view, will lead to national disunity.

The media has shown surprising unanimity on this issue. I have picked as a representative sample the *Vancouver Sun*'s editorial of December 8, 1995.

The Hon. the Speaker *pro tempore*: Senator Carney, I regret to interrupt but the rules require that I point out that your time has expired.

If there is leave, the honourable senator may continue. Is leave granted?

Hon. Senators: Agreed.

Senator Carney: Thank you, honourable senators.

To continue the quotes from British Columbians, the *Vancouver Sun* reported, under a headline called "Veto Mania" stated:

> More regions, more vetoes equal more trouble for Canada.
>
> Well, snap our suspenders, British Columbia has got its veto. Maybe now we can get together with Ontario and Quebec and form a support group, called it Provincial Survivors of Confederation.
>
> If vetoes are the name of the game, B.C. should have one. But vetoes are a bad idea. Canada already has a Constitution; it already has an amending formula. Proliferating vetoes impede change, and change — a representative Senate, for example — is part of what B.C. needs to take its rightful place in today's Canada. Prime Minister Jean Chrétien should have taken all the vetoes away, not given out another one.
>
> ...This veto may temporarily cool British Columbians down, but because it inhibits change it will neither appease them nor cure what ails the country.

I can remind members of this chamber that five B.C. Reform MPs broke their party ranks and voted for the amendment that gives B.C. a regional status. Of course, they voted against the bill.

Then I have a series of comments from people who have either written or phoned us. Any B.C. senator will tell you that the switchboards have been lit up ever since this bill received first reading. From Vancouver:

> Mr. Chrétien has made a well-intentioned, but nonetheless disastrous, attempt to satisfy Quebec's insatiable demands while still keeping the rest of Canada in line. The result, I predict, will be a Canada even more deeply divided and troubled than that which already exists.

I have a letter from North Vancouver:

> To have the Prime Minister, accompanied by Sheila Copps with tears in her eyes, blaming the West for being responsible for the problems in Quebec shows their total ignorance of the West and all we stand for.

This is one from Vancouver:

> I am writing to express to you my concern and anger at that the way the CHRETIEN GOVT. continues to ignore the voice of B.C.
>
> I think the time has come for B.C. to have a massive temper tantrum, and we must make it clear to OTTAWA that we will be heard.

Another one, addressed to the Prime Minister, again from North Vancouver, dealing with the constitutional proposal, reads:

> The essence of this proposal was already roundly defeated in the Charlottetown Accord referendum of 1992 in all parts of Canada. In addition, the process by which this initiative is being put forth is flawed. You have not consulted with the people or the government of Quebec, nor have you done the same thing with the other nine provinces and territories.

I want to remind honourable senators in this chamber that British Columbia rejected the Charlottetown accord by a higher percentage than any other part of the country, so you can see why they are particularly bitter about this. This letter shows why they are upset.

Another letter from Victoria:

> I am outraged by these peremptory and dictatorial actions by the Prime Minister. I think he must have lost his mind. I am aware that he has made wild, irrational and totally insupportable promises to the people of Quebec on the eve of their provincial referendum. One would have thought fatigue would have explained much of this — and a general inability to understand that "if you are up to your ass in alligators, perhaps it is time to drain the swamp!"

I could go and on. Here is another one, again from the Lower Mainland area:

> I applaud your comments. It's exactly how I feel. It's how people in my office feel, and it's how the people I ride the bus with feel.

Honourable senators, I will not take up your time. There is the odd letter that speaks in support of the distinct society status, but I think that honourable senators understand the general tenor of the remarks in British Columbia.

Honourable senators, you have been very patient. I wish finally to say that the approach to which British Columbians are responsive is one that looks forward. The approach to which British Columbians warm is one that I use, and it is one that our leader Jean Charest uses. It is an approach that simply takes the position that we should abandon these out-of-date instruments of

the past, and instead look for new ways, new instruments, new visions of Canada. Let us move on in a way that will create true unity. Otherwise, I can advise the members of this chamber that the question that my colleague Lowell Murray put earlier, the question of what do the federalists in Quebec want, will have to be broadened because the issue will then become, in the next referendum, what do the federalists in Canada want in order to keep the country together?

I can tell honourable senators that the answer in British Columbia quite probably will be that we want equality among Canadians. It is an essential part of our culture, our ethic, our history, and it is something which I do not believe British Columbians will willingly give up.

On motion of Senator Graham, debate adjourned.

NATIONAL HOUSING ACT

BILL TO AMEND—REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Lowell Murray, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, December 14, 1995

The Standing Senate Committee on National Finance has the honour to present its

TWENTIETH REPORT

Your Committee, to which was referred Bill C-108, An Act to amend the National Housing Act, has, in obedience to the Order of Reference of Thursday, December 14, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY, P.C.
Chairman

THIRD READING

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

Hon H.A. Olson: With leave, now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

QUEBEC

MOTION TO RECOGNIZE AS DISTINCT SOCIETY ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Graham,—That

Whereas the people of Quebec have expressed the desire for recognition of Quebec's distinct society;

(1) the Senate recognize that Quebec is a distinct society within Canada;

(2) the Senate recognize that Quebec's distinct society includes its French-speaking majority, unique culture and civil law tradition;

(3) the Senate undertake to be guided by this reality; and

(4) the Senate encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

Hon. Lise Bacon: Honourable senators, from time immemorial, nations have had to face the challenge of designing a system under which their citizens are able to live their lives and develop their potential while respecting certain fundamental values. Those values include peace, freedom, tolerance and justice.

Our federal system respects those values, as all Canadians will testify, whether they live in Newfoundland, the Yukon, British Columbia or Quebec. Our federal system does not harm the interests of a single region in this country. On the contrary, it has enabled them to develop their potential. Every part enjoys the advantages of the whole, not only because of the possibilities within the system but also because of the system's outside connections.

On the international scene, all provinces enjoy an enviable position thanks to Canada's privileged position in the world. The federal government does not watch the evolution of this country as a spectator. It supports and encourages that evolution. Far from being frustrated, the development of the various regions within the Canadian federation is stimulated.

At a time when the current trend is toward the formation of large units and no individual country can claim to have exclusive control of its affairs, it is surprising that some people should see our federal system as constricting.

Our system is certainly not constricting, nor is it doomed to "eternal stagnation," since federalism is, by definition, flexible and adaptable.

As our leader said last week, and I quote:

> Historically, the differences between the provinces have caused our federal system to seek different means, options and arrangements.

Our federal system is ideally suited to people of different languages and cultures who wish to be free to discuss and settle their differences in a spirit of compromise and mutual respect. We have done so in the past and we will continue to do so.

On November 27, the Prime Minister announced three initiatives in response to commitments made during the referendum campaign in Quebec. I would like to comment on the first commitment, which was to recognize Quebec as a distinct society within the Canadian federation.

The people of Quebec have expressed the desire to be recognized as a distinct society. The motion on distinct society asks us to recognize that Quebec is a distinct society within Canada; that this distinct society includes a French-speaking majority, a unique culture and a civil law tradition; and to undertake to be guided by this reality; and to encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly.

This motion goes to the very heart of Quebec's distinctiveness. It stipulates that Quebec's distinct society includes a French-speaking majority, a unique culture and a civil law tradition. This definition of Quebec's distinctiveness is not restrictive and is true to reality.

Canada has a tradition of respect for diversity and the Canadian reality includes the Quebec reality. Although there is no talk of constitutional changes at this stage, it is important to emphasize that this measure represents a solemn commitment that would set a standard in the drafting of laws and regulations.

I would like to remind you that the Quebec government under René Lévesque, used this approach to recognize the rights of aboriginal people, and that no one has ever questioned his action.

Some are opposed to this motion because they play down its importance. Mr. Bouchard himself was very clear on this. He said that he would not support any constitutional changes. Others, however, are opposed to this initiative because they see it as broader than it really is.

In an article published in the December 2 edition of *La Presse*, Albert Malouf, a former judge with the Quebec Court of Appeal, said this:

> In my opinion, the reason why the other provinces reject distinct society is that they do not understand its meaning and fear that it may give Quebec additional powers.... People of goodwill negotiating in good faith should be able to overcome this problem.

I will conclude my remarks, because I know that several of my colleagues want to speak, by saying that one thing is for certain: Quebec's distinctiveness is an obvious, inescapable reality. The motion before us would simply recognize this fact.

Hon. Gérald-A. Beaudoin: Honourable senators, we have before us a motion on the distinct society.

The text of the motion is factual; it identifies a fact. This is a minimum. The concept has raised many heated discussions. This time around, we are not asked to entrench this concept in the Constitution. This is a formal statement made by both federal houses.

Naturally, many will deplore right off the bat the fact that the motion is not constitutional in nature. Many would have preferred the wording used in the Meech Lake Accord or in the Charlottetown accord, the former going somewhat further than the latter. I have no intention of reopening a debate that has filled a great many pages, if not entire bookshelves.

The principle of this statement is not bad. Quebec must see Canada as it is; Canada outside Quebec must see Quebec as it is. This is the basis on which the future of Canada must be built.

The October 30 referendum is forcing us today, more than ever, to see things as they are.

[*English*]

The concept of distinct society is not new. In 1867, in the British North America Act, the administration of property and civil rights was awarded to the provinces. In the same act, section 94 dealt with the possible uniformilization of the common law system, but civil law was left out because Quebec had a different system of private law.

Since August 1, 1866, Quebec has had a civil code. It was Sir George Étienne Cartier who, in the Parliament of the province of Canada, had proposed some years earlier the codification of the Quebec French civil laws under the name of "Code civil du Bas-Canada."

The concept of distinct society goes as far back as the Quebec Act of 1774. Can you imagine? The Parliament at Westminster adopted a statute restoring the French laws in Quebec, then a colony of the British Empire.

Lord North was a man of vision. My French ancestors in Quebec sided with the British Crown at the moment the American insurgents sent delegates to Montreal to convince les canadiennes to be on their side.

The word "distinct" does not mean superior or inferior. It means different; not more, not less. It does not give additional legislative powers or competencies.

[*Translation*]

It has the merit, however, of identifying, of setting the people of Quebec within the Canadian federation. It has symbolic value, of course, but it also has value in itself. It indicates that, in Canada, there is more than one community, starting with the aboriginal people who have been living on this land for millenniums and whose constitutional rights were recognized through section 35 of the Constitution Act, 1982.

Is it better to mention the distinct society or not? I think we should, because it reflects a reality. Given that a Constitution is tailor-made, it is better to see the stuff it is made of.

The concept of multiculturalism was entrenched in 1982, in section 27 of the Charter of Rights. Why not the distinct society then? For the time being, we have before us a formal statement binding on Parliament.

The courts, and the Supreme Court of Canada in particular, have been juggling with the concept, for example in the *Ford* decision, where the Supreme Court addressed the issue of the French face of Quebec and the marked prevalence of the French language. In its 1916 reference on insurance, the Judicial Committee of the Privy Council interpreted the expression "trade and commerce" used in section 91 of the Constitution as meaning only extra-provincial trade, to protect Quebec's civil law, they said.

Just one word on the different meanings of "distinct society" in the Meech Lake Accord and in the Charlottetown accord.

[*English*]

In the Meech Lake accord "distinct society" is not defined as such; it is, however, the case in the Charlottetown accord. When you define, you always restrict. In the Meech Lake Accord there is an equilibrium between "distinct society" and "linguistic duality" while in the Charlottetown accord "distinct society" is a concept, a declaration, amongst others in the Canada clause.

[*Translation*]

I want to say a word about the difference between collective and individual rights. The Supreme Court of Canada stated on a few occasions that, as a rule, the 1982 Canadian Charter of Rights and Freedoms concerns individual rights. So far, it has only recognized as collective rights the denominational rights protected by section 93 of the 1867 Constitution Act, and the rights of aboriginals entrenched in section 35 of the Constitution Act, 1982.

However, it ruled that certain individual rights, including linguistic rights and freedom of association, involve collective aspects.

I support the recognition of Quebec as a distinct society. I hope that this recognition will be entrenched in the Constitution at the earliest opportunity.

[*English*]

I wish to add a few words on Bill C-110, which is related to the other. That bill will add one more element to a formula of amendment which is already heavy. The Parliament of Canada, which has a veto in most cases, is ready to not use its prerogative, if one of the five regions of Canada is against a proposal of amendment. However, who will speak for Canada?

[*Translation*]

The veto formula would not apply to sections 38(3), 41, 43, 44 and 45, but it would, of course, apply to sections 38 and 42.

I always felt we should do something to facilitate the entrenchment of a veto for Quebec. That province has wanted a veto since 1927. In my opinion, if the Constitution provides that Quebec is distinct and has a veto, and if an adjustment is made in the distribution of powers, Quebecers will choose to remain in Canada. Otherwise, there is a strong possibility that they will decide to leave Canada when another referendum is held in that province.

The next constitutional rendez-vous is scheduled for April 17, 1997. It is mandatory. We must immediately work to ensure that, in 1997, we can offer a veto to Quebec in those sectors where its survival is at stake, or at least, in the areas which reflect its distinct nature. We are very close to the April 17, 1997 deadline, when we will have to review the 1982 amending formula. The decisions that will be made in the months to come will impact on those of April 1997.

We must take a more in-depth look at this issue before going any further. A Senate committee could do that.

I am still not convinced that the measure is unconstitutional. However, I think it borders on the unconstitutional. It puts together two formulas, sometimes by relying on the Constitution, sometimes on an act. This is another reason why we should review this issue in committee and consult a few experts.

I hear the argument that no constitutional amendment can be proposed because Mr. Lucien Bouchard will never accept anything. I say that if Canada, apart from Quebec and the Canadian Parliament, agree on significant constitutional amendment proposals, that is on the distinct society, on a veto and on an adjustment in the distribution of powers, Mr. Bouchard will react. And if he does not, Quebecers will.

[*English*]

The Hon. the Speaker *pro tempore*: Do I understand that it has been agreed not to see the clock?

Hon. Senators: Agreed.

Hon. Jerahmiel S. Grafstein: Come, let us now praise Canada, for Canada is a distinct society. The rest is commentary. Canadians, themselves, can count the ways.

Hon. Noël A. Kinsella: Honourable senators, I rise to speak in favour of the resolution before the Senate proposing that the Senate recognize Quebec as a distinct society. In my perspective, it would have been much more preferable had this reality become part of the Charter of Rights and Freedoms in 1982, much the same way as section 27 of the Charter instructs the courts through the Constitution itself that they must interpret all of the rights of Canadians in a manner consistent with our multicultural heritage. The model I prefer would see, right in the Constitution itself, recognition of Quebec as a distinct society, with the same kind of interpretive instruction flowing with it.

In my view, it would have been preferable if all governments in Canada had supported the Meech Lake Accord which proposed the explicit recognition of Quebec as a distinct society, as alluded to by Senator Beaudoin and others.

Further, we in New Brunswick supported the 1992 referendum on the Charlottetown accord at the ballot box, which accord included the recognition of Quebec as a distinct society.

Honourable senators, I stand as a New Brunswicker who is proud to be supporting this resolution, for it speaks to a reality which I am convinced will some day find expression in the Constitution of Canada, becoming much more than a resolution or a guide for parliamentarians in this chamber.

However, what are we to say to those who argue that such a recognition gives to Quebec rights that other Canadians do not have? First, let us reflect on section 27 of the Charter. Section 27 does not give special rights to ethnocultural communities in Canada. It does guarantee that all Canadians will enjoy the rights contained in the Charter, and that the courts and tribunals must interpret those rights in a manner consistent with the multi-cultural heritage of Canada. Therefore, the distinct society resolution, although one which only gives guidance to Parliament, will be utilized in very creative and imaginative ways so that the initiatives of Parliament are undertaken in direct response to the needs of the people of all parts of Quebec and all parts of Canada.

In particular, this resolution gives us the opportunity to recognize that all rights are not self-executory, that there are many rights which are programmatic by nature. For example, in Canada, the right to education is recognized as a human right. That view is reinforced by the fact that we are a signatory to an international covenant on human rights which recognizes the right to education. However, the right to education is meaningless if we do not have an education system, a school system. Thus, governments and society have to intervene to give flesh and bones to a right such as the right to education.

• (1800)

It is hoped that Parliament will seize the day and respond directly to the needs of the people, whether they are in Rivière-du-Loup, Chicoutimi, or in any other part of Canada, and that it will do so in a manner that is guided by this resolution. Parliament has to be creative, it has to seize the day — it must take control of the national agenda on national unity. No longer will it be acceptable for the federal government, or Parliament, to be paralysed by the type of timidity and hesitation shown during the October 1995 referendum in the province of Quebec.

Leadership in the securing of economic, social and political stability within the Canadian federation must come from the Government of Canada. It must come from all members of the Government of Canada. In my view we have to be supportive of the government and the Prime Minister when he or she is right and has a program which is supportable.

We know that the leadership must come from the Government of Canada. We know that the Government of Canada has responsibility and speaks for the people of Quebec, as it speaks for the people of New Brunswick and the people of whatever part of Canada in which they find themselves. It is not simply the government of New Brunswick that speaks for New Brunswickers; the Government of Canada speaks for New Brunswickers as well.

The people of Quebec have their spokepersons in Parliament. We know, from his own words, that the leadership that is necessary as we enter the twenty-first century will not come from Lucien Bouchard. He has told us bluntly that he will not accept "any constitutional agreement short of recognizing Quebec as a sovereign equal to Canada." He also said, "I am a sovereigntist" when asked if it would ever be possible for him to sign a deal in which Quebec would remain in Confederation.

We have to recognize that kind of reality. Parliament must act, as must the federal government. There must be a plan and a vision. Leadership cannot be provided on an ad hoc basis. We need to set out creative principles, rich principles. I believe the recognition of Quebec as a distinct society is such a principle.

We need also to set out some of the non-negotiable parameters. We must explode, we must expose, we must expunge the error, the myth, that a province of Canada has the right to determine unilaterally whether to secede from Canada. This view should no longer be given any currency in this country. The time has come to reject categorically the myth perpetuated by the separatists that there exists for any province the legal right to secede.

[*Translation*]

Hon. Jean-Robert Gauthier: Honourable senators, I am extremely pleased to take part in this debate, and extremely pleased with what I have been hearing up until now. I have heard comments, arguments, analyses of the October 30 referendum. These were both interesting and pertinent. What has been said up until now has been highly interesting, highly pertinent, highly constructive, and I congratulate my colleagues on this.

It is too easy to analyze the situation as some newspaper editorials have done, concluding that there is an obvious malaise in Quebec, the result of a campaign by francophone nationalists with a very ambiguous referendum question. Others will say — another facile conclusion — that the 1995 No campaign did not have anything in it to attract Quebecers.

It is also very easy to say that renewed Canadian federalism was not properly explained to Quebecers. It is also too facile an explanation to say that the sovereignist politicians were more successful in selling their ideas, better organized, and that the No campaign did not work.

I have heard all of these things, as you have, and there is probably an element of truth in all of them. But it must be understood — and this is essential — that Quebec is a distinct province, distinct from the other nine. Yes, there is a serious malaise. All one has to do is read the daily newspapers in Quebec, or switch on the radio or TV. It is a source of concern to Canadians. It is a source of concern for a francophone living outside Quebec. I am part of this great country of Canada. I am also part of a francophone minority which is mainly centred in Quebec but which also exists, and will continue to exist, outside Quebec. This is my Canada and I am free to live in it in the official language of my choice, no matter where I am within its borders.

We must listen carefully to the message of Quebecers. Some may be surprised by what they describe as "vibrant nationalism," but I am not. When I was just a little fellow growing up in Ottawa, I remember the discussions in my grandfather's house about French Canadian nationalism. At that time, though, they called it "French Canadian patriotism." Nationalism was not in fashion. Until the Bloc populaire came along, patriotism was the buzz word. "Nationalist" came along later when the Bloc populaire had made the term wider known.

Remember the plebiscite in 1942. There were some very heated discussions at the time. In the evening, after *Un Homme et son péché*, I do not know whether people who grew up in this area remember, but at seven o'clock, we listened to *Un Homme et son péché*, and after the program we would sit around and talk. There was no television, and we would turn off the radio at the end of the program.

I grew up in a francophone area. I was marginalized in a community consisting of a majority of anglophone Protestants in Ottawa. In the province, this community used religion and language as a reason to exclude Catholics and francophones from publicly funded education.

I remember a statistic that became an incentive for me to enter politics in 1966. The study showed that only 14 per cent of Franco-Ontarians finished Grade 10, and that shocked me. Eighty-six per cent of francophones in Ontario did not finish Grade 10, but it was not their fault. There were no schools. As for speaking French in Ottawa, west of the Rideau Canal we were told to "Speak white." I remember because I was born and raised here.

Quebec was distinct because I could go to Montreal where, more often than not, I managed to be served in French. I had a few experiences which indicated that even in Montreal, at Morgan's for instance, it was not always easy to make yourself understood. But I remember distinctly that I felt uncomfortable about going west of the canal in my own city. I thought: I live in a village; Lowertown is a village.

I saw poverty and illiteracy; it was almost a way of life. That has changed dramatically. In my lifetime there have been remarkable changes in our institutions, our schools, our health services and general attitudes. Religion is no longer referred to as a divisive factor. People hardly even mention language as a bone of contention in Ottawa. I think we have learned to live together.

Quebec is making it fairly plain that things are not right there, and we will have to listen as it speaks. The message is not really so complex.

The Prime Minister said three things in the referendum: it would seem Quebec wants to be a distinct society — it already is. I do not need to give you any examples. Read the words spoken here, and you will have the whole background. If that is not enough, read the excellent article in *The Ottawa Citizen* yesterday, December 12, by Peter G. White entitled "Accommodating Quebec, no threat to anglophones." You will see my argument is supported by other reasonable people, anglophones, if you like, but people who understand this fact, as did Senator Murray, today, and as does Senator Kinsella, and as do a number of Liberal senators who have spoken.

I belong to the school that believes in taking action. I am well aware that Mr. Bouchard is forbidding and even cool to any constitutional amending formula. There is no need to get excited, we can do it easily; there is the 7/50 formula. We can certainly put it to the people of Quebec. The amendments, which must be implemented by 1997, are feasible.

It is a good start having a resolution passed by both houses of Canada's Parliament. It is also a good idea to table it with Bill C-110. I support this provision.

I close my remarks by saying that we have a few years, barely two, to understand one another. Let us pay careful attention and make sure this country continues to be the experience of the century, a fantastic one, in terms of Canadian federalism — where two peoples learn to live together, to share and to respect on another.

• (1810)

[*English*]

Hon. Landon Pearson: Honourable senators, as I rise today to speak briefly on the resolution to recognize Quebec as a distinct society, I do so with the conviction that I have always recognized and valued Quebec as distinct.

Although I grew up in southwestern Ontario, I spent part of my childhood at school in the Eastern Townships where I learned to appreciate young both our differences and our similarities. Later, I spent a summer as a student at Trois-Pistoles, improving my French and exploring the lower St. Lawrence.

More important, most of my adult life was spent in the Canadian foreign service where, once abroad, francophones and anglophones alike find out how much more we are like one another than we resemble any other nationality. What we also discover serving together outside Canada is that it is the very distinctiveness of Quebec society that seems to have created those special characteristics we share as a nation, those values of tolerance, generosity and openness that continue, in spite of our current cranky mood, to attract immigrants from all over the world.

It is our experience in evolving side by side by side that has led us to develop the variety of national and provincial institutions that have been needed to preserve the distinctiveness of Quebec and the rich variety of the rest of the country. It is my firm conviction that all of us, including Quebec, have benefitted from the ways in which these institutions have shaped, and continue to shape, our political and cultural life.

If we fail to honour the reality that our whole is greater than the sum of our distinctive parts, then we will all be diminished.

[*Translation*]

Yesterday my husband and I got a card from a former colleague, a Quebecer now posted in Europe. He writes, and I quote:

> From afar, Canada, so rich and varied, is a sorry sight. One might say it is looking for a fortune or a treasure... that it already has in its possession.

[*English*]

Honourable senators, we are at a crucial moment in our history as a nation. Last week, a letter in *The Globe and Mail* quoted my late and much lamented father-in-law when he opened the federal-provincial conference on the Constitution in 1968. He said:

> There are times in the life of a country when the assurance of good intentions, the discharge of normal duty and acceptance of routine responsibility are not enough. What such times demand is the exercise of courage and decision that go far beyond the needs of the moment. I believe that this is such a time for Canada. Here the road forks. If we have the resolution and the wisdom to choose now the right course and to follow it steadfastly, I can see few limits to what we may achieve together as a people. But if we lack the courage to choose, or if we choose wrongly, we will leave to our children and our children's children a country in fragments, and we ourselves would have become the failures of Confederation.

It is to those children I would now like to turn. I have a suggestion to make to the Senate. For some time I have been asking myself how the Senate can best promote a stronger sense of national unity. The Senate has many strengths. We are a national institution with an important role and honourable traditions. We represent all the provinces and territories. We also represent much of the cultural and ethnic diversity of Canada. My committee experience has shown me that we actually know how to listen.

What I should like to propose is that we engage in an intergenerational dialogue, that we talk with our children and youth, that we consult with them for ideas on how to preserve our country, which will be theirs, in ways that fulfil the aspirations of its various communities without losing the virtue of the whole.

I have had considerable experience organizing consultations with children and young people on important issues, as have a great many others on both sides of this house. This is not a partisan issue.

I should like to return to this chamber in February after the break with a strategy for the implementation of this idea. In the meantime, I would appreciate knowing who among you would be interested in developing a strategy with me.

While recognizing the sad fact that the level of political literacy among the young is abysmal, their idealism remains high. We could draw strength from that and offer them our knowledge and experience. Working together, the elders of the nation and the young of the nation, would do honours to us all.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, today we have heard some rather stirring speeches, and some shorts ones. While I am usually quite long-winded when I talk about Canada, I will try to be brief.

When I hear a senator say, before sitting down, "Canada is a distinct society, thank you," it gets my dander up. I heard this too often in the other place from people who, in my opinion, never understood anything about what Canada is all about.

I truly intended not to take part in the debate. God knows how often I have talked about the distinct society. I was among those who had doubts. I am proud enough; I do not need to be told that I need a crutch. This is why, at first, I was against this motion. When I understood the true motivation of my colleagues in the other place who were opposed to the distinct society, it dawned on me that they did not understand anything. Thus, in reaction, I had to be in favour of something I truly viewed as a crutch.

It is not because I am a French Canadian that I need a crutch to claim this fact. I am as proud as anybody else in Canada.

Canada, the country of my dreams, is morose. Canada, the country said to be number one, is looking for its identity. And yet, what kind of example are we giving other countries? People as different as myself and His Honour the Speaker *pro tempore*, who incidentally speaks several languages, including mine, can claim anywhere in the world that we are both equally proud to be Canadians. This is the image we want to give to the rest of the world. Neither claims to be superior to the other. It would appear that it is no longer a sin to talk about "le peuple du Québec."

We do not understand each other in Canada about the meaning of the terms "nation," "country," and "people," Yet, in the resolution, I saw for the first time the word "people" which seemed to frighten so many people before. Now it is being used. What is going on? I always said the opposite, the "French-Canadian people," I never said the "Quebec people."

The French-Canadian people is a reality. Look at Senators Gauthier, Bacon, Hébert; look at all our senators sitting here; that is a reality. Some are from Quebec, their heart is from Quebec.

• (1820)

The heart is from Quebec and the rest comes from different regions of Canada. Such is the French-Canadian people. It is not limited to Quebec. Some seem to want to confine it to Quebec. The tragedy is that, all together, we are unable to find a solution to a problem which, in fact, if you compare us to the other countries of the world, is not really a problem at all.

We have been talking about that since I became an MP. I raised the question in one my friend's classes in Alberta — yes, I said it, I said "my friend," Mrs. Carstairs — but not in Manitoba; in Alberta.

A while back, probably 20 years ago, I visited the country with the distinguished chairman of the Special Joint Committee of the Senate and of the House on the Constitution, Senator Molgat. I believe it was in 1971. Everything is written there.

I never paid homage to my friend Jean-Luc Pepin. I was waiting for an adequate moment. He really understood the essence of Canada. He was extraordinarily receptive. With John Robarts and the commissioners, he really did understand what Canada is all about. We have forgotten about him.

So many missed opportunities over the last 20, 30, 40 or 50 years. We always go back to the same question when, in fact, it is so easy to understand.

[*English*]

There are in this country nine provinces — you may also say two territories, but nine provinces where a majority of the people speak English. Good. There is one province where the people speak le français.

[*Translation*]

That is the distinct society, that is the difference. If the late Jean Marchand were here today, he would explain that, with a much more heartfelt outpouring of emotion than I can, to those who still have not understood what Canada is all about.

I am a federalist, and here I am trying to convince you about things that you are probably convinced about. Imagine what it would be if I were not a federalist. I believe in my country. It is mine!

When I look at Senator Pearson, Senator Losier-Cool, Senator Anderson, Senator Milne and all the new senators who have come to join us, I can assure you of one thing: this country is mine as much as it is yours. I will not let it go easily. But we must understand together what it is all about.

In my province, more and more people refer to the State of Quebec. They are already far ahead of us. They say that it is over; they are already living their independence. That is a dangerous mirage. They are already living their independence, while we are making efforts every day.

To your surprise undoubtedly, when I speak about Canada, I am ready to face any sniggering, any grin; I was about to say, any disgust.

This country is mine. My ancestors built it on other people's land. We must understand and give justice to the first citizens who were here before the first French settlers. I am ready to say that to the Indians, and I did so. I am ready to return to them with humility! These French settlers on other people's land gradually built a country and others came to join them in famous battles that some people would like to continue in 1995. These are historical facts. We must look at them and accept them. Millions of other Canadians came to join us.

I am one of those who would like to say everywhere: "I am proud to be a Canadian." This would please my friend Senator Phillips. This is what we say spontaneously everywhere in the world except in Canada. As soon as we, French Canadians, are outside the Canadian borders, what do we say? We say that we are Canadians. We all call ourselves Canadians; my Canadian passport; I am a Canadian. It is when we return to Canada that we insist on calling ourselves French Canadians.

[*English*]

That seems to excite so many people in Western Canada, the fact that I did not do the translation when they say French Canadian. French Canadian! Everyone gets dizzy. I have heard it all around Canada on hotlines. Yet that is only a translation for which we are not responsible. I am not responsible, Senator Phillips, for the translation "French Canadian" —

[*Translation*]

I say Canadien français! Canadien français! If only we could explain how important these differences are, there would be much more understanding.

[*English*]

Honourable senators, very humbly, I say to you all that the Senate has a role to play at this time in our lives. I said it this morning at a committee meeting. I said it to the Justice Committee. I say it here. We have a role to play. We have something to offer to Canada.

Never mind the insults of some commoners from the House of Commons where I spent 30 very happy years. Never mind them. When I look at all of you individually, I do believe we all have something special to offer to this country. If only we could utilize all our talents. I believe we should strike special committees to travel across Canada, composed of nonpartisan people who do not wish to simply score points against each other.

• (1830)

These people will know how to remain married to each other. We should, as Senator Pearson said earlier, allow younger people to speak to us, dream in front of us, or be sick in front of us if need be. We must have the patience to listen to them.

I went through that with the Honourable Speaker of the Senate, Senator Molgat, and Mr. MacGuigan, who is now a judge of the federal court. It gave Canadians an opportunity to vent their anger in whatever way they wanted. I know, honourable senators, that we can listen to their concerns with patience and we can help them truly understand what this country is all about. The result at the end of the exercise will always be positive.

I have no authority, but surely the leadership of both parties can come up with a better idea or refine my idea as to what the Senate can do. Do we have a more gentle, knowledgeable or respected person both in so-called "English Canada" — I say that because I do not like these expressions — and in "French Canada" than Senator Roux?

[*Translation*]

In the great and beautiful artistic community, he can speak of authority and wisdom. The same is true of each and every one of us: we all have our own little area, our own affinities in this country. We can all talk to one another in this country. I am certainly not the one who is going to throw a big party this evening and say: "Is it not wonderful, we are distinct." Are we even able to recognize the obvious fact that there are people in this country who speak French. They could have learned Papuan, it might have solved the problem. Some speak better than others, that is true. They can be encouraged to improve their language skills through our cultural institutions, by fighting to preserve Radio Canada, the Canada Council and the National Film Board. The little people must not be made fun of; they are watching.

When I hear public figures use coarse language thinking that it brings them closer to the people, I can assure you that these people despise us. They know that our French is somewhat better than theirs. I say it in my perhaps roundabout, disjointed way. I had not planned to take part in the debate. My speech on Canadian nationalism is ready. I drew my inspiration from Jean-Luc Pepin. I would not like to sow discord among Canadians, however. I would not like to say how angry Senator Grafstein's speech made me. I completely disagreed with him because his speech was so full of contempt for us. I, for one, do not hold anybody in contempt. Quite the contrary.

Honourable senators, I am imploring you. At this tragic time in our history, it is a crime not to find a solution to ensure the survival of our country. Millions, if not billions, of human beings are watching us in disbelief. What is going on in Canada?

Of course I will vote in favour of the motion. I will not go and get a band, or the media, or the troubadours. Really, this amounts to recognizing such an obvious thing. For some it is little, while for others it is already too much. Maybe this is what Canada is all about. If we were all unhappy at the same time, there would be something wrong. If we were all very happy, there would be something wrong. If one were happier than the other, it would certainly not work.

Since it seems that everyone is a little unhappy, this may be the new chance for survival for countries as different as ours. I thank you for your patience. I implore you and I ask you to meditate on the meaning of Hanukkah, Christmas and New Year's Day.

[*English*]

When we come back in 1996, perhaps we can rededicate ourselves to Canada. There are various religions where people rededicate themselves to Jesus. Well, let us rededicate ourselves to Canada!

Our appointments as senators are almost lifelong. We receive much from the people of Canada. Surely we must do as our gracious Queen asked us to do and put aside our preoccupations and rededicate ourselves to those we serve by finding a solution to our constitutional dilemma.

Hon. Orville H. Phillips: Honourable senators, I should like to ask Senator Prud'homme a question. As always, I was very impressed with his remarks.

In my brief remarks the other day, I did not have an opportunity to come to the portion in my notes dealing with ancestry. I believe Senator Prud'homme and I share a common view and that is, regardless of your ancestry, today we are Canadian. It does not matter whether my ancestry was English, Welsh or, on my mother's side, Scottish. Today, I am a Canadian.

Senator Prud'homme's ancestry is French, but he always says that he is a Canadian first.

Senator Prud'homme: It was an accident of birth, I am sure!

Senator Phillips: Yes, but you are a Canadian first. Do you deny that, senator?

Senator Prud'homme: Absolutely not!

Senator Phillips: I am fed up with people who say they are French, English or Italian.

Senator Bosa: I knew you were going to mention that.

Senator Berntson: What about Norwegian?

Senator Phillips: Yes, Norwegian, and maybe even Ukrainian. To me, there comes a time when you must say that you are Canadian. You can be proud of your ancestry, but you must also be proud of your present allegiance.

Is it not time for the Canadian government to terminate funding to these groups who want to be Norwegian or Italian first? An Italian can come to Canada and get citizenship very easily, as can people of many other nationalities.

• (1840)

Is it not time to stop saying that we are French, English, Italian or Greek? Why not just say we are Canadians and be proud of it? I am proud to say that I am a Canadian. Is my honourable friend not proud to say the same? Having asked the question, I am sure that I know the answer.

Senator Prud'homme: Senator, earlier I told the chamber about my delightful weekend in Tweed. I did that for a purpose. I love Tweed. It was my third visit there. I was told that I could run for deputy reeve of Tweed. Tweed is in the maple syrup country of Ontario. It is very close to Belleville.

I made my statement about Tweed today for a purpose. Not many French Canadians go to Belleville these days, let alone in the past, to make speeches, and certainly not to Tweed. I spoke in Tweed about pride, about the fact that I had come there to witness their pride, because they were kind enough to witness my pride.

My friend Senator Phillips and I have known each other since 1960. When we met for the first time, people expressed surprise at the fact that I had spoken to him, as if it were impossible for the two of us to speak to one another. Over the years, we have teased each other about our respective views. We have travelled together to China and other places and come to know each other.

Yes, senator, I am proud to be Canadian. You say that you are tired of hearing people say, "I am French." I have never said that senator. I have said, "Je suis très fier d'être Canadien français."

Senator Phillips: I did not accuse you of that.

Senator Prud'homme: Senator Gauthier and other traditionalist French Canadians will know why we do not accept your suggestion that we should all simply be Canadian, that there should be one Canada. This has connotations. "Let's all be Canadian" has always been interpreted by French Canadians as meaning "Let's all be English and Protestant." I am sure that Senator Robichaud could tell us many stories about that. It is natural for us to say, "Je suis Canadien français," not "I am French Canadian." There should be no translation for that, not in Winnipeg and not anywhere else.

I would rather not speak to the issue of multiculturalism now, because that will require a very long speech.

I remember how we became multicultural. We were bilingual and bicultural, and one morning we got up and found ourselves multilingual and multicultural. That was in the great days of the great leader Pierre Elliott Trudeau.

Mr. Nunziata is now campaigning to abolish multiculturalism. Before I answer you, senator, I will listen to the views of Mr. Nunziata in the other chamber, who is an advocate of abolishing multiculturalism.

I am as proud as Senator Phillips is to be Canadian. If the honourable senator and I travelled across this country, we could show people what Canada is all about. People need only listen to both of us and shake our hands to know immediately the kind of country in which we live.

Senator Phillips: Senator Prud'Homme made reference to our association. He may have left on the record the impression that we were not friends after our first meeting. I wish to correct that. We became immediate friends.

My family came to Canada in 1830. My father's side spoke English; my mother's side was Scottish, and they spoke Gaelic. As I grew up, the elders spoke "the tongue." That later disappeared. I guess my generation was too stupid to learn "the tongue."

My point is that although I know the honourable senator takes pride in being French Canadian, and I do not disrespect him for that, I believe it is time that we all began to say we are Canadian. I believe that friends, such as Honourable Senator Bosa, Honourable Senator Haidasz and others, have spent too much time on their ancestry and not enough time on being Canadian.

Would you agree with me, honourable friend?

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, I will only take a few minutes to echo the comments made by some of my honourable colleagues and to state my support for this motion recognizing Quebec's distinct society.

I will not go over again the good reasons my colleagues set out during debate on this motion. I wholeheartedly agree with the reasons linked to the history of the Province of Quebec and the history of Canada since 1867, to the culture of Quebec, to the Quebec institutions which have supported development not only in Quebec but throughout Canada, and to the uniqueness of Quebec.

Since I was born in Quebec, I feel that I would not be fulfilling my duties if I were not to rise and support this motion for all the reasons mentioned by my colleagues.

I think this motion should have been moved some other time, rather than at the end of a session. Several Canadians believe that it would have been better for this motion to be debated at length in the House of Commons and in the Senate. Also, I think this motion should not have been the result of some kind of panic and improvisation, as so many Canadians from Quebec like to remind us.

I hope there will be unanimous consent in the Senate to adopt this motion. It is a small step, I agree, but it is a step in the right direction. I would have liked this motion to recognize the people of Quebec and not just Quebec's distinct society.

Honourable senators will remember that in December of 1992 the Senate considered the opportunity to entrench the recognition of the Acadian society in New Brunswick. Following this debate, Parliament entrenched not only the recognition of the Acadian people but also some of the collective rights of the Acadian community.

I was very pleased and very grateful, but also disappointed, because the then provincial government did not see fit to include all of the collective rights guaranteed by the provincial legislation which had triggered off the debate, resulting in a government motion and finally leading to the entrenchment of the recognition and the rights of the Acadian community.

Senator Robichaud was here at the time. He knows this provincial legislation very well, as do all my other colleagues from the maritimes, particularly those from New Brunswick. This provincial legislation, called Bill 88, recognized not only the existence of the Acadian society in New Brunswick but also several collective rights.

In any case, the House of Commons and the Senate completed their work on this matter in 1992. In February 1993, a reception was held at Rideau Hall to celebrate and applaud this recognition of the rights of Acadians in New Brunswick.

In closing, I hope that, after the adoption by both houses of Parliament of this motion recognizing Quebec as a distinct society, the day will come soon when the people of Quebec are recognized as one of Canada's founding peoples. Perhaps, at the same time, the Acadian people in Canada will also be recognized, in addition to the recognition of the existence of certain collective rights for Acadians in New Brunswick.

Motion agreed to.

[*English*]

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, it may be in order for me, with the agreement of the leadership of the other side, to explain the plan for the rest of the day.

First, I want to thank honourable senators for their patience. We did not see the clock at six o'clock.

We have one more item which we would like to deal with, if there is agreement, and that is Bill S-14 standing in the name of Senator Haidasz. Senator Haidasz tells me that he will only be about ten minutes. I would ask all honourable senators to bear with us.

Hon. Orville H. Phillips: May I just ask the Honourable Deputy Leader of the Government for clarification? When he says tomorrow, I presume that we will adjourn to ten o'clock in the morning?

Senator Graham: To clarify the situation, the rules call for us to sit Monday to Friday. When we adjourn on Thursdays, unless there is a special adjournment motion, we normally adjourn until nine o'clock Friday morning.

In order to clarify the situation further, I move, with leave of the Senate and notwithstanding rule 58(1)(*h*):

> That when the Senate adjourns today it do stand adjourned until tomorrow, Friday, December 15, 1995, at ten o'clock in the morning.

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

Hon. Senators: Agreed.

Motion agreed to.

TOBACCO PRODUCT RESTRICTIONS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Stanley Haidasz moved the second reading of Bill S-14, to restrict the manufacture, sale, importation and advertising of tobacco products.

He said: Honourable senators, I should like to make a few remarks to explain the highlights of this bill, after which I would invite honourable senators to participate in the debate or refer the bill to committee.

It is with a great deal of gratification that I accept this opportunity to make a few remarks on Bill S-14, to restrict the manufacture, sale, importation and advertising of tobacco products. In short, this bill is called the Tobacco Product Restrictions Bill.

As a physician, as a member of the House of Commons and now as a member of the Senate, I have tried to impress upon those who will listen that tobacco is a dangerous substance and that we should do everything we can to control its use by controlling its manufacture and sale.

Honourable senators, as far as the danger of tobacco is concerned, its main constituent is nicotine, which is a highly addictive substance regarded as a narcotic. It is just as addictive as heroin itself. This alone should move us to consider the restriction of the manufacture and sale of tobacco.

Clinicians have identified 26 tobacco-related diseases, 22 of which occur in adults and four of which occur in children. Tobacco also contains approximately 4,000 noxious substances which we call "tars," 50 of which are carcinogenic. In addition, tobacco, because of nicotine, is extremely addictive.

Tobacco use is a great problem, especially in our young generation. In spite of all the advertising that the Department of Health has produced on TV and other media, the use of tobacco by the young generation is increasing. Unfortunately, it is increasing greatest among young girls. Statistics have also shown that in the past few years cancer of the lungs in women who smoke has now surpassed breast cancer, which is an epidemic in itself.

Furthermore, in addition to all these physical damages, economic health experts have proven to us that the total cost to the Canadian economy of the use of tobacco is about $20 billion annually. It is estimated that that figure will rise to $25 billion in 1995. This year, there are 48,000 premature deaths because of its use, deaths which are completely preventable. Hundreds of thousands of smokers develop chronic tobacco-related diseases.

For these reasons, I appeal to all honourable senators to become interested in this problem because it is so damaging to people as well as to the economy of our country.

I will not detain honourable senators any further. Rather, I urge honourable senators to participate in the debate of this bill if they can. If that is not possible, then I ask honourable senators to study it in committee so that we may bring to the Canadian people legislation which I believe will greatly reduce the damages that tobacco products produce.

On motion of Senator Berntson, for Senator Kelly, debate adjourned.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, as indicated earlier, there is agreement to stand all remaining orders.

The Senate adjourned until Friday, December 15, 1995 at 10 a.m.

THE SENATE

Friday, December 15, 1995

The Senate met at 10:00 a.m., the Speaker in the Chair.

Prayers.

SENATOR'S STATEMENT

INTERNATIONAL TRADE

EXPORT STATISTICS

Hon. Jack Austin: Honourable senators, I have some good news to report on this our last sitting day this year. I should like to present to honourable senators some trade statistics which have just been made available.

In the first nine months of the year, Canada's merchandise exports grew by a remarkable 20 per cent, and the trade surplus by a dramatic 63 per cent compared to the same period last year. This rapid growth in our exports is diversified. It is primarily occurring in value-added and major export sectors such as industrial goods, machinery and equipment, and automotive products, as well as in more traditional sectors such as forestry products.

It is also taking place in all major world markets. Our exports to the United States were up 17 per cent in the first nine months of 1995 over the same period in 1994; to Latin America, 29 per cent; to Japan, 32 per cent; to the European Union, 42 per cent; to China, 44 per cent; and to all other Asia-Pacific nations, 47 per cent.

The robust expansion of Canadian exports of goods and services has greatly increased the share of our national income derived from trade. As a portion of our GDP, our exports amounted to 26 per cent in 1992. In 1994, this figure reached 33.2 per cent; and by September, 1995, the annualized rate for these exports had grown to 36.6 per cent of our GDP.

For individual Canadians, this means exports have become the most significant factor in the growth of our GDP and one of the most important contributors to job creation. Indeed, based on economists' estimates, every $1 billion in exports sustains about 12,000 jobs.

Honourable senators, it is no mistake that the Prime Minister and the premiers have organized a Team Canada effort to promote our trade abroad. The Prime Minister, along with most of the premiers, will visit India, Pakistan, Malaysia, and Indonesia in January of 1996. That visit will further our trade effort. These statistics demonstrate that that effort is certainly worthwhile.

ROUTINE PROCEEDINGS

SMALL BUSINESS LOANS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. John B. Stewart, Acting Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Friday, December 15, 1995

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SEVENTH REPORT

Your Committee, to which was referred the Bill C-99, An Act to amend the Small Business Loans Act, has, in obedience to the Order of Reference of Thursday, December 14, 1995, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOHN STEWART
Acting Chairman

THIRD READING

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

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*b*), I move that the bill be read the third time now.

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

Hon. Donald H. Oliver: Just before you put the motion, Your Honour, I should like to make a few remarks. I attended the Banking, Trade and Commerce committee meeting this morning. This bill received first reading in the House of Commons in June of 1995, and it came to us at the very last moment.

• (1010)

One of the arrangements we thought we had was that the Standing Senate Committee on Banking, Trade and Commerce would have an opportunity to review and consider the regulations pursuant to that bill before they were published in the *Canada Gazette*, but when we arrived at the committee meeting this morning, we had received a letter dated today, December 15, from the minister, the Honourable John Manley, stating:

> To assist the committee in its consideration of the Bill I have asked departmental officials to come before you prepared to consult with the committee on the draft regulations. This is consistent with my commitment to provide the committee with the opportunity to be consulted prior to the Gazetting of the regulations flowing from this bill.

Honourable senators, this is like being jammed. Perhaps a better way to deal with situations such as this is to have bills of this nature introduced in the Senate, where we have more time and more patience to review them, and where we would not be jammed by not being afforded enough opportunity to consider important regulations. With respect to this particular bill, the regulations have more power than the bill itself.

I just wanted to put those remarks on the record, honourable senators.

Senator Stewart: Honourable senators, I would find it very difficult not to agree with what Senator Oliver has said. This is indeed a bill which could have started in the Senate, and been dealt with thoroughly and expeditiously by this house. It was introduced in the House of Commons before the House of Commons took its long summer recess. Now it is sent over to us before the House of Commons departs for its Christmas break.

A government which was concerned with getting the legislative business of the country dispatched in an orderly way would have introduced this bill, and many other bills, in the Senate. I agree entirely with what Senator Oliver has said with regard to starting bills such as this in the Senate.

The Hon. the Speaker: Honourable senators, do any other honourable senators wish to speak before we proceed to third reading?

If not, with leave of the Senate and notwithstanding rule 58(1)(*b*), it was moved by the Honourable Senator Graham, seconded by the Honourable Senator Stewart, that this bill be read the third time now.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

QUESTION PERIOD

QUEBEC

THE DISTINCT SOCIETY RESOLUTION—COMMENTS BY THE CHAIR OF THE STANDING COMMITTEE ON CANADIAN HERITAGE—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, the House of Commons and the Senate have passed the resolution on a distinct society for Quebec. I would like the Leader of the Government to take note of the following statement. The House Standing Committee on Canadian Heritage is becoming the object of increasing controversy. In my opinion, its Chair ought to take a Canadian history course.

[*English*]

To put it mildly, I am extremely upset at the views expressed by the chairman and a couple of members of the majority concerning their understanding of what Canada is all about, what culture is all about, and what all the cultural activities taking place in Quebec are all about.

If we really want to have a harmonious country, we must understand the nuances and the differences that exist and occur, especially within different cultures. If we want to have a successful future in this country, we must have vision. Vision means being able to predict difficulties ahead of time.

I am particularly concerned about the way in which some members of that committee interpret their mandate — and I am not talking about the new member, Mr. Peric, who seems to understand what Canada is all about, more than do the others, although he has just been nominated to be on that committee; and Mr. Serré. They are two Liberals who understand that, even if at times we do not like what the National Film Board may produce, or what the CBC is putting on the air, if we are to know each other, first we must know who we are.

We may disagree with the National Film Board, but I think they are doing a good job, as is the CBC French broadcasting division. They are there to show Canada as it is today.

Before we adjourn for the Christmas break, may I ask the minister to again draw to the attention of her caucus, and to the attention of that committee in particular, the sensitive nature of the mandate of that committee, and the fact that members of that committee should at least know what is happening? The chairman was interviewed by someone at *La Presse*. He admitted, after prompting, that he had never seen a Quebec film, nor had he ever heard a Quebec song. He never saw, he never heard and he never read.

I am very sceptical as to what they will accomplish at the end of their work in that committee. I am upset today, to put it mildly. I am following the work of that committee. Too many inflammatory statements are being made. They are only helping the Bloc Québécois in their efforts to show that Ottawa does not understand anything.

I am putting this forward in the form of a comment, and also in the form of a question. Will the Leader of the Government in the Senate kindly draw to the attention of her colleagues that some of us — and I see some people on both sides nodding, which means that other senators are following the activities of that committee — are extremely concerned about the behaviour of the majority of the members of that committee?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will certainly take the comments of Senator Prud'homme to the chairman of the committee and to the minister involved.

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, since our deliberations verge on the confidential, I would like to follow up on the question asked by Senator Prud'homme. Every time the Chair of the Heritage Committee demonstrates a flagrant lack of knowledge about Quebec, he provides Mrs. Tremblay of the Bloc Québécois with ammunition. His comments get on the 6 p.m. and 11 p.m. news broadcasts, and they hit the front pages of the newspapers in Quebec the next morning. Perhaps this gentleman does not read the newspaper, does not listen to the Quebec news in French, but we federalists in Quebec end up having to defend people like him. I must admit that I have no great respect for the gentleman. Will you be passing this confidential comment on to the minister responsible?

[*English*]

Senator Fairbairn: Honourable senators, I do not believe that the statements made in this house are as confidential as the honourable senator thinks, but I will certainly send the full exchange in our Senate Hansard to the chairman, and also to the minister.

ABORIGINAL PEOPLES

SCHOLARSHIP FOR ABORIGINAL VETERANS—REQUEST FOR RESPONSE TO REPORT OF STANDING SENATE COMMITTEE

Hon. A. Raynell Andreychuk: Honourable senators, I was pleased to read in the newspaper that a scholarship is being set up for aboriginal veterans, as our Senate committee had recommended. However, I was somewhat disappointed that the information came to me, as chair of that committee, through the media and not through a Senate information system. Neither did it come to me from the government. To this date, there has been no response to the Senate report.

While I think the scholarship was a first good move, there were many other recommendations that, in my opinion, are valid, and of value particularly at this time to aboriginal peoples and to veterans.

When will the government respond to the report on aboriginal veterans passed unanimously by the Senate?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I too am disappointed on Senator Andreychuk's behalf. I will definitely pursue this matter. I cannot give her a date with regard to the latter part of her question, but I will actively pursue that, too. This is not a satisfactory way of progressing on this issue.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 15, 1995

Sir,

I have the honour to inform you that The Honourable John Charles Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 15th day of December 1995, at 12:00 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

ORDERS OF THE DAY

CONSTITUTIONAL AMENDMENTS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Graham, for the second reading of Bill C-110, an act respecting constitutional amendments.

Hon. Pierre Claude Nolin: Honourable senators, several points have already been raised by my colleagues. I would now like to draw the attention of the Senate to some of the circumstances around the rather hasty consideration of this bill in the House of Commons.

For instance, the Saskatchewan Minister of Intergovernmental Affairs mentioned in a letter — unfortunately I was not able to obtain a copy, since the clerk of the committee in the other place was not willing to send me a copy —that he did not receive notice of this bill in time to prepare a well-considered presentation. Consequently, he was unable to appear before the committee.

I think it is important to refer this bill to a committee of the Senate and give representatives of the various provinces who have shown an interest an opportunity to be heard. First of all, I think it is essential, when one is about to amend the procedure for adopting constitutional amendments, at least to hear what the representatives of the provinces have to say.

Second, I would like to draw the attention of this House to the wording of Bill C-110, comparing it with what the federalist forces proposed to Quebecers before the referendum. The No side's manifest said that the government of Quebec should have full autonomy in the areas under its jurisdiction and that there should be no change in the relationship between the Government of Quebec and the Government of Canada without the participation and agreement of Quebec. That is the kind of federalism Quebec federalists believe in. When I read the wording of Bill C-110, I have the impression the government is delivering a lot more than the customer ordered. So much more that it has managed to upset an attempt to improve the cordial relations that should exist between the federal government and the provinces. Several authors and experts on Canadian constitutional relations maintain that constitutional discussions in Canada are practically meaningless because of this insistence on talking about texts. Perhaps we should change our attitudes instead of fighting about every comma and semi-colon and terms we have trouble defining.

It would be appropriate for the Parliament of Canada, through the good offices of the Senate, to initiate a dialogue with the Canadian provinces and aboriginal peoples. The latter rushed to prepare a presentation which they gave before the committee of the House of Commons. They admitted they did not have enough time to prepare their brief. An Inuit group even submitted an amendment. They tried. They admitted they did not have enough time to be able to explain their position. It is our duty to give these people a chance to appear before a committee of the Senate and give them enough time to prepare their presentation.

This question is central to Canadian constitutional amendments. We would be making a serious mistake if we rushed to adopt this very important bill before we adjourn for the holidays without first hearing from representatives of the provincial governments, aboriginal peoples or from any other group or individual who would like to offer us their comments.

[*English*]

Hon. Noël A. Kinsella: Honourable senators, as I began my study of Bill C-110, a number of preliminary questions presented themselves. The first focuses on what impact this legislation would have on the exercise of the federal veto as this relates to the responsibility of Parliament to take constitutional and unity decisions in the pan-Canadian interest, or in the national interest.

In other words, is there a difference between the common good of Canada as a whole and the sum total of ten provincial or five regional interests? It seems to me that there may well be a radical difference between what constitutes the pan-Canadian interest and what constitutes the sum total of interest of all the constituent parts.

That begs the question: Can the national public interest of a country be different from the bona fide public interest of some parts of a country? Will the proposal contained in this bill interfere with the responsibility of Parliament to identify, articulate and act in the public interest of the nation as a composite whole? Is there something qualitatively unique about our national or pan-Canadian interest? Does the model for the exercise of Parliamentary responsibility which underlies Bill C-110 enhance or inhibit the desire of so many of us to see Canada grow and develop, as all modern societies must? Are there other examples of federal states wherein this kind of a limitation is placed on the federal, the national or the central government? Have the drafters of this bill conducted comparative studies in this regard?

Another area of reflection arose from my initial study of examples which may already be in place. For example, does the Diefenbaker 1960 Canadian Bill of Rights serve as an example of how Parliament agrees statutorily to limit its legislative authority? In other words, is that not an example whereby, through statute, Parliament says it will not exercise its supremacy in certain areas, those areas being defined by the Canadian Bill of Rights? Thus, Parliament has limited itself in that regard. Perhaps that is an example for the model that we have in Bill C-110.

Alternatively, does the example that I raise around the 1960 Bill of Rights pose more questions as to the issues of justiciability? As we know, should Parliament enact a piece of legislation, or undertake an initiative that would run counter to its own statutory provision, that is, the Bill of Rights, then the courts could adjudicate. What is the adjudication mechanism or the model of judiciability that would flow from Bill C-110?

Further, honourable senators, I have a question as to the supremacy of legislation. Will the limitation imposed on Parliament by Bill C-110 have supremacy over other statutes or other powers of Parliament? As I first read it, there is nothing in the bill that indicates the status of the bill in terms of its supremacy over other measures. The constitutionality of the provision in Bill C-110 has been alluded to by others. Those types of questions must also be resolved.

Clearly, honourable senators, the government has heard the message that it must lead in the area of national unity, and I salute the government for having heard that message. I also salute the government and the Prime Minister for having made an effort to begin to take action. However, when one leads, one must know where and how one will get to the destination. In other words, a plan or vision is necessary.

My final point relates to the provision in the bill found in clause 1(1) which speaks to the consent of the provinces, the regions, being sought. There is no indication in the bill as to how that consent would be determined.

A number of questions present themselves as a result of my reading of the bill which makes it difficult to simply focus on the principle of a bill such as this. If the principle is that the government is attempting to identify a manner in which it can begin to address, in 1996 terms, the problems of national unity, then we can all easily agree with such a laudable principle. However, in regard to whether this particular model and, therefore, the principle of this bill is appropriate and whether it meets the objective of facilitating national unity, the jury seems to be very much out.

Honourable senators, we will serve the country well by examining the bill in a serious and studious manner and by hearing from the provinces, which have the right to be heard by the Senate when a measure affecting their interest is before Parliament. Obviously, we will want to extend the opportunity to the provinces, as we must pursuant to our rules, to voice their reaction and to offer their guidance.

As I reflected with colleagues the other day, it seemed to me that the juncture at which the country finds itself these days is one where the old language has failed us. We now need to identify new grammar to express national unity.

It is to be hoped that, as the committee examines this bill and attempts to deal with some of the questions which I have raised on this first round of analysis, we will be able to make a healthy contribution to an objective which I think we all share.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, in my capacity as Progressive Conservative senator for the people of New Brunswick and, more specifically, the francophones of New Brunswick, I rise to speak on Bill C-110. This bill concerns Canada's unity. I must say I was surprised to see the government introducing the measures included in this bill. We can find no fault with the general objectives of the bill. Like many Canadians, I cannot imagine Canada without Quebec. We want Quebec to be part of Canada.

[*English*]

On the other hand, we also know that what the Chrétien government is really doing is nothing more than an exercise in public relations. They are terrified of talking to their partners in Confederation about what they could really do to stop Quebec from leaving Canada. However, that is what they must do, and that is what the Constitution Act, 1982, which was passed by another Liberal government, says they must do. For some reason, though, this Liberal government will not do it. Instead, they force this high-profile, empty legislation through the House of Commons, brazenly hoping that the people of Canada will think they look good. Simply trying to look good is not enough, and the people of Canada know that.

[*Translation*]

• (1040)

In fact, Canadians know that, in the weeks and months preceding the referendum in October, the government was bragging about there being no problem and claiming to be looking after job creation. This government's job creation record leaves something to be desired.

This government has done nothing. It was much more concerned with its image and shining it up. We have heard the Prime Minister and some of his ministers say often enough that there was no problem. We could see they were more concerned with keeping their popularity for a period of time. This is primarily the cause of the serious situation in which we find ourselves today.

As a francophone from New Brunswick, I am naturally concerned about the fate awaiting Canada's francophones and New Brunswick's Acadians, should Quebec separate.

In the meantime, the government gives us this bill, which some describe as meaningless. I am tempted to agree. To date, the bill has caused a lot of anxiety. If it were passed in its present form, without consultation, it could take the country to the brink.

As a New Brunswick francophone, and speaking for Canadians there of all cultures, I am proud to belong to the only officially bilingual province in Canada. This status has been enshrined in the Constitution since 1982.

[*English*]

Not only are we proud of New Brunswickers, but we are proud of Quebec. That is why, in 1987, the Conservative governments of Canada and New Brunswick were prominent in trying to ensure that the Meech Lake Accord, which recognized Quebec's distinctiveness, got approval by the governments of the day, so that it could be entrenched in the Constitution. It was a tragedy for Canada when it was rejected. However, we must not stop trying, as has the Chrétien government, evidently. Canada is far too important to all of us.

I will now turn to the proposed amending formula which is contained in this empty Liberal bill. This version of what is called generally by many "the Victoria formula" is not a bad thing for New Brunswick. In fact, it was supported by the Government of New Brunswick when it was first proposed in 1971, and then later in the constitutional negotiations which led to the 1982 amendments. It gives the provinces in the Atlantic area more say on new amendments than does the current formula.

That it also gives a veto to Quebec and Ontario, and now to British Columbia, by recognizing them as regions and not simply provinces is not a matter of unequalness but of common sense. New Brunswick's participation in Canada's constitutional development is surely better served when it is one of two in a region which can stop a constitutional change than simply one of seven in the vast national population. Therefore, as with the Quebec distinctiveness part of this public relations manoeuvre of the Chrétien government, I support the amending provision in theory.

[*Translation*]

Honourable senators, I have the feeling that those talking this way, like myself, would like things to be done right, would like a study done and consultation on this bill. If this bill was not urgent for two years, I have a hard time understanding why the government is insisting that it be passed in such haste, in less than a week.

[*English*]

Indeed, some of us may have had reservations about the provisions of the 1982 constitutional amendments. The fact is, though, they are the law, and they are the only way we can find our way out of this quandary in which we find ourselves. The Senate can help in finding the way, honourable senators. It can do things which the Chrétien government evidently is afraid to do. We can hear from Canada's premiers and from other Canadians who better recognize the urgency of this matter than does the Chrétien government.

The problem with this bill is, as I have indicated, not what it purports to do, but its impotence.

[*Translation*]

This bill is definitely not enough. The people of Quebec and New Brunswick, and even those of Canada as a whole, know that it is not enough.

[*English*]

Surely we can expect more from a prime minister who is evidently one of the most popular in recent Canadian history, and who commands a healthy majority in the House of Commons. However, given the unfortunate fact that we cannot expect anything except platitudes from this government, surely the people of Canada are expecting something from the Senate. I, for one, do. Let us get on with it.

• (1050)

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I ask for leave to adjourn this particular item until later this day.

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

Hon. Senators: Agreed.

On motion of Senator Graham, debate adjourned to later this day.

PRIVATE BILL

EVANGELICAL MISSIONARY CHURCH (CANADA WEST DISTRICT) BILL—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-12, to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District, and acquainting the Senate that they had passed the bill without amendment.

NATIONAL DEFENCE

SPECIAL COMMISSION ON RESTRUCTURING OF THE RESERVES—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (study — Report on the Restructuring of the Reserves), tabled in the Senate on December 14, 1995.

Hon. B. Alasdair Graham (Deputy Leader of the Government), for Senator Bonnell, moved the adoption of the report.

Motion agreed to and report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FORTIETH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fortieth report of the Standing Committee on Internal Economy, Budgets and Administration (supplementary budget — National Finance Committee), presented in the Senate on December 14, 1995.

Hon. Colin Kenny moved the adoption of the report.

Motion agreed to and report adopted.

FORTY-FIRST REPORT ADOPTED

The Senate proceeded to consideration of the forty-first report of the Standing Committee on Internal Economy, Budgets and Administration (supplementary budget — Energy, the Environment and Natural Resources Committee), presented in the Senate on December 14, 1995.

Hon. Colin Kenny moved the adoption of the report.

Motion agreed to and report adopted.

FORTY-SECOND REPORT ADOPTED

The Senate proceeded to consideration of the forty-second Report of the Standing Committee on Internal Economy, Budgets and Administration (Budget — Code of Conduct Committee), presented in the Senate on December 14, 1995.

Hon. Colin Kenny moved the adoption of the report.

Motion agreed to and report adopted.

ONTARIO COURT GENERAL DIVISION

MOTION TO STRIKE SPECIAL COMMITTEE TO EXAMINE AND REPORT UPON THE CONDUCT AND BEHAVIOUR OF CERTAIN OFFICERS AND JUSTICES—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of Senator Cools, seconded by the Honourable Senator Carstairs:

That a Special Committee of the Senate be constituted to examine and report upon the conduct and behaviour of certain justices and barristers of the Ontario Court of Justice (General Division), raised by the Honourable Senator Cools in her speeches on Parliamentary Privilege in the Senate in terms of:

(i) failing to take judicial notice, of the Law of Parliamentary Privilege, the Constitution of Canada, and the laws of Canada pertaining to the Senate;

(ii) failing to uphold and enforce the said laws, and the immunities and privileges of the Senate;

(iii) interfering with and frustrating the enjoyment and exercise of the said laws, immunities, and privileges;

(iv) inducing failure to observe and comply with the said laws, immunities, and privileges;

(v) impeaching proceedings in Parliament;

(vi) threatening sanctions on the vindication of the said laws, immunities, and privileges;

(vii) their conduct and behaviour generally relating to, the Law of Parliamentary Privilege, the Constitution of Canada, the independence of the judiciary, constitutional comity, the dignity of the Senate, and the due administration of justice;

That the Committee be further empowered to consider and report upon related matters which may concern the privileges of the Senate;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee be composed of seven members, four of whom shall constitute a quorum; and

That the Committee of Selection be instructed to decide and report upon the membership of the Special Committee.—(*Honourable Senator Cools*)

Hon. Anne C. Cools: Honourable senators, I rise to complete my remarks regarding this motion for a special committee. I shall continue from where I left off on November 1, 1995.

Mr. Justice Matlow exceeded his jurisdiction by failing to take judicial notice of, and failing to uphold Parliament's privileges as commanded by the Constitution Act, 1867, and the Parliament of Canada Act, sections 4 and 5. He arbitrarily waived the procedural rules of the Courts of Justice Act and also Judge Lee Ferrier's court order to support his own position. He abandoned the common law principle of economy in the exercise of power and breached the convention of judicial independence in this injudicious assumption of power. In this, a political act, he politicized the bench and compromised both judicial and parliamentary sovereignty. He acted without impartiality. He declined to discern truth and countenanced falsehood and perjury by admitting two sworn and perjurious affidavits in evidence that day, despite another judge's order forbidding their admission. He granted these affidavits judicial protection by attaching Her Majesty's judicial privilege to them.

Honourable senators, I accuse Anne Molloy, the author and commissioner of these false affidavits, of further breaches of parliamentary privilege. She cast reflections upon the Senate, claiming that the well-respected Mr. Justice Lissaman had lied to her, saying that he had had a telephone conversation with this senator, wherein I had attempted to influence him. She later admitted her falsehood, claiming uncertainty that Mr. Justice Lissaman had said that he actually spoke to me. She compromised Judge Lee Ferrier, using his court order to compel this senator's attendance as a witness at a cross-examination during yet another Senate sitting. Finally, she and the deponent of the affidavits, Rhoda Lipton, later admitted that the affidavits were false and were intended to mislead justice.

Honourable senators, when I insisted that barristers not serve legal process in the Senate, Ms Molloy — a barrister — wrote that my position was "unreasonable and obstructive" and threatened:

> "...Unless...you are agreeing to this form of service, ...I will be seeking an order....

She did. She sought and obtained a court order. Justice Matlow ordered service of legal process in the precincts of the Senate. She used first embarrassment then legal process and court orders to threaten and intimidate this senator, her strongest tool being the threat of criminal contempt of court. She was unscrupulous.

Honourable senators, Her Majesty's court, its processes, its judges and its officers were deployed to obstruct and interfere with the performance and the exercise of the functions and duties of a senator, thus the Senate.

Honourable senators, Mr. Justice Matlow committed a contempt of Parliament in his order of June 14, 1994, when he wrote in his own hand:

> The plaintiff...as a litigant, ...is entitled to no special treatment....Counsel should endeavour, so far as possible, not to schedule matters that would interfere with the plaintiff's parliamentary duties, if some dispute arises, the further direction of the court can be sought.

By hearing motions requiring this senator's personal attendance on a Senate sitting day at Osgood Hall, Toronto, on Tuesday, June 14, 1994, he impeached proceedings in Parliament. He unilaterally cancelled a mutually agreed upon day of Monday, June 13, 1994, a non-Senate sitting day, and unilaterally ordered a new date of Tuesday, June 14, 1994, a Senate sitting day. That morning, the honourable judge repeatedly and brutishly refused to acknowledge a document on parliamentary privilege prepared by the Senate's Assistant Law Clerk, Mr. Mark Audcent. He refused to allow me to address the Court on parliamentary privilege. Justice Matlow employed his judicial station to intimidate this senator. This senator resisted his provocation. She avoided his unappealable summary and punitive powers of contempt of court.

Moreover, at the commencement of three further proceedings instituted by the opposing barristers for Mr. Justice Matlow's adjudication on parliamentary privilege, the honourable judge again refused to adjourn and again ruled to proceed. In his judgment, delivered at 2:00 p.m., the very hour the Senate was sitting that day, he ruled against parliamentary privilege and awarded excessive costs against this senator, compensating them for their time spent on privilege. These proceedings, instituted without proper notice and service upon me, manifested again Mr. Justice Matlow's support of these barristers' questionable actions.

Honourable senators, the Senate's resolution of June 9, 1994, to sit on Tuesday, June 14, 1994, was an order carrying the full force of Her Majesty's command. That order is the law. All must heed. On this, Sir Erskine May, in his treatise *The Law, Privileges, Proceedings and Usage of Parliament*, states:

> Every question, when agreed to, assumes the form either of an order or of a resolution of the House....By its orders the House directs its committees, its members, its officers, the order of its own proceedings and the acts of all persons whom they concern;...

No court may amend, alter or deviate from an order of the Senate.

On limits, even judicial limits to the powers, privileges and immunities of Parliament granted by section 18 of the Constitution Act, 1867, the Right Honourable Bora Laskin, former Chief Justice of Canada, said:

> There is no limit anywhere in law, either in Canada or the United Kingdom....

Any judicial action to disobey or countenance disobedience of the Senate order of June 9, 1994, is not a limit in law; consequently, it is a transgression of the law. Mr. Justice Matlow and barristers Anne Molloy, Bruce Drake, Eva Frank, and Robin Basu breached the unwaivable immunities and privileges of the Senate and offered indignity and offence to the Senate.

I shall repeat my accusations: There was repeated and persistent disobedience to the laws of the Senate. There was refusal to serve legal process at the senator's residence, as required by law, and insistence on service within the precincts of Parliament. There was repeated and persistent compulsion of a senator's attendance in court on Senate sitting days. There was use of judicial censure to exert pressure on this senator regarding the exercise of her parliamentary privileges. Further, the honourable judge and these barristers deliberately brought eight proceedings on a Senate sitting day. Of these eight, three were instituted for the questioning, adjudication, and defeating of parliamentary privilege in the courts, which three succeeded. The honourable judge and the barristers impeached parliamentary proceedings in the courts. The honourable judge and the barristers breached the unwaivable immunities and privileges of the Senate, and offered indignity and offence to the Senate, and to the courts.

• (1100)

Thus I ask honourable senators to constitute a special committee to examine this matter. The committee would examine the circumstances, but, primarily, the committee could re-establish the primacy of parliamentarian allegiance to parliamentary business and the upholding of the law of parliamentary privilege.

I ask honourable senators to consider my remarks today in conjunction with all my other speeches on this subject-matter in this chamber over the past year.

On motion of Senator Watt, debate adjourned.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, that concludes the order paper, except for the motion by Honourable Senator Graham that Bill C-110 be dealt with later this day. What is your pleasure, Honourable Senator Graham?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, we are not prepared to proceed at the present time, but there has been a discussion with the leadership opposite and, in view of the fact that we have Royal Assent at 12:00 noon, we shall proceed with this item at 11:45 a.m.

The Hon. the Speaker: Is it agreed, honourable senator, that we will proceed with this item at 11:45 a.m.?

Hon. Senators: Agreed.

The Hon. the Speaker: On that basis, I leave the chair until 11:45 a.m.

The Senate adjourned during pleasure.

• (1140)

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham: Honourable senators, I want to thank you all for your patience.

With respect to our further deliberations on Bill C-110, certain agreements have been reached by the leadership on both sides. Those arrangements and agreements will be put forth immediately. They are being printed and translated so that we have them in both official languages, and they will be available immediately following Royal Assent. Consequently, I suggest that we adjourn during pleasure at this time.

CHRISTMAS GREETINGS

Hon. Noël A. Kinsella: Honourable senators, if we are moving on this, perhaps I might take this opportunity to extend to our staff, the Pages, and other officers of this chamber, as well as to colleagues opposite, our best wishes for the season.

Canada is a great multicultural country. Obviously, by definition, it is also a multi-faith society. Various faiths across Canada have in common at this time of the year the season of peace and goodwill. In that spirit, on behalf of my colleagues on this side of the chamber, I extend to all, but in a very special and warm way to our friends on that side of the chamber, every best wish for the season and all prosperity in 1996.

[*Translation*]

Hon. Jacques Hébert: Honourable senators, I would not forgive myself if I did not repeat in the other official language the warm and very nice things my honourable colleague opposite just said and tell our staff, and the Pages, how much we appreciate what they do for us and what a pleasure it is to work with them.

We do not express our gratitude very often over the year. We are so preoccupied by some problem, which, as it turns out the next morning, was unimportant, that we walk by the Pages without even noticing them. I am sure that they understand and that they know. We are taking this opportunity today to tell them again that they are appreciated. And we wish all of you a happy New Year.

Hon. Marcel Prud'homme: I consulted my caucus, which has selected me to speak on its behalf and to associate myself with the well-chosen words spoken by the government whip and the opposition whip.

I wish also that this time off will be a time to think things over, and that we will come back in top form to launch into a major moment in the life of our country by looking for solutions together. Perhaps the solution could come from the Senate. I firmly believe it could.

[*English*]

I hope that the Leader of the Government and others will reflect, during the Christmas season and in the New Year, on the role that independent senators should play here. I think I can say that we are extremely eager to participate more and more in the affairs of the Senate.

The Hon. the Speaker: Honourable senators, the Senate will now adjourn during pleasure to await the arrival of the Honourable the Deputy of His Excellency the Governor General.

The Senate adjourned during pleasure.

[*Translation*]

• (1200)

ROYAL ASSENT

The Honourable John Charles Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act amend the Corrections and Conditional Release Act, the Criminal Code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act (Bill C-45, *Chapter 42, 1995*)

An Act to amend the Auditor General Act (Bill C-83, *Chapter 43, 1995*)

An Act respecting employment equity (Bill C-64, *Chapter 44, 1995*)

An Act respecting the establishment of the British Columbia Treaty Commission (Bill C-107, *Chapter 45, 1995*)

An Act to amend the Excise Tax Act and the Income Tax Act (Bill C-103, *Chapter 46, 1995*)

An Act to amend the National Housing Act (Bill C-108, *Chapter 47, 1995*)

An Act to amend the Small Business Loans Act (Bill C-99, *Chapter 48, 1995*)

An Act to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District (Bill S-12)

The Honourable Gilbert Parent, Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996 (Bill C-116, *Chapter 49, 1995*)

To which bill I humbly request Your Honour's assent.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

[*English*]

• (1210)

The sitting of the Senate was resumed.

CONSTITUTIONAL AMENDMENTS

MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE ON BILL C-110 ADOPTED

Leave having been given to revert to Government Notices of Motion:

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, as I indicated earlier, there has been discussion on both sides and, accordingly, with leave of the Senate and notwithstanding rule 57(1)(*d*), I move:

That a special committee of the Senate be appointed to consider, after second reading, the Bill C-110, An Act respecting constitutional amendments; and

That the following senators be appointed to serve on the Special Committee: namely, the Honourable Senators Andreychuk, Beaudoin, Carney, Carstairs, De Bané, Kinsella, Lewis, Gauthier, Marchand, Meighen, Murray and Rivest, and that three members constitute a quorum; and

That the committee have power to send for persons, papers and records, to examine witnesses, and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee have the power to sit during adjournments of the Senate; and

That the committee have power to retain the services of professional, clerical, stenographic and such other staff as deemed advisable by the committee; and

That the committee present its final report to the Senate no later than 9 a.m. February 1, 1996, and

That no later than 5:30 p.m. on Friday, February 2, 1996, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of all remaining stages of the said Bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions not be further deferred.

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

Hon. Senators: Agreed.

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

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, rule 51(1)(*d*) of the *Rules of the Senate* stipulates that two days' notice must be given for any motion for the appointment of a special committee. Obviously, a single senator could probably unduly prolong the debate. I will not do so. Some honourable senators may recall that we came back in July because too little time had been spent on consultation. Every senator counts; I cannot repeat that too often.

[*English*]

Once more, a group of extremely knowledgeable senators has been appointed. Once more, it has been done without even consulting others who may have something to offer.

In the early 1970s, I had the honour to travel to every province and territory of Canada on a special committee under your chairmanship, Your Honour. You know the role that some of us played at that time in calming Canadians who were ready to jump on the table. As a matter of fact, some did that very thing in Hull. Some rejected us. With calm, patience and a focus on historical perspective, we succeeded in producing a remarkable report the reading of which I recommend to honourable senators. That report was, of course, rejected out of hand, like all the other reports.

There are solutions to many of the problems of today in that report under His Honour's signature as joint chairman of that special committee of the House of Commons and the Senate.

Some of our Pages told me that they were impressed by my speech yesterday on some of the historical background of Canada. As I said, some others of us have something to offer. For how long will we retain this clubby atmosphere? Is that what we want for the future of the Senate? I am not bragging; I am saying that I have a lot to offer and that constantly excluding independent senators will one day create big problems.

I am known for my extraordinary charm, pleasant character and patience, but one day I will get up and say, "I am sorry, but you will have to come back next week." I read something about the possibility of that scenario before I came in this morning. If it is your wish that I replace Senator Frith, who used to know how to use the rule book very well, I will. However, I did not come to the Senate to count points.

I regret this situation. This will be very important work. I will not go on vacation. I will attend this committee, as a non-member, to demonstrate my extreme interest. However, it is not the same when you are not a member.

Your Honour is the ultimate protector of senators. When someone has something to offer, that person should at least be advised of what is planned. I learned of this deal only moments ago. I respect Senator Graham. He is a long-time friend. As a matter of fact, I supported him when he ran for president of the Liberal Party, the same time when Senator Davey wanted to run.

I have to lighten the tone of my remarks, because I am becoming too passionate.

I think I have made my point. I understand the rules and I understand that there must be a balance between the two sides. However, people must use their heads. I spoke to Senator Pitfield and Senator Lawson about this matter. It is conceivable that, in the future, some of you may decide to sit as independents. We often hear rumours. It is comfortable in this corner.

I shall not make honourable senators come back next week, although I could.

Hon. Eric Arthur Berntson (Deputy Leader of the Opposition): Honourable senators, it is true that over the last several days there has been discussion with regard to how we should proceed with Bill C-110. This motion is the result of that discussion.

The return of the Senate on the Thursday before the House of Commons returns from its Christmas recess will not be welcomed by all senators as it goes against the usual custom of resuming our sittings one week following the House of Commons. We have agreed to this in recognition of the government's unstated but more and more obvious desire to have certain pieces of legislation passed before the long-rumoured prorogation becomes a fact. It is becoming more and more obvious that that is indeed a likelihood.

Out of an abundance of caution, however, I wish to make it clear that it is my understanding that if it is the government's intention to prorogue on or about February 5, the government will not bring any more contentious legislation before this chamber with the expectation that it will be dealt with prior to prorogation.

Hon. Willie Adams: Honourable senators, Bill C-110 will affect all Canadians. Is it the intention that this committee will travel, or will it hold its hearings here in Ottawa?

Senator Graham: Honourable senators, I take Senator Adams' point seriously. However, I must say that how the committee disposes of the business before it is up to the committee members themselves.

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

Motion agreed to.

CONSTITUTIONAL AMENDMENTS BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Graham, for the second reading of Bill C-110, An Act respecting constitutional amendments.—(*Senator Graham*).

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, unless any other senator wishes to speak on this motion, I suggest the question be put.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Fairbairn, seconded by the Honourable Senator Graham, that this bill be read the second time.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Graham, bill referred to the Special Senate Committee on Bill C-110.

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until Thursday, February, 1, 1996, at nine o'clock in the morning.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham, Deputy Leader of the Government: Honourable senators, there seems to be a disposition that all remaining orders and motions stand.

CHRISTMAS GREETINGS

The Hon. the Speaker: Honourable senators, before I call on Senator Graham to move the adjournment motion, I wish to take this opportunity to wish you all a Merry Christmas. May 1996 be good to all of you. I hope that you have a good recess in the meantime.

I would like to express my appreciation to all those who serve the Senate for their constant help during the year. We sometimes tend to forget them. I want to remind them that all honourable senators appreciate their services. I refer not only to those we see here in the chamber but to those who work elsewhere and serve us nonetheless.

The Senate adjourned until Thursday, February 1, 1996, at 9 a.m.

THE SENATE

Thursday, February 1, 1996

The Senate met at 9:00 a.m., the Speaker in the Chair.

Prayers.

NEW SENATOR

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received a certificate from the Registrar General of Canada showing that Shirley Maheu has been summoned to the Senate:

INTRODUCTION

The Hon. the Speaker having informed the Senate that there was a senator without, waiting to be introduced:

The following honourable senator was introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk; and was seated:

Hon. Shirley Maheu, of Rougemont, Quebec, introduced between the Hon. B. Alasdair Graham and Hon. Lise Bacon.

The Hon. the Speaker informed the Senate that the honourable senator named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

[*Translation*]

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I would like to wish a cordial welcome to this chamber to our new colleague, Senator Shirley Maheu of Saint-Laurent, Quebec.

[*English*]

Well known on Parliament Hill and to many colleagues in this chamber, she has represented the riding of Saint-Laurent—Cartierville since 1988.

Senator Maheu has devoted herself to being a voice for the people of the community she has represented so well. Before coming to Ottawa, she served for six years as a municipal councillor for Saint-Laurent, where she is simply known as "Shirley," which I believe is indeed a tribute to her genuine warmth and commitment.

As a member of Parliament, Senator Maheu was appointed critic for multiculturalism and citizenship in 1990. She served as Deputy Chair on the Standing Committee on Multiculturalism and Citizenship. In 1994, she became the Deputy Chair of the Committees of the Whole House, a role which requires a firm hand in the debates in the other place, an experience which may be of great value in this chamber.

Over the years, Senator Maheu has worked on a number of boards and organizations in her community, including helping to found the Carrefour Multi-Ethnique, a group which helps refugees and immigrants adapt to Canadian life. She has been associated with the Red Cross, the Insurance Brokers of Quebec, and the Chamber of Commerce of Saint-Laurent, all of which will assist her contribution to the work of this chamber and its committees.

Along with her personal warmth and good humour, Senator Maheu brings with her a passion for this country and the place of her province within this country. We warmly welcome Senator Maheu as a colleague, and we look forward to sharing that commitment here in the Senate.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I join my colleagues in wishing the most cordial of welcomes to our new senator from the region of Montreal, and to wish her the greatest success in her new duties.

[*English*]

It is interesting to see that another former member of the House of Commons is joining us. We benefit from the experience that many current senators have gained in the House of Commons, and they of course have benefitted from the fact that, once here, they soon realize that some of the things they may have heard and even said about this place are, shall we say, slightly exaggerated. I have no doubt that our new colleague will quickly realize that this house has an extraordinary amount of knowledge, breadth of experience and political savvy which should be the envy of the House of Commons, and to which she will no doubt make her own special contribution.

[*Later*]

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I take great pleasure in wishing Senator Maheu the most cordial of welcomes. During my political career I had occasion to come to know her well, since we sat together on the Liberal caucus. You know what tragedies often occur in politics when there is an electoral redistribution.

I had to change ridings four times. The fourth time, Senator Maheu certainly took the most Liberal portion of my area. Ninety per cent of those she acquired from Saint-Denis voted Liberal. Consequently, I had to reorganize, which I did successfully, despite the efforts of a friend, a senator whom I shall not name.

I would like to mention here this morning one particular reason why I am familiar with Senator Maheu. We are often asked to visit schools and colleges, part of a good elected representative's duties. I always give as my answer something I learned from my father when he was a Montreal municipal councillor: devotion first and foremost to those we represent.

As Senator Graham has said, if someone called Senator Maheu's office, there would always be a response. The call would be taken and there would be a call back. In Saint-Laurent—Dollard, a call to the office of Mrs. Maheu could always be counted on to bring a reply, although not always a favourable one. Her staff lent an attentive ear. Ms Maheu was available on weekends. She had those two qualities: devotion to duty coupled with availability. This is a well-known fact in the entire riding of Saint-Laurent.

That is a riding I have always envied. I nearly represented it, but circumstances would have it otherwise. It is a riding of high economic activity. Imagine, 70,000 jobs, when the population is 70,000.

[*English*]

Seventy thousand jobs in a city that has around 70,000 people — that shows the dynamism of the city that Shirley Maheu mainly represented, including a part of Montreal called Cartierville.

[*Translation*]

She had, however, an extraordinary associate, her husband René. Of course, in the riding, this does not in any way diminish the talents of Senator Maheu. He is always there, representing his wife when Senator Maheu is in Ottawa to fulfil her parliamentary duties. I want to include him on this memorable day in his wife's life and thank him for what he has done. And there is more. There are Senator Maheu's four children: Ronald, Richard, Daniel and Marc, one of whom made his mark in the municipal council of Saint-Laurent. There is a family of six, plus grandchildren, all involved in making Senator Maheu's term as a member of the House of Commons a success. I just wanted to mention this for the record.

I am delighted, I must say, but someone has decided to keep us apart. I do not know why you are away over there. My fellow independent senator came to sit on our side, but she was put way over there. We are very close, just the same. I wish you a most cordial welcome, and I only hope that our long friendship will continue throughout our years together in the Senate.

[*English*]

THE HONOURABLE JOHN SYLVAIN

TRIBUTES ON RESIGNATION FROM SENATE

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to make a few remarks about the senator who has just left us. It is always with regret that we bid farewell to a colleague when he or she reaches the mandatory retirement age, but at least we can prepare for such an eventuality. A voluntary retirement, however, is both unusual and unexpected, thereby making it even more difficult to accept.

John Sylvain has not made me privy to the reasons for his decision to leave us. On the other hand, I have not hidden from him my distress and that of my colleagues at his having taken that decision, not only because it now allows our friends opposite to be numerically superior to those who form the Official Opposition, although I do admit that this is of more than passing concern, but because the entire Senate will miss the benefit of the knowledge and experience of a colleague who has not made insignificant contributions to the legislative process of Parliament.

As a member of the Standing Senate Committee on Banking, Trade and Commerce, and more recently as its deputy chairman, he distinguished himself in both debate and the study of bills. He was a member of the Special Joint Committee on Defence Policy which gained a great deal from his familiarity with the Armed Forces as a member of the RCAF during the war and later with the Royal Canadian Ordinance Corps. He also made a special contribution to the subcommittee which studied the film *The Valour and the Horror.*

Whether in committee or in this chamber, his interventions were always thoughtful and well prepared. It is hard to believe that his accomplishments here were all achieved in less than five and a half years. All of us will miss him.

[*Translation*]

On behalf of all of my colleagues, I should like to express our thanks to Senator Sylvain for his contributions to the Senate and to our caucus, as well as our very best wishes for the future to him, his wife Yolande and all of his family.

[*English*]

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I wish to join with my colleague opposite to pay tribute to Senator Sylvain of Rougemont, Quebec.

To say the very least, Senator Sylvain is a gentleman in every sense of the word. He is distinguished, hard-working, and I have found him quite down to earth. He has made a fine contribution to the work of this place, and most certainly as a representative of the province of Quebec.

John Sylvain has a history of service to this country going back to the years he served in the Royal Canadian Air Force as a bombardier navigator during the Second World War and afterwards as a captain with the Royal Canadian Ordinance Corps until 1949. After receiving a Bachelor of Commerce degree from the University of Ottawa back in 1950, he embarked on an extensive career in the insurance business, culminating in a term as President and Chief Executive Officer of United Provinces Insurance Company from 1976 to 1982 and as a consultant for Dale-Parizeau Insurance Brokers from 1982 to 1992.

This background has been of great benefit to the Senate, particularly to the Standing Senate Committee on Banking, Trade and Commerce, where he was able to apply his expertise, as a member and more recently as deputy chair, on several pieces of legislation and on a number of complex issues facing the financial industry. His military experience has also provided valuable insight to his work as a member of the Subcommittee on Veterans Affairs, as was mentioned by the Leader of the Opposition, and the Special Joint Committee on Canada's Defence Policy.

Above all, honourable senators, he has been an articulate and dedicated advocate for his country. Remarking on the feelings of patriotism Canadians expressed during the referendum, he said:

> I believe we can build on these feelings, and move toward redefining our country. There is much unfinished work to do...

There certainly is much work to do, and we know that John Sylvain will continue to be a strong voice in Quebec as the debate for the future of Canada and all its citizens unfolds in the weeks and months ahead.

In working with Senator Sylvain, I personally found him to be formidable, well-informed, direct and always fair. We will miss him here. We will miss his commitment, his humour and his friendship.

On behalf of all my colleagues, I congratulate him for his splendid work in this institution. We convey our warmest wishes to him and to his family.

Hon. Michael Kirby: Honourable senators, I, too, would join with Senator Lynch-Staunton and Senator Graham in honouring our colleague the Honourable John Sylvain.

We have heard this morning about Senator Sylvain's service to Canada in the military, in public life, and his profound personal interest in national unity. As Chairman of the Standing Senate Committee on Banking, Trade and Commerce, however, I would comment on Senator Sylvain's service from a somewhat different perspective. I worked with Senator Sylvain a great deal during his five years in the Senate, and more particularly during the last two years when he served as deputy chairman of the Banking Committee.

John Sylvain brought to the committee tremendous experience with financial institutions, and the insurance business in particular. His understanding of the financial services industry was extremely valuable to the committee over the last five years, and in particular during our hearings concerning the collapse of Confederation Life. The ensuing report of the Standing Senate Committee on Banking, Trade and Commerce included a series of recommendations to the government regarding policy changes which could minimize the risk of future insurance company failures. Virtually all of those recommendations were subsequently adopted in legislation passed by Parliament a few months ago.

Much of the work and the expertise that went into the development of those recommendations was that of Senator Sylvain. He not only brought to this task his understanding of the issues, he brought something else which I think has been fundamental in helping build the reputation of the Standing Senate Committee on Banking, Trade and Commerce; namely, he approached all such business issues in an absolutely non-partisan fashion. Because of his approach to the issues and his willingness to seek a non-partisan solution to complex business problems, every single bill which came before the committee during Senator Sylvain's time as deputy chairman was passed unanimously. We were able to reach the compromises that worked best for public and business policy, as opposed to those that would reflect particular political ideologies.

As committee members, we will miss Senator Sylvain during our future deliberations; we will miss his judgment, experience and non-partisanship. I have come to know Senator Sylvain as a friend as well as a Senate colleague, and I personally will miss his advice, his understanding and his company.

On behalf of the committee, I wish Senator Sylvain, his wife and family all the best, and thank him for his faithful and outstanding service to Canada.

Hon. Senators: Hear, hear!

Hon. Colin Kenny: Honourable senators, I, too, am pleased to have had the privilege of serving with Senator John Sylvain on a number of associations and committees. Our shared interest in defence matters brought us together as members on the Canadian NATO Parliamentary Association, as well as on the joint committee on Canada's defence policy.

Senator Sylvain served with distinction in World War II as an RCAF officer, flying missions in Europe, Africa and Asia. He was a never-ending source of military expertise.

Some of my most memorable moments in the Senate have been on association and committee trips in the company of Senator Sylvain. With the Canadian NATO Parliamentary Association, we travelled to Madrid, to Bruges and to Washington. We crossed Canada and northern America and went to Europe as members of the Special Joint Committee on Canada's Defence Policy. John always brought common sense and gentle reason to our deliberations. He always put Canada first. He will be sorely missed by me and by all members of this house.

I wish him well. I know he is leaving to spend more time with Yolande, and with his six children. I wish him a happy retirement.

[*Translation*]

Hon. Louis J. Robichaud: Honourable senators, I would also like to welcome Senator Maheu. I am saddened by the departure of Senator Sylvain. There was talk of two happy events. Senator Sylvain is leaving at his own request, for the best, for himself.

THE LATE HONOURABLE FERNAND E. LEBLANC

TRIBUTES

Hon. Louis J. Robichaud: Honorable senators, we have in the Senate a tradition whereby we mark the passing of those who sat as senators for several years. At this time, I would like to do something that is very painful for me, and something that I rarely do. I am sad to say that our former colleague, Fernand E. Leblanc, recently passed away.

As many of you will know, Senator Leblanc was a very fine member of Parliament, and a very fine senator. He chaired the National Finance Committee, something of which he was very proud. He occupied the office next to mine in the East Block. He was a great friend, and will be sorely missed. I want to express my deepest sympathy to Ms Claire Leblanc and their two sons, François and Daniel.

Hon. Marcel Prud'homme: Honourable senators, I wanted to welcome Senator Maheu and then express my regret at the departure of Senator Sylvain. It is appropriate for me to say a word about my friend Senator Leblanc. We were elected on the same day, February 10, 1964.

[*English*]

We both were elected in a by-election in 1964. Mr. Leblanc replaced the Honourable Lionel Chevrier, and I replaced the Honourable Senator Azellus Denis.

[*Translation*]

Like his father-in-law before him, Senator Leblanc was the last senator of a Liberal regime. In 1957, his father-in-law, Senator Lefrançois, was the last senator appointed under Louis St. Laurent.

In 1979, in order to provide a seat for David Berger, now our ambassador to Israel, Senator Leblanc gave up his seat in the House and joined us in the Senate.

There is no need for me to tell you that my family and I share the sentiments expressed by Senator Robichaud, since the two families have been associated for some 50 years. I therefore join with Senator Robichaud in offering our most sincere condolences to Senator Leblanc's wife and their two children.

[*English*]

Hon. John Lynch-Staunton (Leader of the Opposition): I too should like to join with Senator Robichaud and Senator Prud'homme in deploring the loss of our former colleague, who only had less than three years to enjoy his retirement from this place. The late Senator Leblanc has left us a legacy, particularly with regard to the special status his chairmanship gave to the National Finance Committee, the work he did on that committee, and the standards he established in the study of Estimates and in the general supervision and examination of public finances. He had a special rapport with various government officials, particularly those at the Treasury Board. The committee attained special standing which it maintains today.

I join with all my colleagues in extending to his family, to his wife and his two children in particular, and to his many friends, my deepest condolences.

Hon. Peter Stollery: Honourable senators, I should like to add my words to the respect being paid to our former colleague Senator Leblanc, with whom I served in four parliaments in the House of Commons and here in the Senate. He was a fine man and I should like to take this opportunity to add my own respects and my regrets to his family.

THE LATE RENÉ JALBERT

TRIBUTES

Hon. Lise Bacon: Honourable senators, it is with much sadness and regret that I rise today to pay tribute to one of our country's great heroes, René Jalbert, who passed away on the morning of January 21, shortly before his 75th birthday, having lost a courageous battle with cancer.

Mr. Jalbert was a hard-working, dedicated man of tremendous loyalty, respect, and high acclaim. The praise is justified, due to his lengthy record of service to both Quebec and Canada. Mr. Jalbert was office administrator for a Quebec delegation in New York City from 1969 to 1971 and then spent three years as Joint Protocol Chief of Intergovernmental Services. He became Sergeant-at-Arms for the Quebec National Assembly in 1974. Many honourable senators may have had an opportunity to make Mr. Jalbert's acquaintance here in this chamber, where he ably served as Gentleman Usher of the Black Rod from July 1985 to June 1989. When he left the Senate, he assumed responsibilities as a Citizenship Court Judge in Montreal for a period of five years, a term that ended only two years ago when he was 72 years old.

Honourable senators, you may recall that René Jalbert was awarded the Cross of Valour, Canada's highest declaration for bravery, in 1985, after he persuaded a heavily armed Corporal Denis Lortie to surrender himself to Quebec police officials following the gunman's shooting spree in the Quebec National Assembly. He was heralded for his bravery and quick thinking. He was hesitant to accept such praise, but did so with a great amount of modesty and humility.

Mr. Jalbert enjoyed a distinguished, 27-year military career. He served in England and France in World War II. In 1945, he was transferred to the Carleton and York Regiment, where he became a captain, and subsequently became a helicopter commander. In 1952, he became a company commander of the Royal 22nd Regiment, Quebec's famed Van Doos, serving in Korea and Germany. In 1961, he was assigned as military liaison for the International Control Commission in Vietnam, and later served in Cyprus until 1969.

[*Translation*]

Honourable senators, allow me to borrow a few words from the eulogy given by Mr. Jalbert's daughter.

Mr. Jalbert earned high praise and was decorated for his courage during the National Assembly shooting. This man, who was always in a good mood, was never less than modest even within his own family.

I think that all those who knew him never failed to notice Mr. Jalbert's characteristic modesty, even after the May 8, 1984 events. Obviously, this former soldier was in no hurry to retire and worked almost until the end.

After Ottawa, as Ms Jalbert said, we thought that he would slow down. He, however, went on to serve as a Citizenship Court judge in Montreal for four years before his mandate came to an end.

On behalf of the Senate, may I convey our heartfelt condolences to Nanette Jalbert, her daughter, Linda, and her son, Marc. I think that all those who knew Mr. Jalbert feel a little richer for having met such a man.

Hon. Thérèse Lavoie-Roux: Honourable senators, I too want to say a few words to mark René Jalbert's passing. I was in the National Assembly when the dramatic events we all know about occurred. We knew him before, of course, since we used to rub shoulders with him every day. He was a very nice and, no doubt, very courageous man. We did not know as much about his military career at the time.

I think one must experience the anxiety and distress we felt during those terrible events to really understand Mr. Jalbert's courage, strength, sang-froid and sense of responsibility to others.

I was not in Quebec City for Mr. Jalbert's funeral but I saw it on television, and I felt saddened. He was 74 years old. That is not so old. Some of the honourable senators in this chamber are 74 years old, I think, and I am sure that they are not ready to go tomorrow. I felt especially sorry for his wife, son and daughter, who can be extremely proud of him.

As Senator Bacon and Ms Jalbert pointed out earlier, he was a very modest man. As a matter of fact, I think that such modesty is the mark of all great men and women. At one point, someone even wanted to make a movie of the events, but he would never have gone along with that kind of thing. He felt he had done nothing but his duty.

I think that the time has come to reiterate how grateful we are to him. Again, I wish to express our sincere condolences to Mrs. Jalbert and her children. For young and old alike, Mr. Jalbert will remain a model of both sobriety and courage, as evidenced by the Cross of Valour he was awarded. He will be a model for all those who, at some point in their lives, have to assume major responsibilities. He did his brave deed unselfishly, because it was his duty. One must be aware that even though doing one's duty may seem like an outdated concept in today's society, one which unfortunately appears to have no value, we still need people like him in real life, people with a profound sense of duty. Thank you, Mr. Jalbert.

Hon. Jean-Claude Rivest: Honourable senators, I would like to associate myself with all these tributes. Anyone who worked with this gentleman in the Senate or in the Quebec National Assembly was able to appreciate his tremendous qualities, which Senator Bacon and Senator Lavoie-Roux mentioned.

As a member of the National Assembly, like Mr. Jalbert I experienced tragedy right up close. Let me remind this House of the outstanding and extraordinary courage shown by Mr. Jalbert on that occasion. The kind of courageous, noble and engaging action that Mr. Jalbert took at the time reflects a lifetime of self-effacement, dedication, sincerity and a sense of duty, as Senator Lavoie-Roux indicated.

Like everyone in Quebec and everywhere in Canada, in the Armed Forces, in the Senate and at Citizenship Court who was fortunate enough to know Mr. Jalbert, I shall miss him. He personified, to the fullest and even to excess — with his courage — the greatness of a noble, worthy and eminently respectable human being, whom we shall all miss.

Hon. Fernand Roberge: Honourable senators, I too wish to pay tribute to the great Canadian that René Jalbert was. After a brilliant career in the military, René Jalbert served his fellow citizens at the National Assembly and received the highest accolades after the Lortie incident. He demonstrated outstanding courage and sangfroid, thus preventing worse bloodshed.

Later, Mr. Jalbert came to Ottawa and became Gentleman Usher of the Black Rod. His good humour and infectious smile touched his family and friends. I am very proud of having been counted among his friends. I would like to offer my deepest condolences to his wife, Nanette, his daughter, Linda, who worked for me for many years, and his son, Marc.

[*Later*]

[*English*]

SENATORS' STATEMENTS

CANADIAN WAR MUSEUM

TERMINATION OF EMPLOYMENT OF VETERANS

Hon. Gerry St. Germain: Honourable senators, I was outraged recently to hear that the Canadian War Museum advised 13 veterans of the Corps of Commissionaires, 11 World War II veterans and two Korean War veterans, that their services were no longer required as tour guides at the museum. These veterans are to be reassigned, and will be replaced by individuals who are not veterans.

Most of the veterans working at the war museum are well into their seventies and will be retiring soon. However, rather than allowing them to finish their careers by working at the museum, the government has ordered them out. The abrupt manner in which these veterans were notified of their termination is nothing less than disgraceful. They deserve better from their country. These veterans served our country with honour, courage and distinction. They, and they alone, can bring an important and unique perspective to this historic museum. Our children should know about Canada's significant contribution in protecting democracy and freedom in the world, and who better to tell them about that than the veterans of these conflicts?

I, more than most, believe that the government should make every effort to reduce spending and eliminate waste. However, the performance of these jobs by these people is not wasteful. We cannot afford to forget those who answered the call of their country in a time of need. In these times when Canadians are debating the very future of our country, it is important to have input from those who can remind us of the human price that was paid for protecting this country. Perhaps then Canadians will realize that we owe it to those who died protecting our country to keep our country unified.

I urge the government to reconsider this decision and to allow these 13 veterans to conclude their careers at the Canadian War Museum.

THE HONOURABLE MURIEL MCQUEEN FERGUSSON

TRIBUTE TO FIRST FEMALE SPEAKER OF THE SENATE

Hon. Rose-Marie Losier-Cool: Honourable senators, I rise today to bring you greetings from the first female speaker of the Senate, Senator Muriel McQueen Fergusson of New Brunswick. I met Mrs. Fergusson at the screening of a documentary entitled *The Honourable Muriel McQueen Fergusson* which premiered at a private ceremony in Fredericton, New Brunswick on January 17.

Senator Fergusson is now 96 years young, and alert. She is planning a visit to the Senate and to Ottawa this spring. She wishes you all a very happy 1996.

The documentary depicts Mrs. Fergusson as no ordinary philanthropist, but a person responsible for guiding the course of Canadian history, particularly for women. Semra Yüksel, a Turkish-born producer, was so intrigued by Senator Fergusson that she dedicated more than five years of her time to making this 25-minute documentary. Her company is called Arcolect International. With help from the CBC, the Canadian-New Brunswick Cooperation Agreement on Cultural Development, the National Film Board of Canada and Atlantic Media Works, this documentary was made possible. It will be shown on CBC on February 3 at eight o'clock and, according to our wishes, perhaps here at the Senate in March.

[*Translation*]

Honourable senators, I had never met Senator Fergusson before January 17. I had heard about her work, especially with respect to women in New Brunswick, and knowing this made me even prouder to be a member of the Senate and to represent New Brunswick in particular.

[*English*]

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FORTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 1, 1996

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTY-THIRD REPORT

Your Committee recommends the adoption of a Supplementary Estimate of $3,265,000 for fiscal year 1995-96.

This Supplementary Estimate is requested to fund unanticipated expenses and capital expenditures for the current fiscal year and will result in significant savings. Initiatives recommended for implementation include the installation of in-house printing capabilities and an Early Departure Incentive Program which are expected to result in annual savings of $1.2 million.

After an initial capital investment of $885,000, operating costs for information and printing will be reduced by 85.6 per cent and annual savings will amount to $600,000.

These expenditures have a payback period of between 16 and 18 months, significantly less than the time that Treasury Board uses as a guideline.

This Supplementary Estimate will also cover essential upgrades to the Senate's computer network communications capacity and compatibility with the House of Commons and Library of Parliament.

As the Main Estimates are prepared 12 to 18 months in advance, special and joint committees will also be funded by this Supplementary Estimate.

Respectfully submitted,

COLIN KENNY,
Chairman

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

FORTY-FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 1, 1996

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTY-FOURTH REPORT

Your Committee has examined and approved the Senate Estimates for the fiscal year 1996-97 and recommends their adoption.

A summary of the Expenditure Budget 1996-97 accompanies this report.

Respectfully submitted,

COLIN KENNY,
Chairman

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

FORTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 1, 1996

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FORTY-FIFTH REPORT

Your Committee has examined and approved the budget presented to it by the Special Committee of the Senate on Bill C-110, An Act respecting constitutional amendments, for the proposed expenditures of the said Committee, as authorized by the Senate on December 15, 1995. The said budget is as follows:

Professional and other services	$ 4,900
All other expenditures	100
Total	$5,000

Respectfully submitted,

COLIN KENNY,
Chairman

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CONSTITUTIONAL AMENDMENTS BILL

REPORT OF SPECIAL SENATE COMMITTEE ON BILL C-110 PRESENTED AND PRINTED AS APPENDIX

Hon. Noël A. Kinsella: Honourable senators I have the honour to present the report of the Special Committee of the Senate on Bill C-110, an act respecting constitutional amendments, which contains three amendments. I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* of this day.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see today's* Minutes of the Proceedings of the Senate.)

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

On motion of Senator Kinsella, report placed on the Orders of the Day for consideration later this day.

[*Translation*]

CANADIAN UNITY

NOTICE OF MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE

Hon. Gérald-A. Beaudoin: Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(*d*), I give notice that on Friday, February 2, 1996, I will move:

That a special committee of the Senate be appointed to examine and report upon the question of Canadian unity;

That, notwithstanding rule 85(1)(*b*), the Honourable Senators Andreychuk, Beaudoin, Carney, Carstairs, De Bané, Gauthier, Kinsella, Lewis, Marchand, Meighen, Murray and Rivest act as members of the Special Committee;

That the Committee have the power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of the said order of reference;

That the Committee have the power to send for persons, papers and records, to examine witnesses, and to print such papers and evidence from day to day as may be ordered by the Committee;

That the papers and evidence received by the Special Senate Committee on Bill C-110 in the First Session of the Thirty-fifth Parliament be deemed to have been referred to the Special Committee hereby appointed;

That the Committee have the power to sit during sittings and adjournments of the Senate;

That the Committee be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings;

That the Committee have power to adjourn from place to place within Canada;

That the Committee submit its final report no later than December 15, 1996; and

That notwithstanding usual practices, if the Senate is not sitting when the final report of the Committee is completed, the Committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.

[*English*]

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

Hon H. A. Olson: No.

The Hon. the Speaker: Honourable senators, in that case, the notice will stand. Leave has been requested to deal with this motion tomorrow and denied. As two days' notice is normally required, instead of tomorrow this matter will be put on the Orders of the Day for consideration at the next sitting following.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, it is with regret that I must inform the Senate that the Leader of the Government in the Senate, Senator Fairbairn, is unavoidably absent today due to illness. I am hopeful that she will be here with her usual vigour tomorrow to answer all questions any honourable senators may have. In the meantime, we would be happy to take notice of any questions, as usual.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senator, I have a response to a question raised in the Senate on June 21, 1995, by the Honourable Senator Andreychuk, regarding changes to the weather reporting service; a response to a question raised in the Senate on October 17, 1995, by the Honourable Senator Kinsella, regarding trade in goods manufactured in labour camps; a response to a question raised in the Senate on November 8, 1995, by the Honourable Senator Nolin, regarding the search and rescue helicopter replacement program, the proportion of Canadian content in contract bids; a response to a question raised in the Senate on November 23, 1995, by the Honourable Senator Doyle, regarding the sale of Airbus aircraft to Air Canada, the rank of RCMP officers engaged in the investigation; a response to a question raised in the Senate on December 5, 1995, by the Honourable Senator Comeau, regarding the replacement search and rescue helicopters; and a response to a question raised in the Senate on December 12, 1995, by the Honourable Senator Comeau, regarding the search and rescue helicopter replacement program.

ENVIRONMENT

CHANGES TO WEATHER REPORTING SERVICE ADVERSELY AFFECTING RURAL AND ISOLATED AREAS—GOVERNMENT POSITION

(*Response to question raised by Hon. A. Raynell Andreychuk on June 21, 1995*)

The safety and security of Canadians is not being affected by the changes to the Weather Services. Alerting of Canadians to severe and significant weather events remains a high priority for Environment Canada (EC). These warnings are freely available to Canadians through:

– Distribution through media partners

– WeatherRadio/WeatherCopy

– Automated Telephone Answering Devices (ATADs)

Rural and isolated areas continue to receive timely warnings of significant and severe weather through the excellent collaborative relationship between EC, media organizations (radio and television) and emergency measures organizations.

Routine weather information is also available through these means. Note that Environment Canada does not use 1-800 services to distribute its weather information, but instead relies on the mass distribution capabilities of its partners and the other methods noted above.

In addition to these services, a 1-900 service is available for users who have specialized needs for weather information. The 1-900 service carries detailed weather information for a particular application specifically tailored to those who need to make decisions that will likely have an economic impact on their line of business. Examples of these would be construction companies, film companies, and other planners of outdoor activities. These clearly identifiable clients with specialized needs are served through the 1-900 service for a fee, and it would not be expected to support this activity from the tax base.

Environment Canada is fully embracing the Quality Service Initiative to ensure that Canadians receive the best level of service that we can afford:

– Policies on levels of service are being developed and service standards are being implemented.

– Front-line employees are becoming increasingly service-oriented in this era of downsizing.

– Users of all of EC services are polled on a regular basis to ensure that the service they receive meets with their needs.

– EC remains in close contact with the media, who are important partners in delivering weather information to Canadians.

CANADA-CHINA RELATIONS

TRADE IN GOODS MANUFACTURED IN LABOUR CAMPS—GOVERNMENT POLICY

(*Response to a question raised by Hon. Noël A. Kinsella on October 17, 1995*)

Schedule 7 of the *Customs Tariffs Act* prohibits the importation of any products produced by prisoners (from any country). Any allegations concerning entry of products produced by prisoners is brought to the attention of Canadian customs officials for appropriate action. No cases of importation of such goods from China have been detected to date.

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—PROPORTION OF CANADIAN CONTENT IN CONTRACT BIDS—REQUEST FOR PARTICULARS

(*Response to question raised by Hon. Pierre Claude Nolin on November 8, 1995*)

As previously announced by the Minister of National Defence, the procurement strategy for the acquisition of the new Search and Rescue Helicopters is to be an open competition. Bids will be evaluated as to their compliancy with the stated operational requirements and their price. Bidders will also be expected to present suitable industrial and regional benefits plans. That may include direct benefits, i.e., direct Canadian content, or indirect benefits. No specific goal has been set with respect to Canadian content on the helicopter. That is left to each bidder to propose. While some Canadian content is expected, given that the strategy is to acquire a proven off-the-shelf helicopter, opportunities for direct content will be more limited than if a new, developmental aircraft was being considered. Canadian content is more likely from some of the aircraft sub-systems, integrated logistic support, and follow-on in-service support.

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—RANK OF RCMP OFFICERS ENGAGED IN INVESTIGATION

(*Response to question raised by Hon. Richard J. Doyle on November 23, 1995*)

The Sergeant rank is the senior investigator level within the RCMP Major Fraud Unit of the Ottawa Commercial Crime Section. This Unit is responsible for the investigation of secret commissions and the senior member of this unit was assigned. The Major Fraud Unit is supervised by an Inspector who has participated in, and is currently participating, in all aspects of this investigation. The Officer in Charge of the Criminal Operations Branch of the RCMP "A" Division is at the level of Chief Superintendent and is responsible for all criminal investigations within his Division. This Officer is monitoring this investigation and is aware of all developments as they occur.

TRANSPORT

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—PURCHASE OF UNITS WITHOUT TENDER—GOVERNMENT POSITION

(*Responses to questions raised by Hon. Gerald J. Comeau on December 5, 1995*)

The Government has not changed its position with respect to holding an open bidding process for the selection of the replacement search and rescue helicopters. The Government will ask the private sector to submit bids for either a traditional purchase or for a lease option. The successful bidder must meet Department of National Defence specifications, recommend financing mechanisms, and provide a maintenance component.

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—SUITABILITY AND SAFETY OF REPLACEMENT UNITS—GOVERNMENT POSITION

The Department of National Defence (DND) has reduced the set of operational requirements for the replacement search and rescue helicopters from that of the cancelled EH-101 helicopter contract in terms of range, speed, endurance and capability for flight in icing conditions. By reducing these requirements, DND is permitting a broadening of the potential field of competitors wishing to supply the replacement helicopter fleet, and is reducing the cost to taxpayers.

However, the overriding concern for the Government remains that the new helicopters must fully satisfy safety requirements for passengers and crew, while providing a strong search and rescue capability.

NATIONAL DEFENCE

SEARCH AND RESCUE HELICOPTERS REPLACEMENT PROGRAM—STATEMENT OF REQUIREMENTS—REQUEST FOR ANSWER

(Response to question raised by Hon. Senator Gerald Comeau on December 12, 1995)

As announced by the Minister of National Defence during his November 8th press conference, no decision with respect to the replacement Maritime helicopter has been made. However, since the Sea King helicopters are approaching the end of their operational life, work has begun to identify options and plans to put into service new, affordable replacement Maritime helicopters by the end of the decade.

TRANSPORT

FEDERAL-PROVINCIAL STRATEGIC HIGHWAY IMPROVEMENT PROGRAM—REPORT OF AUDITOR GENERAL ON DIVERSION OF FUNDS—PERTINENT DOCUMENTS TABLED

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, in response to questions asked in the Senate on November 21, 1995, by Senators Forrestall and Comeau regarding the Nova Scotia highway improvement program, I should like to table a number of documents.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed with the Orders of the Day, perhaps I could explain that we will be proceeding with the report of the Special Senate Committee on Bill C-110 and the debate that follows. As has been agreed, we will recess from 12:00 p.m. to 2:00 p.m. for the normal lunch break, at which time the caucus on this side will be meeting. We will then continue with the Order Paper during the afternoon. There will be discussion between both sides as to how we shall proceed.

We will be sitting tomorrow. There is a house order that all votes relating to Bill C-110 take place not later than 5:30 on Friday. It may be that by unanimous agreement the vote or votes will be advanced. Under normal circumstances, we sit on Fridays at 9:00 a.m. We wish to accommodate all honourable senators in that regard and, as has been agreed upon already, there will be discussion between the leadership on both sides as the day progresses as to how we might proceed tomorrow.

CONSTITUTIONAL AMENDMENTS BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the report of the Special Senate Committee on Bill C-110, respecting constitutional amendments.

Hon. Noël A. Kinsella: Honourable senators, in speaking to the motion that this chamber should adopt forthwith the report of the Special Senate Committee that studied Bill C-110, respecting constitutional amendments, we would be adopting three very important, valuable, valid, legitimate amendments that would improve immensely the bill and would help to achieve, in a clear, non-mystical fashion, the objective which the government set for itself in meeting the Prime Minister's commitment.

Honourable senators, before dealing with the report, as chairman of the committee I should like to say a few words about the work of the special committee. As honourable senators will recall, the committee was established on the last sitting day of the Senate in 1995. The committee was working under an order of the Senate to report on February 1, 1996. I believe it was ordered that we report the bill to the Senate before 9:00 a.m. today. We are a few minutes late in doing so. However, the report has now been presented.

Given the time we had for our study of Bill C-110, members of the committee decided to conduct a focused set of hearings. We heard from over 25 very well-informed, invited witnesses; witnesses deliberately chosen by the committee in order to keep our study focused. I believe we achieved that objective.

I listened attentively during the hearing process. I should like to underscore how greatly impressed I was by the preparation of all members of the committee. I was impressed by the quality of the questions and the interventions by all senators who served on the committee.

It is proper and right to note that there is no question that the two political parties represented in the Senate of Canada believe in the future of a united Canada. While we may differ on the means to achieve this goal, we certainly do not disagree on the importance of the goal itself. I believe this came through clearly in our hearings.

Before we can determine whether Bill C-110 is or is not an appropriate response to the problem of Canadian unity, we must look at the chain of events which resulted in this bill now being considered. As we all know — and I will not dwell on it — the Canadian Constitution, along with the Charter of Rights and Freedoms, was patriated without the agreement of the Government of Quebec and its National Assembly. This patriated Constitution had with it an amending formula which did not give to the province of Quebec a veto over future constitutional change that may adversely affect that province.

Since that time, there have been two attempts to enshrine in the Constitution a veto for Quebec. Unfortunately, neither the 1987 Meech Lake Accord nor the Charlottetown accord received the approvals necessary to become part of our Constitution. Most recently, when it looked as though the federalist forces in the Quebec referendum were about to go down in defeat, the Prime Minister of Canada promised that no constitutional change that would affect the powers of Quebec should ever be made without the consent of Quebecers.

On November 29, 1995, the Prime Minister stated:

> Quebec has long claimed a veto over amendments to the Canadian Constitution to ensure that it is a full participant in the evolution of the Constitution and to have protection against amendments that could diminish the powers...of the National Assembly and the Government of Quebec.
>
> The Government of Canada recognizes the legitimacy of those demands.

These are the words that gave rise to Bill C-110.

Unfortunately, we have heard other words, for example, the words of the Minister of Justice during our committee hearings, and those of the new Minister of Intergovernmental Affairs, Stéphane Dion, when he was sworn in. Both gentlemen have described Canada as a "country in crisis". Minister Dion graphically described our country as being "in bad shape".

When one listens to the words of the Prime Minister and the words of these two ministers, one is led to the inevitable conclusion that the bill before us is a less than adequate attempt to address these problems.

Let us consider for a few moments the process associated with this bill. If we learned anything from the Meech Lake Accord and the Charlottetown accord, it was that the process is almost as important as the substance in devising constitutional amendments in our country. Above all, the process must be inclusive of all those affected, and in particular those who may believe that their rights are being diminished by any proposed amendment.

The process followed for developing Bill C-110 fails the consultation test. All the witnesses who appeared before us who were either learned in matters of constitutional studies or who believed they might be affected testified that they were not consulted; that is, all witnesses with the exception of the Minister of Justice and officials from his department.

The Honourable Andrew Petter who chairs the National Unity Committee of the Government of British Columbia, the Honourable Stephen Kakfwi, the Minister of Justice and Intergovernmental and Aboriginal Affairs for the Government of the Northwest Territories, the Honourable Alan Nordling of the Government of Yukon, and all the representatives of the aboriginal peoples of Canada who appeared before the committee told us that they were never consulted before this bill was tabled. Minister Petter commented that this lack of consultation was "not the way for the federal government to foster national unity."

The National Chief of the Assembly of First Nations, Ovide Mercredi, was even more outspoken on this point. He stated:

> Bill C-110 represents a significant violation of the legal principles guiding Crown conduct with respect to Canada's constitutional and lawful obligations regarding inherent aboriginal and treaty rights. The process being utilized to push this legislation through does not allow for our input nor the input of Canadians generally.

Honourable senators, a serious concern about the lack of consultation was expressed to the committee. This lack of consultation, coupled with the problems created by the questionable wording of the bill, only underscores the suggestion that the bill was cobbled together quickly, without much thought, in order for the government to be seen to be doing something about national unity.

Ms Mary Dawson, Associate Deputy Minister of Justice, in reply to some of my own questions, admitted that no comparative studies were ever done on this model of legislation, and that her department did not have a lot of time to prepare the draft bill.

The Minister of Justice, Mr. Rock, was our very first witness. He let us know that we were now dealing with a Canada of regions, that if we did not like the solutions presented by the bill to the method by which Quebec could secure a veto over constitutional change, we were not to worry.

This bill, the minister assured us, need not be a permanent solution. If some do not like it, well, it is not intended to satisfy everyone anyway.

The minister went on to explain that this bill gives us a modification of the 7-50 amending rule. It operates apart from the Constitution and it really only fetters the federal government by binding ministers of the Crown.

Mr. Rock also attempted to assuage the fears of Canada's aboriginal peoples, stating that amendments to increase their rights would not be subject to the provisions of the bill, but amendments to diminish their rights would be caught by the provisions of the bill. He referred to it as a "durable enhancement" of the amending process. Alas, he was the first and also the last witness to give the bill more than modest support.

Under questioning by our colleague Senator Murray, it became clear that Minister Rock was unsure as to which parts of the Constitution would be affected by this overlay of the amending formula. Senator Rivest wanted to know who gives the consent from the province required under subsection (1) of clause 1 of the bill. Would it be the government, the people, the Legislative Assembly or some other group? This bill seemed to create uncertainty.

Our colleague Senator St. Germain wanted to know how it was that British Columbia, when the bill was first introduced, was not a region and then, lo and behold, it became a region.

Taking Minister Rock at his word that this bill is transitory, that this bill is a bridge to comprehensive reform in the future, Senator Meighen suggested that a sunset clause be added. Such a

clause would kill the bill around the time of the next constitutional conference which is mandated for 1997. Mr. Rock did not like this idea. He told us not to "oversell" 1997, for it was just a way station on the road to constitutional redevelopment.

Honourable senators, it also became apparent that this bill created a higher approval hurdle for the proposed constitutional amendments than we have at present. The test of 7 provinces and 50 per cent of the population becomes, under this bill, a test of 7 provinces and 94 per cent of the population.

I must admit that, after our Monday morning session with the minister and his officials, I personally came away with real questions about the potential effect of this bill on future constitutional change in our country. The drafting regarding how provincial consent should be given left many questions in my mind. I was concerned about the bill's effect on Canada as a whole. I was especially concerned about the effect of the bill on Quebec because it does not do what the Prime Minister said it would do, namely, it does not really give a veto to Quebec.

Our colleague Senator MacEachen said it better than any of the witnesses when he tried to explain the limited application of this bill. He said:

> I think that it is absolutely necessary to underline again that this limitation —

— namely, the amending formula contained in Bill C-110 —

> — is on the executive, not on the Parliament of Canada.
>
> It is a regulation of ministerial behaviour. That is all it is. It does not confer anything on anyone. It guides ministerial behaviour, period.

I agreed with Senator MacEachen in that.

Witnesses who followed the minister — witnesses from the academic community, ministers of the Crown from British Columbia, the two territorial ministers and the aboriginal representatives — raised even more problems with the bill.

My colleagues on the committee and myself were then at that point where we had to weigh the evidence and assess our individual analyses of the bill. In order to draw appropriate conclusions as to the efficacy of this bill, certain tests, it seemed to me, had to be devised. For me, these tests would provide the scale against which we would measure the problems created by the bill as reported by the witnesses and as found during my own study.

I felt two tests would be useful: First, does this bill indeed fulfil the promise made by the Prime Minister of Canada during the referendum campaign?

The Hon. the Speaker: Honourable senators, I am sorry to interrupt but the honourable senator's 15-minute period is up. Is leave granted for Honourable Senator Kinsella to continue?

Hon. Senators: Agreed.

Senator Kinsella: The first test would be whether the bill fulfils the promise made by the Prime Minister, namely, to give Quebec a veto over any future constitutional change which affects it. Second, does the bill advance the state of federal-provincial relations or, if you like, the cause of national unity in our country?

In order to answer the first question, one must look carefully at the bill. Close examination reveals the following problems which directly affect its usefulness as a veto for Quebec. First, the bill does not confer any special powers on the Province of Quebec. It fetters the ability of ministers of the Crown to introduce constitutional amendments in Parliament unless the amendments meet the tests of the bill.

Second, we recognize that any back-bencher, or indeed any honourable member of this house, can still introduce a constitutional amendment which could adversely affect Quebec's powers or its place in the federation.

Third, the bill will make more difficult the attainment of any future constitutional change which could increase the power of Quebec because such a change would be subject to regional veto.

Fourth, there may be a tendency in the rest of Canada to conclude that, with a resolution dealing with distinct society and with this bill, the issues which gave rise to the close vote in the October 30 referendum have been finally addressed and satisfied.

Fifth, this bill is not a constitutional amendment. It is simply an ordinary statute of the federal Parliament and is subject to change by Parliament.

Senator Berntson: A sham.

Senator Kinsella: In my opinion, Bill C-110 is very much less than an adequate response to the commitment made by the Prime Minister of our country. It does not confer on Quebec a constitutionally entrenched veto over constitutional change which directly affects that great province.

My second test in analyzing the evidence on the bill deals with the potential effects this bill may have on federal-provincial relations and on national unity.

In that regard, the Honourable Andrew Petter, Chair of the British Columbia government committee on national unity, believed the bill was less than helpful because it established four classes of provinces. He stated:

> This hierarchy of provinces is inherently divisive and ultimately will undermine, not strengthen, the commitment to national unity.

Professor Doug Schmeiser of the University of Saskatchewan, a long-time constitutional negotiator, endorsed Minister Petter's views even though Schmeiser only saw two classes of provinces — those with a veto and those without a veto. Whether or not one believes in the concept of equality of the provinces, in order to change the amending formula one needs the approval of all of the provinces and of the federal Parliament. However, because of opposition to this bill in British Columbia and Quebec, the bill not only fails that test but fails its own test as well, which is more of a paradox.

Further, the bill does not establish the means whereby consent is to be given by the provinces. This is a very serious matter and the subject of one of the three amendments before you. This potentially divisive and inherently confusing matter needs to be addressed.

Honourable senators, the bill leaves it to the federal government to determine when consent has been demonstrated. This leaves the federal government potentially in the position where it can disregard the word of the duly elected government, or go over its head and hold a referendum in a given province. Such an approach offends the principle of federalism as expressed in the current Constitution.

The bill may also be unconstitutional. However, I will leave the in-depth analysis of that topic to others during this debate. Suffice it to say that some of our witnesses, for example, Professors André Tremblay of the University of Montreal and Professor Schmeiser, both held the categorical view that the bill was in difficulty in that regard.

Some argued that it is an attempt to amend the Constitution without following the rules set down in the Constitution. It is a bill which contradicts the constitutional amending formula and could be declared to be inconsistent with the provisions of the Constitution and of no force and effect, as provided in section 52 of the Constitution Act, 1982.

I also believe that the method by which this bill was devised is less than helpful to Canadian unity. The lack of consultation by the federal government with those involved in the process must stop. Ignoring those who are intimately involved in the constitutional process does not foster support for even quasi-constitutional initiatives such as this one.

Although the government claims that this measure is a temporary one and can be repealed when a new formula is devised, one witness, the Dean of the Faculty of Law at Queen's University, Professor John Whyte, was of a different view. He advised us that this will be a permanent change to the Constitution. He argued that that is because no province, once given a veto, will want to give it up. He felt that even though the bill only deals with ministers of the Crown, because of party discipline it will have a paralyzing effect on all government members. It will also have a paralyzing effect on future changes to the Constitution.

As Gordon Gibson of British Columbia pointed out, Constitutions should be hard to change, very hard; but change should not be impossible.

I believe that, on balance, honourable senators, having heard all of the evidence, this bill does very little to advance the cause of national unity. However, in trying to assess the *realpolitik* of our times, and desiring to be constructive in opposition, we should bear in mind the words of another distinguished witness who was extremely helpful to the committee, Mr. Claude Ryan, who stated:

[Senator Kinsella]

[*Translation*]

> Following your kind invitation, I must first state clearly whether I support or reject Bill C-110. I strongly emphasized that this legislative measure must be of a transitory and temporary nature —
>
> Provided that the ambiguity concerning the conditions related to provincial consent is eliminated, the answer to that question must be in the affirmative.

[*English*]

With respect to the three amendments that have been brought before this chamber, in seriousness, and as a result of careful study, and from a desire to be supportive and helpful, we believe the bill, as a temporary measure, is salvageable, but only with the three amendments that we have brought forward.

First, we propose a sunset clause. The bill has been represented by the government as temporary. They say it is only temporary, that it is a bridge to a new and more complete answer to national unity that will be brought in by the federal government. Some of us are sceptical; I, by nature, am not. However, I am cautious and I wish to be prudent.

As recently as last week, the government changed the minister in charge of intergovernmental affairs. There is a constitutional conference scheduled for next year. If this bill is designed to be a temporary measure, then let us ensure that it becomes a temporary measure by ordering its demise through a sunset clause. Let us keep the government's feet to the fire, so that the objective and the promise made by the Prime Minister of Canada to the people of Quebec, that there would be a constitutional amendment to ensure that no changes would occur affecting the province of Quebec without that province's consent, will be realistically and seriously acted upon. This bill does not do that.

To allow this bill to stand without a sunset clause would be, in the view of some, to perpetuate a myth. The myth is that there is a constitutional veto at the disposal of these provinces and regions. There is no constitutional amendment; just a policy supported by a statute of a government, all of which is temporary in and of itself.

Second, honourable senators, in a federation, consent to constitutional change should ultimately come from the elected representatives of the people. This is the way in which the 1982 constitutional amending formula is written. It would not be constructive to give the federal government the power under this bill to bypass the provincial legislatures when determining the meaning of consent. Mr. Ryan and Mr. Johnson, strong federalists in the province of Quebec, have been outspoken in this regard.

Therefore, your committee has proposed an amendment establishing that consent must come from a provincial legislature. If a particular province wishes to hold a referendum, it may. Some provinces like to operate this way, and it should be their choice, but at least let us assure the representatives of the people in the provinces that they have the final word in these matters.

Finally, honourable senators, the committee heard great concerns raised by the aboriginal peoples of Canada regarding the potential effect that this bill may have on future constitutional amendments affecting them.

The government has told them that this bill does not negatively affect the aboriginal interests and the process. If that is the case, then there should be no reason to oppose an amendment which puts into effect this guarantee.

Before I close, honourable senators, I do want to mention a matter that was raised at our meeting yesterday by our colleague the Honourable Senator Beaudoin, in which he seemed to have received the support from all members of the committee. Senator Beaudoin proposed that the Senate establish a special committee to deal with matters affecting Canadian unity. That was the subject of the notice of motion which Senator Beaudoin raised earlier this day.

As mandated by the Constitution, a constitutional conference will be held in 1997. It is felt that the Senate is ideally placed to study these issues and to report its findings and make recommendations to Parliament, to the government, and to Canadians.

The Senate is populated by representatives of two major political parties in our country — parties that share the high, non-negotiable value of the future of Canada as a matter of critical importance. The future of a united Canada is a must. Senator Beaudoin's idea has merit. Perhaps we may hear the views of other senators on this topic.

[*Translation*]

Hon. Pierre De Bané: Honourable senators, I welcome the opportunity today to speak at the report stage of Bill C-110. After all the testimony heard during the past two weeks, I think it would be appropriate to recall the context in which Bill C-110 was drafted. I say appropriate, because otherwise a number of considerations, valid and legitimate though they may be in several respects, are not altogether relevant to this debate and may cause us to lose sight of the essence of this bill.

As I pointed out during the debate on second reading, Bill C-110 is intended as part of the federal government's response to the commitments made by the Prime Minister when the referendum on the independence of Quebec was held last October. During the referendum campaign, the Prime Minister committed himself to recognizing Quebec as a distinct society within Canada and to preventing the adoption of any changes affecting the province without the consent of Quebec.

During consideration of Bill C-110, we were offered a range of views. There were those who supported the bill in its present form, while others suggested changes or, and this was the view of the majority, rejected the bill outright.

I must admit I was not convinced by the rationale behind statements that passage of this bill would endanger the future of federal-provincial relations and renewed federalism and, more specifically, relations between the federal government and Quebec.

On the evidence, the danger does not come from this legislation but from the Parti Québécois government in power in Quebec; nor do I subscribe to the rhetoric of those who argue that this measure falls short of Quebec's traditional demands and therefore should not be adopted. If we consider what is currently feasible within the Canadian political context and the federal government's desire to meet its commitments quickly and tangibly, we cannot do otherwise but reject such arguments and support this bill.

I listened carefully to witnesses who suggested amending the bill. I also noted the motions to that effect that were tabled by some of my colleagues. Nevertheless, my conclusion is that the bill is valid and worthwhile in its present form.

I would like to come back to the four aspects that we discussed most frequently in the Senate and which formed of the basis for these motions. First, the constitutionality of the bill; second, whether it would be desirable to introduce a non-derogation clause to protect the rights of aboriginal peoples; third, the procedure according to which a province would express its consent; and fourth, whether it would be useful to have a sunset clause.

A number of witnesses raised the subject of the constitutionality of Bill C-110. In fact, this point was raised in the questions put to the last witness heard by the committee, Associate Deputy Minister of Justice Mary Dawson. Some expressed reservations and even doubts, but most of the constitutional experts heard before the committee who analyzed various arguments that could be brought before the courts to support the constitutionality of the bill concluded that such arguments would outweigh any that would question the bill's constitutionality. That was the opinion of Minister Allan Rock who appeared at the beginning of the committee's proceedings, and I quote:

[*English*]

> The better view is that the legislation is within the constitutional powers of Parliament and is valid as an enactment.

Minister Rock gave three reasons to support his position. First, Bill C-110 does not interfere directly or indirectly with the amending formula contained in the Constitution. The Houses of Parliament remain free to perform their constitutional role in relation to constitutional amendment, giving the federal consent as the Constitution requires.

Second, Bill C-110 is an expression of Parliament's unquestioned authority to establish conditions or procedural requirements, in this case binding ministers of the Crown, in well-defined circumstances and for sound policy reasons.

Third, there is little support for the contention that the bill abrogates some norm or convention of equality of the provinces. The Constitution itself contains no such express principle, nor are there sufficient grounds to suggest that a convention along these lines has developed.

[*Translation*]

On Tuesday, we heard Mary Dawson, the Associate Deputy Minister of Justice. She contended that the arguments put forward by certain witnesses against the constitutionality of the bill did not hold. She also said that she was satisfied the bill was consistent with the Constitution. I therefore have no hesitation, and I suggest you do likewise, in accepting the opinion of the Minister of Justice and the senior officials of his department, and of most of the experts in constitutional law who passed before us.

I can, in fact, quote the conversation between Senator Murray and Ms Dawson, the Associate Deputy Minister of Justice, at Tuesday's hearing.

[*English*]

> **Senator Murray:** I have several specific questions. The first has to do with the constitutionality of the bill. It would be very difficult for me to summarize the arguments which have been made by several witnesses to the effect that it is unconstitutional, because they come at it from different angles. You are aware of the arguments which have been made as to its constitutionality. Do you see any merit in the arguments at all?
>
> **Ms Dawson:** No, I think this bill is constitutional. Much discussion can be had on that question, but I am satisfied that the bill is constitutional.
>
> **Senator Murray:** Stephen Scott testified that in his opinion this bill is an amendment to the Constitution of Canada under section 44. Do you agree with that statement and does it make any difference?
>
> **Ms Dawson:** I will answer the second part of the question first. I do not think it makes any difference so I have not worried about it very much. Any amendment made under section 44 is made by an act of Parliament and this is what we are now dealing with, so if it were a section 44 amendment, we are doing it the right way.
>
> I would not have immediately characterized it as a section 44, but I am not sure where the boundaries are and I did not worry about it in this context. It could be.
>
> **Senator Murray:** And it would not make any difference?
>
> **Ms Dawson:** I cannot see what difference it would make.

[*Translation*]

The impact of that bill on aboriginal peoples was discussed by the official opposition.

A number of aboriginal groups came before the committee. We spent a day discussing this issue at length with them. In fact, the Minister of Justice specifically alluded to it in his statement.

[*English*]

Amendments to Bill C-110 were suggested by the aboriginal representatives appearing before our committee. One of the amendments called for the inclusion of a non-derogation clause to ensure that the interests of aboriginal peoples are not adversely affected. The most convincing explanation for why a non-derogation clause in favour of Canada's aboriginal people is not necessary in order to preserve flexibility in amending the Constitution to add to aboriginal rights was offered by Ms Mary Dawson, Associate Deputy Minister of Justice.

As Ms Dawson testified, Bill C-110 does not cover amendments that derogate from the powers, rights and privileges of a province which are subject to the 7-50 amending formula. Since any amendment to add to aboriginal rights, depending on the wording, could entail taking away from provincial rights, such amendments would not come within the scope of the bill and would not be subject to the regional vetoes.

On the other hand, the bill would decrease the likelihood of an amendment being introduced that would take away from existing aboriginal rights, because such an amendment would not be one in which a province may exercise a veto under sections 41 or 43, or may express its dissent under section 38(3) of the Constitution Act of 1982, and therefore would not fall within the exceptions of the bill.

The federal government would have to have the support of the five regions of Canada before introducing a constitutional amendment to the detriment of aboriginal rights.

[*Translation*]

Last Tuesday, during Ms Dawson's testimony before the committee, there was an interesting exchange between Senator Carstairs, Senator Murray and Ms Dawson on this issue. I invite the honourable senators to read the transcript of that exchange between the two senators and Ms Dawson.

The other issue raised by the official opposition is the expression of consent by the provinces. The question is whether provincial consent can be given only by a legislative assembly, as is the case under the amending formula provided in the Constitution Act of 1982, or if, as suggested by the rather vague wording of Bill C-110, that provincial consent can be obtained through other means.

Several witnesses expressed their view on that issue. Some asked that the conditions relating to consent be clarified. When asked whether those who drafted the bill had deliberately chosen ambiguous terms, the Minister of Justice and the senior officials of his department said that the intention had been to use a flexible wording.

While there is no doubt that a province will be able to express itself through its institutions, namely its government and legislative assembly, in very rare instances, this flexible wording could allow the federal government to seek the consent of a province through other means, including a public consultation by way of a referendum. Let us not forget that while our country is a federation, it is first and foremost a democracy.

Sovereignty is in the hands of the people. Sure, we are a federation, but we are first of all a democracy and we cannot blame the government for going directly to the people, under exceptional circumstances, so as to get their point of view and solve a deadlock between the Canadian government and a provincial government.

Finally, on the question of a "sunset clause," several witnesses spoke of such a clause to be included in the legislation, by virtue of which the act would cease to be in effect at a specific date Others indicated their receptiveness to that idea, so much so that we have a proposed amendment which would abrogate the legislation on December 31, 1997. First of all, let me state that a sunset clause is not in the least necessary for the bill to be properly applied. Since this is a standard bill, I would add that Parliament has all of the authority available to it to amend or abrogate the legislation whenever it sees fit.

More fundamentally, a sunset clause whereby the legislation would be in effect only until the end of December, 1997 might mean that, if there is no further legislative initiative on the part of the federal government —

The Hon. the Speaker: I am sorry to interrupt you, Senator De Bané, but your fifteen minutes are up.

Does Senator De Bané have permission to continue, honourable senators?

Hon. Senators: Agreed.

Senator De Bané: All this idea of a sunset clause would do would be to give Quebec a veto that would be taken away in December 1997.

In this atmosphere of uncertainty surrounding the sunset clause, one of our witnesses, Mr. Claude Ryan, reminded committee members of the old adage "A bird in the hand is worth two in the bush."

Let us therefore keep the veto within this legislation in effect, so long as the right of veto has not been entrenched in the Constitution. We already have the deadline of 1997 in the Constitution and all of the evidence points to the procedures for constitutional amendment being reviewed at that time. I believe it is preferable to leave the decision-makers with a certain leeway, given the nature of the ups and downs of politics, and we have learned from experience, I think, that government gets the best results when there is no pre-determined deadline.

In fact, in purely practical terms, we must not rule out the possibility that, after the 1997 conference and the elections whose outcome we cannot predict with certainty, it will not be a suitable time for Parliament to pass legislation that would keep the veto powers in effect in order to offset the impact of the proposed clause.

For all these reasons, I oppose introducing a sunset clause into Bill C-110.

In closing, this bill is effective and realistic, and it honours the commitments made by the Prime Minister during the last referendum. It is also an important element of the federal government's overall strategy to resolve the country's constitutional difficulties in the near future, with the help and the cooperation of the provinces, we hope. I am satisfied that the bill is consistent with the Constitution, that it in no way takes away from the rights of the native peoples and that it will be effective without a sunset clause or clarification of the terms of provincial consent. For this reason, honourable senators, I ask you not to support the amendments proposed and to pass the bill in its present form.

I would like to say a few words as the senator for Quebec in this house. A look at the constitutional reform of 1982 obviously reveals many improvements, which were included precisely to respond to the claims French Canada had made since 1867. They cover the inclusion of both languages in the Constitution; the matter of French schools across Canada; equalization payments; devolution to the provinces in the area of natural resources; the fundamental indissociable rights of human dignity that no government should take away from its citizens; and the rights of speech, conscience and assembly and also language rights; all these enshrined in the Canadian Constitution.

No doubt the failure of the 1982 legislation lay in the fact that its amending formula deprived Quebec of certain protective measures. This is what this legislation undertakes. This, therefore, honourable senators, is why I ask you to pass this bill without amendment.

Hon. Jean-Claude Rivest: Honourable senators, given the importance and significance of Bill C-110 with regard to national unity, I would like to talk to you briefly on this major piece of legislation, which, in my view, hardly measures up to the basic problem facing this country, namely the troubling issue of national unity.

In introducing this bill, to refer to commitments presumably made by the honourable Prime Minister of Canada during the referendum campaign, be it regarding distinct society or a Quebec veto, is to forget something much more important in real life and in dealing in practical terms with the situation, and that is the fact that, for many years now, the message that Quebec sent to Canada as a whole, and which was taken up by the federalist side in the referendum debate, is not so much to recognize the existence of a distinct society per se, or to give Quebec veto power over constitutional amendments. In any case, these initiatives appear to be only a way to correct the tragic mistake made by a segment of the Canadian public opinion in rejecting the Meech Lake Accord, since these two notions were formally recognized, not only politically but also constitutionally.

As we know, and for obvious reasons, some people in Canada opposed the conclusion and ratification of the Meech Lake Accord. Both measures initiated by the honourable Prime Minister seem to have been intended as some kind of mild remedy to the tragic mistake made at that time. Ever since the failure of Meech, national unity has become a source of increasing concern, expressed in more and more tragic terms, when we think about the impact it will have not only in Quebec but also across Canada.

What was promised, what Quebecers and all Canadians saw when they rallied in Montreal to show their love for Quebec and their commitment to keeping this country united, was that the Canadian government was expected to come up with a real plan to change the nature, configuration and evolution of this country.

As mentioned by Senator Kinsella and pointed out by others to the committee, a motion to recognize Quebec's distinct society and Bill C-110, which makes the federal veto rest not on a constitutional basis at all but rather on a purely statutory basis, were introduced in Parliament as a result.

This bill, of course, is characterized by this government's total lack of initiative in light of the seriousness of the problem we must face. In fact, in *realpolitik* terms, according to a recent poll conducted in Quebec, far from weakening after the passing of a distinct society motion or the introduction of Bill C-110, Quebecers' support for sovereignty just passed the 50 per cent mark and reached — this is approximate, since this is only a poll — 52 per cent.

Honourable senators, if the Canadian government thinks that these two specific measures meet the expectations of the Quebec people and the desire for change expressed not only by those Quebecers who voted Yes but also by a very large proportion of those who voted No, it is sadly mistaken. Quebec's political reality clearly shows that the initiatives taken so far by the Canadian government are totally artificial and inadequate.

During the proceedings of the committee studying Bill C-110, the Minister of Justice, to whom this situation was pointed out, said that we should not look at Bill C-110 separately but as part of an overall plan that, unfortunately, has not yet been disclosed to the House of Commons, the Senate and the Canadian people.

We are being told today that cabinet ministers are meeting to consider such a plan. How can members of the House of Commons and honourable senators appreciate the relative merits of Bill C-110 as part of an overall plan for change of which we have not been informed? Clearly, in addressing the problem of national unity, the Canadian government is resorting to improvisation, which we, as parliamentarians, feel it is extremely important to denounce.

This kind of improvisation in today's serious circumstances threatens to compromise the future of our country, Canada. The government must bear a very great responsibility in this.

In particular, Bill C-110 was described as a purely statutory measure that had absolutely nothing to do with the constitutional guarantees that Quebec and other regions of Canada have always demanded to protect the rights and privileges of the member states of the federation, the provinces. This first, obvious limitation of Bill C-110 shows just how wide the gap is between the measure being applied and the situation to be corrected.

Second, some experts heard by the committee also said that this measure may be unconstitutional in that it sets a new process for exercising the federal veto power by subjecting it to regional vetoes.

Is that or is that not an indirect amendment to the current amending formula, as provided in the Constitution Act? There are doubts as to whether such a bill would hold up to a court challenge. How can the Senate and the House of Commons pass a bill that may not stand up to scrutiny, under the Constitution? What would the veto granted to British Columbia, Ontario or Quebec mean if, when exercised, its constitutionality could be challenged by someone in Canada?

The primary object of a veto is to be absolutely sound from a constitutional point of view. However, a doubt exists. Some claim, as Senator De Bané suggested, that such a process would be constitutional. Other experts have told us that it would be unconstitutional. From a legal point of view, the only criterion that applies when a veto is either being contemplated or is actually given, is its soundness. We do not have that sense, as regards Bill C-110.

How can we associate ourselves with such a measure? Another extremely important point raised is that the provision granting such a veto to Quebec, Ontario and British Columbia does not specify whether that veto is to be exercised by the people or by the government of these provinces, and of the prairie and maritime provinces, based on the proportions set in the bill. Senator De Bané tells us that the wording is purposely vague; that, ultimately, sovereignty must lie in the hands of the people, and that we might even have a public consultation process when it comes to amending the Constitution.

This is all very well in theory, but we must not forget that we have a federal system in Canada. The division of sovereignty between the federal and provincial governments is such that where constitutional change is concerned — according to our current amending formula — this constitutional responsibility has been given to our federal and provincial institutions. In other words, veto rights and the right to make amendments are prerogatives of the House of Commons or the provincial legislatures.

If some provinces, or even the Canadian government, decide to involve the general public in this process, they are free to do so. In a federal system, however, what right does the Canadian government have to decide unilaterally, since it shares sovereignty with the provinces, that in a given province not the legislative assembly but the people will decide? This incongruous aspect of the bill was, in fact, condemned by Mr. Ryan.

Some provinces, especially British Columbia, have already decided that in constitutional matters, as is their prerogative, a referendum will be held to authorize their legislative assembly to exercise its constitutional amending powers. This is entirely in accordance with the spirit and the very nature of our federal system. British Columbia will decide that its citizens will authorize their legislative assembly to act. It is not up to the Canadian government to decide how each entity of the federation will exercise its legislative power to amend the Constitution. That is the nature of the federal system.

The proposal set forth in Bill C-110 reflects a concept of how our federal system works that has caused so many problems, especially in Quebec. This concept of federalism is almost like trusteeship federalism. The Canadian government knows what is best for all member states of the federation!

That is not what a federal system is about. The division of sovereignty between the central government and the provincial governments must take precedence. In their respective jurisdictions, the provincial governments and federal government are fully sovereign. That is how a federal system works. Basically, we must go back to that concept, because that is how it was when Canada began. That is what we must reinstate.

Honourable senators, people often ask: "What does Quebec want in constitutional matters?" Basically, this is what Quebecers want the federal government and Canada, as a whole, to respect concerning the operation of our federal system.

Quebecers will make a decision on the future of our country based on three principles. First, Quebec will ask to be named and acknowledged as a part of this country.

Of course, the distinct society we proposed in the Meech Lake Accord met this expectation. If people say that Quebec plays a major and probably much too great a role in the evolution of this country, why not simply recognize it in the Constitution once and for all? It is a question of acknowledging the contribution of the people of Quebec to the Canadian identity per se.

If any region of Canada were to separate from the rest of the country, Canada would suffer a great loss. If Quebec leaves the Canadian federation, to a large extent this will be the end of one of the main features of this country: that is its linguistic and cultural duality. Quebec's contribution is unique and exceptional not only in linguistic terms but also because Quebec's linguistic reality affects Canadian culture as a whole. When our artists, our authors, write a novel or produce a play in French, they do so not in the French or Swiss style but in the Quebec and Canadian style. Their contribution to this country is unique, and Quebecers want this to be recognized.

Second — and there is a direct connection here — this country was created to give a government to those who were then called "Canadiens," in other words to French Canadians. Quebecers want a real government that would be respected and never questioned. They want the powers of the Quebec National Assembly to be enshrined in the Constitution. However, constitutional guarantees are not enough.

We want the powers of our National Assembly to be secure — not all the powers, because we share some with the Parliament of Canada. The Canadian government serves Quebec well. We want our powers to be politically secure. We will have to examine how the federal spending power is exercised in terms of the development of Canadian standards to ensure that the National Assembly's political powers are not modified. We want the powers of our National Assembly to be secure without completely changing the structure and composition of this country.

We can see, honourable senators, regarding these two criteria, how pathetic the measures contained in Bill C-110 are. Its limitations and constraints were highlighted by, among others, Senator Kinsella, in regard to the nature of the problem facing Canada and Quebec in maintaining national unity.

To ask us, as Quebecers, to associate ourselves with this initiative, although it is not because the bill is unjust and totally bad in itself, is to send a message to all Canadians — who are showing some signs of nervousness in this matter — that could be very disastrous for the future.

By passing, in the Parliament of Canada, a resolution on the distinct society and a bill on a statutory veto for Quebec, the government is sending the message that Quebec's demands and concerns have been met.

What room to manoeuvre will federalists in Quebec, who believe in the future of this country, have to try to convince everyone in Quebec and Canada that there are a lot more important things to do to restore our country's true meaning and its cohesiveness, which will enable Quebec, Canada and all the other regions of Canada to cope with the exceptional challenge facing us as a country and entity? That is the urgent message I wish to pass on to the Canadian government: to do a lot more responsible things which help build the country rather than simply suggesting secondary measures, not to say stalling tactics, which contain, in their very wording, flaws that have been clearly highlighted by the proposed amendments.

[*English*]

Hon. Sharon Carstairs: Honourable senators, we are today, as we will be tomorrow, debating an important bill. It sets a tone. As we have heard from Senator Rivest, it is not enough, and much more needs to be done. However, what we have to deal with today is the bill itself. We have to understand its background, from whence it came, and understand where it will lead us in the future.

I should like all honourable senators to think back to October of 1995 when the early days of the referendum campaign seemed to be going well for the federalist side. However, an event occurred which none of us expected: There was a change of leadership on the other side. That change necessitated a need to change the strategy of the No side.

As a result, the Prime Minister gave a speech in which he made some promises to the people of the province of Quebec. Essentially, he indicated three things: He said that, in so far as it was possible for him to act, Quebec would be recognized as a distinct society. He said that, in so far as it was possible for him to act, Quebec would be given a veto. He also said that changes would be made in the distribution of powers.

I say "how" he could act because, as honourable senators know, prime ministers cannot act alone on the constitutional file. In order to send a signal quickly, because a signal was required, the Prime Minister had to do certain things over which he had

some control. I suggest that is why he proposed the resolution which he did in the House of Commons. He understood that, indeed, he could not get it through this chamber without the support of senators. It was senators who said that they wanted to debate that resolution in this chamber. It was then brought into this chamber, where it was passed.

Bill C-110, a very simple bill, was then introduced. The bill states that no minister of the Crown will introduce in the House of Commons any amendment to the Constitution which does not have the approval of Quebec, British Columbia, Ontario, and at least two provinces in the Atlantic and two in the prairies.

The Minister of Human Resources Development at the time, the Honourable Lloyd Axworthy, then introduced Bill C-111 into the House of Commons, which bill changed the way in which manpower training would be controlled by the federal government.

Were these three measures adequate? No. Were they perfect? No. Were they inclusive enough? No. However, they were a beginning, a start.

At the outset, I want to clearly state how much I appreciate the debate and the interchanges we have had over the last two weeks. The Senate has a different and unique way of debating issues. In my view, it is one that is most welcome.

• (1130)

We heard at first, for example, from some that the bill is unconstitutional. We must deal with that aspect first because, clearly, we cannot pass a bill in this chamber that is unconstitutional if we know it to be such.

Honourable senators, there was certainly some constitutional opinion that Bill C-110 is unconstitutional, but the balance of opinion was clearly that it is a constitutional piece of legislation. Perhaps the most interesting exchange for me came from the representative of the province of British Columbia. I thank Mr. Petter for attending because he was the only one from the provinces who did. We had representatives from the territories, but representatives of other provincial governments, although invited, chose not to attend.

Mr. Petter, of course, argued that Bill C-110 is unconstitutional because it puts a layer on top of the present constitutional amending formula. I was interested in that opinion because I knew of the referenda legislation in the province of British Columbia that prohibits the government of British Columbia from introducing in the British Columbia legislature a constitutional amendment that has not been earlier submitted to a referendum. If the votes in that referendum are 50 per cent plus one opposed, the provincial government may not then introduce the amendment in the British Columbia legislature. In my view, that is far more of a layering of the constitutional process than that proposed in Bill C-110. Mr. Petter, of course, argued that that was not unconstitutional, but that what Bill C-110 will do is unconstitutional.

We then heard from Andrew Heard of Simon Fraser University, who was remarkably consistent. I admired him for that, and said so. He thought both approaches were unconstitutional. That is at least a fair argument to make because if one is true, then certainly the other is true. The balance of the legal opinion we received on this issue was that we are dealing with a piece of legislation that is constitutional.

Honourable senators, today we are dealing specifically with a report submitted by the committee, a report on division which recommends amendments. Do these amendments give the federalists in the province of Quebec a greater comfort level? I suggest that they do not, because anything seeking to amend this legislation will just make the separatists in the province of Quebec chortle. They already believe the bill to be wrong, and claim that it does not mean anything. They have said that. They reject it outright. Can you imagine what fun they will have over this particular legislation if we now attempt to amend it, even though they rejected it in the first instance?

We heard from many during our committee sessions that this bill will make the amendment process of our constitution just that much more difficult. I agree. I think Senator Murray and I, having in this case a unique common mind, prefer a situation in which just Quebec is given a veto. However, I, for one, recognize that that is not politically saleable in this country.

Yes, Bill C-110 makes the amendment of our Constitution much more difficult. By instituting regional vetoes in addition to the rule of 7 out of 10 provinces representing 50 per cent of the population, we have in fact gone from 7-10-50 to 7-10 and 92.2 per cent of the population. Yes, it is more difficult.

Honourable senators, I think there is a great fallacy abroad in the land — that is, that we make constitutional amendments on an everyday basis. Constitutional amendments are rare; they do not happen often.

Having spent the vast majority of my life as a history teacher, I asked my researcher to take a look at the American Constitution and to tell me exactly how many amendments there had been in the 200-year history of that country, and what impact they have had. It turns out that there have been 27 amendments to the American Constitution since 1783, 16 of which took place in the last century. There have been 11 in this century, but really only 10, because one introduced prohibition and the other repealed prohibition. I found it fascinating that the last amendment to the American Constitution was passed in 1992. It dealt with congressional salaries, and it took 203 years to pass in the United States.

Yes, honourable senators, Bill C-110 will make constitutional amendment more difficult but, at the same time, I think it is essential to recognize the Quebec veto. However, the reality in Canadian society is that if one recognizes the Quebec veto, then Ontario will demand a veto by virtue of the size of its population, and, as we quickly learned, so too will British Columbia.

One specific amendment about which we heard a great deal during our committee sessions is the so-called consensus issue. How can a federal government determine whether the people of a province support a particular amendment to the Constitution if that determination is not made by way of a vote in a particular provincial legislature? Let us not confuse Bill C-110 with the

amendment process to the Canadian Constitution. That amendment process will still require every single provincial legislature to pass such an amendment, or 7 out of 10 of them to pass such an amendment, in order for that amendment to become part of the constitutional law of Canada. Bill C-110 says that the federal government will not introduce an amendment into the House of Commons. A minister of the Crown will not introduce an amendment unless the government has ensured that there is consensus.

Honourable senators, let us take a hypothetical situation and assume that Alberta refuses to introduce an amendment into her legislature. She absolutely refuses. She has 59 per cent of the population of the prairie region; hence, without the support of Alberta, the federal government cannot act. The amendment has the support of Saskatchewan and Manitoba, but it does not have the support of Alberta because Alberta's government will not introduce the amendment into its legislature, nor will it abide by its own legislation and act by way of a referendum.

Honourable senators, if the amendment proposed by the opposition passes, it would absolutely tie the hands of the federal government in that they could not consult with the people of Alberta to see if a consensus existed. They could not introduce an amendment in Alberta — Alberta would still have to do that — but they could then introduce it in the House of Commons. Therefore, in my opinion the amendment which the Conservatives have suggested is meant to take away any flexibility that the federal government might have under Bill C-110. I do not think that is a positive accomplishment.

The second amendment I wish to deal with is the one relating to the sunset clause repealing the act on December 31, 1997. A number of individuals proposed a sunset clause, but none of them proposed that it would be December 31, 1997. John Whyte from Queen's University suggested the year 2000; Patrick Monahan said five years; Professor Meekison said five years. None of those suggestions reflect the narrowness of the amendment that has been proposed by the Conservatives in this chamber today.

Honourable senators, I must say that I do not like sunset clauses because I think they create an unnecessary pressure.

From my experience in another role, I have learned that provincial governments are averse to such pressure being imposed upon them; it reduces their flexibility. They will not take kindly to the idea that they must do something by December 31, 1997. A conference must be held in April of 1997, but it is highly unlikely that they will be able to reach a consensus by the end of that conference and, if they did, many legislatures in this country do not have a fall term. Unless they call a special term, they will not necessarily be able to get that legislation through.

I do not see the value of a sunset clause. Indeed, I accept Claude Ryan's logic on this. A sunset clause is not a positive; it is a negative. It will be considered a backward step because the message it sends to the people of Quebec is that they can have a veto for a year and a few months, but that we do not intend it to apply in the long term. I do not consider that to be an achievement.

The issue which gave me the greatest difficulty and the greatest concern was that concerning the aboriginal peoples. Will their powers be diminished as a result of this legislation? Will they be enhanced? Will they remain unchanged? We heard very eloquently from our aboriginal leadership that, in their view, their powers would be diminished. This bill would make it more difficult for them to achieve a constitutional amendment which would entrench the rights of self-government in the Canadian Constitution. I personally believe those rights are already entrenched, but we have never had a constitutional challenge nor a response in that regard. I would thank this government for acting as if those rights are entrenched.

Still the question exists. The aboriginal people argued that if the requirement of 7-10-50 was changed to be, in essence, 7-10-92, it would be more difficult to entrench the rights of self-government in the Canadian Constitution. I was most interested in Ms Mary Dawson's testimony with respect to the impact of this legislation on our aboriginal people. I was particularly concerned about section 38(3) of the Canadian Constitution.

The Hon. the Speaker: Honourable senators, I hesitate to interrupt Senator Carstairs, but her 15-minute period is up. Is leave granted that she may continue?

Hon. Senators: Agreed.

Senator Carstairs: Section 38(3) is the provision in the amending formula which states that provinces can opt out if their legislative powers or their propriety rights or the privileges of the government of the province has been affected.

It is very difficult for me to believe that we could have any rational aboriginal self-government that would not impact on the propriety rights and the legislative powers of provinces. If it did not impact, then there would be no new rights for our aboriginal people. If there are no new rights for our aboriginal people, then what is self-government all about?

Section 38(3) gives to every single province in this country the right to opt out. Self-government will mean nothing if provinces can opt out. No one argues that section 38(3) is changed by this bill because that section requires unanimous consent. That provision cannot be changed, and this bill has no effect upon it.

Sections 35 and 35(1) recognize aboriginal rights in the present Constitution and guarantee that, if changes are made to section 91.24, then constitutional conferences must be held, and aboriginal people must be there. Those sections are not changed by this bill.

This bill takes an almost-neutral position for aboriginal people. On the one hand, there is a benefit because this bill will make it more difficult to take powers away from our aboriginal people by requiring a formula of 7-10-92.2 per cent. On the other hand, it will be more difficult to give them more power. The balancing effect, I would suggest, is a neutral one.

I cannot accept the amendments as proposed opposite. They will weaken the bill. A strong signal must be given to Quebec that the Prime Minister's commitments will be fulfilled in their entirety. Then we can begin the new process of ensuring that Quebec remains a part of our country.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to comment on our amendments briefly. Senator Kinsella has spelled out very clearly the reasons for our amendments on the aboriginal issue, and on section 91.24 of the Constitution Act 1867, and on sections 25, 35 and 35.1 of the Constitution Act, 1982. I have nothing to add to his comments.

I would like to deal with the other two amendments, including the one on the sunset clause. The French equivalent of that, in commercial and international law, is "clause d'extinction" and not "clause crépusculaire," a phrase I always had reservations about.

Furthermore, I would like to talk briefly about the consent of the provincial legislatures. Let us deal first with the sunset clause. Should this bill we want to amend be passed, it would necessarily be a temporary measure. In April 1997, the Prime Minister of Canada has to meet with his provincial counterparts to review the amending formula. He has an absolute obligation to do so. It is imperative. The whole part of the Constitution Act, 1982 on the amending formula has to be reviewed.

I think Quebec is not adequately protected as far as representation in the Senate and the creation of new provinces are concerned, and a better protection of its representation in the Supreme Court of Canada is in order. Quebec already enjoys a fair amount of protection for its representation in the Supreme Court, but legal experts have raised doubts about the protection provided by section 41 of the Constitution Act, 1982.

I think we should already be preparing for that 1997 conference. It is not an easy task, because the amending formula is always a very difficult issue in federal states. We should get down to work as soon as possible.

Intellectuals and experts have already been discussing that for a few weeks. They have been talking about a plan A and a plan B. The first one concerns constitutional amendments, and the second one deals with what has to be done should Quebec ever secede. People with a great deal of experience, like Gordon Robertson, Keith Spicer and many others, have made outstanding contributions to the debate and given us food for thought.

[*English*]

My opinion is that parliamentarians should be involved right now, starting with honourable senators. I would like it if we put the emphasis on plan A rather than on plan B. Although both plans are important, I hope that plan B will never apply. Therefore, with respect to the sunset clause, the pressure will be on the first ministers, on parliamentarians and others to find the solution, a constitutional one, not only a legislative one.

[*Translation*]

Quebecers need to see that constitutional changes are possible. We have seen that in the referendum we nearly lost. The distinct society and the amending formula are the focal point of constitutional change. I feel we must give Quebecers constitutional protection in the areas they consider vital: language, culture, civil law, the amending formula. Their place in major Canadian institutions must also be assured.

The question of constitutionality was raised before our committee. Personally, I have serious doubts about the constitutionality of Bill C-110. We have a constitutional formula that is already complex. Added to it are a legislative formula, a statutory formula, a statutory veto. I understand why the Prime Minister and the government did so.

However, I have some doubts about the approach, and I am absolutely sure that if the government changed its mind, if it were to table a resolution, that action by the government would be perfectly valid because, in any conflict between the Constitution and Bill C-110, the Constitution would take precedence. Section 52 of the Constitution Act, 1982 is very clear on this.

There were mixed opinions on the constitutional issue among the experts who appeared before us. The debate on constitutionality was, however, in favour of the sunset clause we have proposed. Let us find an amending formula that is constitutional in nature and will satisfy Quebec and Canada as soon as possible.

There has been much referendum talk in our country in recent months, perhaps even years. It must be kept in mind that the referendum is not part of the amending formula. A consultive referendum may be worthwhile; I am not against that. However when you start to mix referendums and amending formulas, in some cases there may be a danger of failure, which we would do well to avoid. Are we heading in the right direction by adding to an already complex amending formula both provincial and federal referendums? Here again, with the proposed amendments, I feel this is acceptable.

Second, I should like to look at the matter of consent by the provincial legislatures. Do you remember November 1981? It is part of Canadian history. There are two interpretations, I know. However, an important incident occurred.

Claude Ryan, who appeared before our committee, put considerable emphasis on consent by the National Assembly of Quebec and the legislative assemblies of the other provinces.

Daniel Johnson, who did not appear before our committee, but who gave press conferences, put considerable emphasis on consent by the legislative assemblies.

In my opinion, they are right. Ours is a federal and parliamentary system. These are two basic criteria. Powers are shared between two levels of government. Amendment powers in our system, however, lie with the provincial legislative assemblies and the two federal Houses.

I think they are quite right to insist on this second amendment. Some will say: Yes, but the Australians have an excellent referendum amendment formula.

I remember that, with the Pepin-Robarts commission, a referendum amendment formula accepted in the country's four main regions was proposed. It was not accepted. We came back to our basic parliamentary system.

We must not forget that a referendum is always an option. The federal and provincial governments can always hold a referendum, provided it is simply advisory. I am beginning to have strong doubts about certain referendums that prevent a government or a provincial legislature from speaking if the referendum is not positive.

The federal government can always hold a referendum if it deems one appropriate. I consider Claude Ryan's argument to have more respect for the federal system. I think that our amendment, which requires the approval of the legislative assembly, wins out over the government proposal.

In closing, I would like to say a few words about spending power. There is no doubt in my mind that there must be guidelines on federal spending. There is no way around it. There is no doubt in my mind that we must change our Constitution in cultural terms.

Quebec has a very specific role to play in this area. There are, we must not forget, three basic elements to a federal system: the division of powers, the interpretation given it — thus the importance of the makeup of the Supreme Court — and the way it is changed — the amending formula. This is the heart of federalism.

If Quebec feels itself protected in the major central institutions and in the amending formula, and if the Constitution recognizes its distinct nature, it will not, in my opinion, leave Canada.

[*English*]

The Hon. the Speaker: Honourable senators, I believe an agreement has been reached between the two sides that we will adjourn from twelve o'clock until two o'clock. We will resume from where we stand now in this matter.

I should like to advise you as well that I plan to have a reception this afternoon in honour of our new senator, Senator Maheu. It will be held in my chambers at five o'clock, or immediately following the adjournment should it be later than five o'clock. I would ask honourable senators to remind their colleagues who are not here. It will therefore take place at five o'clock if we have adjourned before then. If we adjourn after five o'clock, it will be at the adjournment. I leave the Chair to return at two o'clock.

The Senate adjourned during pleasure.

[*Translation*]

• (1400)

The sitting of the Senate was resumed.

Hon. Jean-Robert Gauthier: Honourable senators, Bill C-110 before us today has certain political merits but no constitutional pretentions. The bill is a statute of the Parliament of Canada and can be repealed or amended as Parliament sees fit.

It is important to remember that only the House of Commons has an absolute veto in constitutional matters. By tabling Bill C-110, the government has decided to lend its veto to the regions of this country, of which there are five, in the event of proposals for constitutional change.

In effect, the federal government is putting in place a set of criteria that will guide the future use of its own veto power. It is a discipline the federal government imposes on itself by giving Quebec, Ontario, British Columbia, the Atlantic provinces and the prairies guarantees that no constitutional amendments will be proposed without their consent in areas where the provinces have no veto or the right to opt out. This veto applies to changes in national institutions like the Senate, to the creation of new provinces and to certain changes in the division of powers.

The Prime Minister made this political commitment at the end of the referendum campaign, in response to the wishes of Quebecers. It meant providing guarantees that, in the future, no decision on constitutional change would be made without their consent. We should recall that, since 1867, no major constitutional changes have been made without the consent of the provinces, including Quebec. The repatriation of the Constitution in 1982 left considerable bitterness in its wake which the Prime Minister is now trying to remove with Bill C-110.

Some have claimed that the bill does not constitute an adequate response to the expectations of Quebecers. We would like Quebec to support this initiative, but unfortunately, as you know, the present government of Quebec is opposed to any constitutional talks. Clearly, at this time the only way for the federal government to honour its commitments quickly was to table a bill guaranteeing Quebec its veto. This bill is a positive step, and indicates that the federal government is open and prepared to respond to the expectations of Quebecers.

For its part, the Conservative opposition put forward three amendments, which are currently being debated at report stage. The first amendment is aimed at defining provincial consent, the second at exempting Native people and their rights from possible enforcement of the act, and the third at including a sunset clause that would invalidate the bill after December 31, 1997.

I must say that when Bill C-110 was tabled, I myself considered the possibility of amending the bill to include a sunset clause. I even asked the Law Clerk of the Senate to draft such an amendment. However, after hearing the evidence, I concluded that instead of improving the bill, such an amendment may restrict and reduce its scope. Including a sunset clause would send Quebec and the other provinces the wrong signal and make them question the federal government's political will to honour its commitments in the future. Should the next constitutional conference preserve the status quo, Quebec and the other regions would be back at square one without a veto.

I am surprised that the Conservative senator from Quebec agreed to this amendment, especially since, on January 22, Professor Benoît Pelletier, from the Faculty of Law of the University of Ottawa, told the committee reviewing Bill C-110, and I quote:

— I do not think it is necessary to include a sunset clause, especially since, as Senator Rivest pointed out, the main purpose of the bill is to offer some protection. In my opinion, it would be somewhat inconsistent to boast about the protection and then turn around and specify when it will end.

On January 25, Professor Steven Scott of McGill University expressed the same opinion, and I quote:

[*English*]

> With a sunset clause attached, those who might otherwise have some reassurance from it would say, "Well, what sort of reassurance is it now with a sunset clause? It does not even have the permanency of an ordinary act of Parliament...."
>
> ...if I were sitting and making the legislation, I would probably not add the sunset clause, on the grounds that, as it is, it is sufficiently diluted not to create undue complications for the constitutional process.

[*Translation*]

Those of us who have been involved in the constitutional negotiations over these past 15 years know how difficult it is in Canada to have constitutional amendments passed. By proposing and accepting a sunset clause, the honourable senators of the opposition are pinning all their hopes on the next constitutional conference without leaving themselves any way out in the event that it fails.

How is the consent of the provinces to be read or received? Our Conservative colleagues, who supported the said amendment to exclude aboriginal peoples and aboriginal rights from the operation of Bill C-110, were of the opinion that the provinces' consent should be limited to that of provincial legislatures.

On November 30, 1995, Justice Minister Allan Rock told the House of Commons committee the following:

> It will be up to the federal government to determine what this phrase means every time a new situation arises. Depending on the circumstances, the federal government might interpret as consent, for example, an expression of consent by the provincial government of the day, a resolution of the legislative assembly or a direct expression of the population's agreement through a referendum.

It is therefore obvious that, since it cannot predict the future, the federal government saw fit to exercise caution by giving itself some leeway. Everyone will agree, however, that it would be political suicide for the federal government not to authorize a constitutional amendment that has been consented to by a majority of the population of certain provinces.

In this respect, Benoît Pelletier, a law professor at Ottawa University, theorized that:

> Should the Parliament of Canada and the Government of Canada feel that the government of the province in question no longer has the support of its population— in exercising the veto that it has and that it may use at its discretion, why would Parliament not hold a referendum in an attempt, not to break the deadlock — because, again, the legislative assembly will always have the final say, the provincial legislature will always have the final say in passing the resolution it considers appropriate — but to impress upon the government of the province in question that the course it is taking is not the course its population wishes to take — Holding a referendum is just one way of confirming provincial consent because a province is not only a government, not only a legislative assembly, but also a population.

[*English*]

Concerning the question of the aboriginal peoples and the amendment which is before us, it is an important one where constitutional amendments are concerned, and all members of the committee agreed on that point. The witnesses gave good presentations with convincing, substantive arguments in support of their positions.

As Senator Carstairs explained, all of us wanted to be fair and just with our First Nations. Aboriginal leaders believe that Bill C-110 will impede or impair their justifiable aspirations to full recognition of their rights.

The majority of those who appeared before the committee did not accept the government's assurances that their rights under sections 25 and 35 of the Constitution Act, 1982 and under section 91.24 of the Constitution Act, 1867 were protected.

In her testimony on January 30, 1996, Ms Mary Dawson, the Assistant Deputy Minister of Justice, made some reassuring comments. When asked about the need for a non-derogation clause which would ensure that aboriginal rights were not adversely affected, she said:

> It would be harder to take an aboriginal right away under this bill than under the current situation. Taking away aboriginal rights would fall under the 7-50 rule. It would not fall under the exemptions in the bill because it would not fall under sections 41, 43 or 38(3) of the Constitution. All I was saying is that the bill would apply. Given that the bill puts additional impediments in the way of changing the Constitution, it would therefore make it more difficult to take away aboriginal rights.

As to adding rights, Ms Dawson stated:

> That is the converse of adding rights rather than taking them away. I am suggesting that adding rights would, by and large, be covered by section 38(3) and therefore would not be in the ambit of the bill.

Evidently, there are political costs for adding these amendments. I certainly do not believe it is wise for the Senate to take those risks. Let me explain.

On the aboriginal non-derogation amendment, Stephen Scott, a professor at McGill University, said the following:

> While that may be perfectly reasonable in one sense, it would probably impair the saleability of the bill in another respect because it would draw more attention to particular constitutional amendments of that kind and suggest that we will proceed with constitutional amendments dealing with aboriginal matters whether or not Quebec likes it. That is obviously the way the Bloc Québécois would present such an amendment.

There is a general understanding that under the present 7-50 formula Quebec could be absent from the required seven provinces, with 50 per cent of the population, and yet an amendment dealing with aboriginal rights could be accepted. I do not have to tell honourable senators how such an initiative would play in Quebec. If that province were isolated from that constitutional change, Bill C-110 unamended would prevent this.

Second, on the definition of "consent from the provinces" and the amendment of designating the legislative assembly, it appears to me that the government would lose its option to deal directly with the government of a province or, alternatively, with the people in a referendum which could gain the needed consent.

Third, concerning the sunset clause, some weeks ago I had the idea that such a provision should be considered. However, I have changed my mind. After hearing experts and after careful consideration, I believe it would be political dynamite to adopt such a clause, mainly because it increases the expectations for the constitutional conference which must be called by 1997. Some provinces would complain, I am sure, that they are being forced into a corner. Pressed unduly, they could refuse to budge on this issue. If the conference, which must be called by early spring 1997, fails, I can assure you that Mr. Bouchard, the Premier of Quebec, would not miss the occasion to say to Quebecers after December 31, 1997, "Canada failed to agree on a constitutional amendment; we in Quebec do not have a veto anymore." I do not think we want that political flak. We do not need such a situation. It would be counter-productive to national unity.

In concluding, I wish to repeat what Senator Beaudoin said in the committee. It may not be fair to do this, but I think he made a good statement. He said:

> You had better grab something that is on the table and at least you will have something in your pocket. After that, if you want something more, get innovative and try to find a way, but at least you have the other.

Bill C-110 is on the table. It may not be the perfect solution, but it is the best guarantee the government can give at this time until it has all the provinces' support to solve the problem in a more innovative and permanent way. I hope that this bill will be accepted without amendments. The political risks are too high to do otherwise.

Hon. Pat Carney: Honourable senators, I am speaking today to urge you to support, in a spirit of constructive compromise, the proposed amendments to Bill C-110, an act respecting constitutional amendments.

These amendments have been proposed by the special committee struck by this chamber to consider this ill-considered government initiative, which was hastily drafted to give some substance to the Prime Minister's post-referendum promises to Quebecers.

I listened carefully to the honourable senator who spoke before me, the Honourable Senator Gauthier, but I cannot support his logic, and I know that he will, in fairness, listen to mine.

The bill itself on which we have spent so much time is, as I have said before in this chamber, a very modest bill. It is very small in size. It consists of only two important clauses, one of which contains the concept of regional vetoes and the second of which contains a definition. If it is passed, this bill may become an infamous piece of legislation, in spite of its modest size and content. It is to that possibility that I want to address myself today.

The difficulties and deficiencies inherent in this bill were well presented, carefully and constructively, by the committee's chairman, Senator Kinsella, earlier today. I will not repeat them here, but I do urge honourable senators to consider them.

In summary, no one likes this bill. The only witness who supported it without reservation was the Minister of Justice himself. Even he stressed that Bill C-110 is transitory. He described it in terms of being a "way station on the way to constitutional reform." Instead, the bill could be a dead end to necessary reform, because the provinces may be unwilling to give up regional vetoes in return for more permanent constructive measures.

To British Columbians, the regional veto is the most visible feature of this bill. When it was first brought forward by the Prime Minister, the bill referred only to four regions that would exercise a veto: The Atlantic provinces, Quebec, Ontario, and something called "the West."

Your Honour, since you are from the west, you will be aware of the outcry that came from British Columbia on this issue. The faxes went into overdrive, there was a spontaneous combustion of concern, the Prime Minister's phones rang off the office walls, Liberal MPs joined with Reform MPs and Conservative senators in seeking redress. Eventually, the government revised the bill. In the redraft, which involves only two clauses, British Columbia was included as one of the regions.

This is an important recognition, and I want to acknowledge that in discussing this bill. It acknowledges the "known fact" that B.C. is, by all tests of geography, history, attitude, demography, and its increasing multicultural nature, a separate region, part of the west but "the Pacific province."

However, this important gain masks the fact that the bill itself is ineffectual. As B.C.'s constitutional minister, Andrew Petter, pointed out to the committee, it does not meet its own test. Simply put, if the measures were in place now, this bill could not be passed.

One of our correspondents from British Columbia wrote me and said very clearly that if this new, unofficial amending formula were in place, the new measures would not survive the vetoes being proposed. That is a deadly failure of this bill. We are put into the position of being in a ridiculous dilemma. We are asked to consider a bill to limit constitutional initiatives by federal ministers which may, in fact, rule out successful federal initiatives to effect constitutional change in the future.

Several witnesses pointed out that the bill tries to achieve constitutional change through the back door by an act of Parliament which the government cannot achieve through the front door of successful constitutional amendments. However, in the process, this bill firmly shuts both doors. The front door approach requires, as we all know, an amending formula of seven provinces containing more than 50 per cent of the population. The back-door bill we have before us would take that threshold to seven provinces and about 94 per cent of the population. If passed, it will firmly trap us in a permanent constitutional stalemate on these key issues.

Constitutions must be flexible to accommodate the evolving realities of a sense of country. Canada is a very young confederation. Increasingly, it is seeking mature relationships among the distinct, vital and component parts of our country to achieve that sense of citizenship which we all enjoy. It is my feeling that Bill C-110 will stultify this evolution and this growth.

The bill before us is more likely to intensify the destructive forces of deconfederation than to nurture new forms of re-confederation. This reality should not be masked by the illusion of equality gained through a transitory, ad hoc system of regional vetoes contained in Bill C-110.

Many British Columbians understand this reality. It always amazes me how closely the affairs of this chamber are followed by people in British Columbia. My mailbag does not contain one letter of support for this legislation. I am sure members on both sides of this house would like to hear from the people of British Columbia directly.

From Salt Spring, we have a correspondent who describes these initiatives as full of "judicial potholes" which can only be divisive and destructive. He adds that at this time none of us knows which way the country will go, but that we must open our minds to new ideas. I know that many of us agree with that sentiment.

From the Okanagan, we have a correspondent who states:

> You, and the Senate, now have a magnificent opportunity to prove that the Senate is an essential part of the Governing system of Canada. Bill C-110 will soon be reviewed in the Senate. You are fully aware of the straight jacket implication of the veto on constitutional change to one or more of its component parts. Giving a veto to any province or region is folly in its most blatant form. The present amending formula provides sufficient restrictions on amendments.

From Chilliwack, I received a letter which states:

> We think that without really wanting to the House of Commons has passed a bill that will destroy Canada as we know it, and hand Quebec nationalists their dreams on a silver platter...
>
> We implore you and your colleagues in the Senate to vote down, or hold up forever this destructive piece of legislation. This time the Senate has the opportunity of being the saviours of Canada, and truly a body of sober second thought.

A correspondent from Vancouver sent me a copy of a letter he sent to the Prime Minister in which he states:

> Re: Makeshift Unity Proposal
>
> I cannot begin to express my total disgust at the insulting proposal you put before the House of Commons last week as a feeble attempt to placate the separatist elements in Quebec. This is the first time in my 27 years in Canada that I have been driven to write a letter of this type...
>
> The first thing wrong with proposing anything at this time is that it is being done precipitately without proper thought as to the possible consequences...

He elaborates on that point, and then states:

> The second problem I have with the specific proposal you've made is that it purports to change the effect of the constitutional amending formula without changing the constitution. It is therefore dishonest and, in fact, ineffectual, since it can be reversed by a future government of Canada. The net result of these aspects is that it is stupid, since it then becomes quite transparent and will achieve precisely the opposite effect to that which is intended. It is a move which any moderately capable spin doctor would be ashamed of.

Those comments were repeated in more eloquent form by witnesses from B.C. before our special committee.

I wish now to refer to the views of the Honourable Andrew Petter who chairs the B.C. National Unity Committee of Cabinet and who is our Minister of Forests. He points out, as Senator Kinsella indicated today, that this ill-conceived unity package was presented without any consultation with the provinces. Among his points I would emphasize four.

He points out that the federal response moving to five regions does not alter the fact that any regional veto scheme is inherently flawed. I admire the minister for saying that because in B.C. people are in love with the concept of regional vetoes. Yet, the minister has said, "It is one thing to give us a regional veto, but the fact is that the concept is flawed." I commend him for making that point.

Second, he points out that it is a back-door attempt by the federal government to change the way the amending formula works in practice, and that it could not even pass its own test.

Third, he shows that the federal government is acting unilaterally at this time, before the first ministers are constitutionally mandated to review the amending formula by April 10, 1997. He summed up by stating:

> In short, we believe that the unilateral action of the federal government in imposing Bill C-110 not only fails to promote national unity, but impairs it.

The committee also heard from Andrew Heard, a professor at Simon Fraser University. I wish to emphasize the key points that he made when he told us:

> While I applaud proposals that aim at saving this country from partition, I must voice grave worries when proposals would make the needed constitutional change extremely difficult, even impossible, to achieve.

He told us how this proposal does, for the first time in Canada, set up a hierarchy of first-, second-, third- and fourth-class provinces.

Gordon Gibson, a political commentator in B.C. who is a former Liberal and highly respected former politician told the committee that, in his view, Bill C-110 is a political mistake, incompletely conceived, with the best of intentions. I would stress that there is no getting away from the fact that there is support for the government's intentions in this bill. We all support the intentions of a bill or any measure which is designed to reduce constitutional tensions. As my colleague Michael Meighen says, this is the wrong step in the right direction. The step is not helpful and has failed to gain support in all parts of the country.

Senator Kinsella, as chairman of this committee, has suggested three modest amendments. One of them is the sunset clause. If this bill is a temporary, transitory bill, then why not limit it? The minister says that it is a transition measure. That being the case, we should ensure that it does not take on a life of it's own and be on the books 100 years from now. On that issue alone — and I am looking at senators in this chamber who may not have made up their minds on this issue — we would propose this modest amendment.

The second amendment deals with defining the nature of provincial consent and suggesting that that consent should be through the legislative assemblies of the provinces. I was shocked when the minister and the law officers of the Crown told us that this bill, by intention, was vague about how provincial consent could be obtained.

This is not an issue particularly in British Columbia because, in British Columbia, provincial law requires that a referendum be held before a province takes a position on a constitutional amendment.

Our confederation is based upon the concept of a partnership between a federal Parliament and provincial legislatures. For a federal government to say, "We have designed this bill so that we can circumvent provincial legislatures; we can go around them directly to the people to attain something called 'provincial consent'", undermines the very partnership concept of Confederation. For that reason alone, as Claude Ryan and other witnesses told us, the bill is indefensible.

The final amendment deals with the position of the aboriginal citizens of this country. This is important in British Columbia where we are on the verge of signing treaties which will help stabilize a tense situation in British Columbia. The concept that this bill could destabilize that process would be very difficult for British Columbians to live with.

In summary, the amendments proposed by the committee, modest though they may be, will, as Senator Kinsella says, salvage this bill. If it does not give substance to the bill, it will at least make it work in our best interests.

I am worried that the bill, as others have indicated, will be considered the last word on constitutional reform. Some people in this country would be willing to settle for this modest measure. That should concern us all, because it is by no means the answer to the constitutional crisis we face.

A special committee to deal with the unity issues, as suggested by Senator Beaudoin, could be helpful in allowing members of this chamber to go out and talk to Canadians and to try to procure new ideas, new solutions, new visions and new dreams of the country to replace the tired and discredited ones.

I am deeply concerned that my colleague Senator Olson registered his objection to that suggestion this morning. It raises a fear in my mind that this bill is all there is from the government side of the house. Having passed this bill, Senator Olson, his colleagues and his government, will consider that the file on constitutional change is closed. I am hopeful that the concept of a special committee will be supported by all members of this chamber.

[*Translation*]

Hon. Lise Bacon: Honourable senators, in my opinion, Bill C-110 is an indication of the government's good faith in its search for concrete and practical solutions to the Canadian constitutional impasse.

The issue of a veto, particularly for Quebec, is not a new one. Allow me to briefly mention the major developments relating to that issue.

During the first century of our Confederation, the veto as it relates to constitutional amendments was of little interest, since the power to amend the Constitution Act, 1867 still rested with the British Parliament.

However, the Balfour declaration, in 1926, on the independence of the colonies and the adoption, in 1931, of the Statute of Westminster made it necessary to adopt a truly Canadian amending formula.

Still, from 1926 to 1931, the veto issue did not trigger a great or passionate debate since, from either a legal or a constitutional point of view, the best argument in favour of a veto seemed to be based essentially on the need for each province to agree to patriate or significantly amend the Constitution.

From 1931 to 1964, during the constitutional talks, the provinces continued to contend that their unanimous consent was required to patriate the Constitution or adopt an amending formula.

Yet, in 1964, the provinces adopted, at least in principle, the Fulton-Favreau amending formula that was proposed to them. This was a precedent. Although complex, the formula required the unanimous consent of the provinces regarding certain issues, including anything related to the distribution of powers.

The Fulton-Favreau formula was abandoned in 1966 because the provinces did not unanimously support its adoption. In 1971, the provinces agreed on a new formula, the so-called "Victoria Charter", to patriate and to amend the Constitution. The formula included a regional distribution which gave a veto to any province representing or having represented 25 per cent of the population. This meant Ontario and Quebec, as well as various combinations of two eastern provinces and two western provinces.

The new proposal was also rejected, for various reasons, including political ones. In 1981, the newly re-elected Parti Québécois government decided to oppose the repatriation of the Constitution by forming an alliance with seven other provinces.

For the first time in its history, the Quebec government waived its veto, which was not entrenched in the Constitution but which it had nevertheless always enjoyed, in favour of a provision allowing it not to be subject to a constitutional amendment and get reasonable compensation instead. This is what we call the opting out formula.

That decision was to have major consequences, as pointed out by a former colleague of mine, constitutional expert Gil Rémillard, in his book entitled *Le fédéralisme canadien*:

> By accepting the amending formula proposed to it in 1981 by the seven other provinces, Quebec signed a document that was to have major consequences, since that document provides that all provinces are equal. In other words, Quebec waived the veto that it had always sought until then. Quebec's signature on that document also means that, at least formally, its government gave up its specificity.

We had to wait until the Meech Lake Accord in 1987 and the Charlottetown Agreement in 1992 for new proposals that would allow the Province of Quebec to regain its veto. As we know, these two agreements never came about: the first one was not ratified by the majority of the legislatures and the second one was not approved by the majority of voters during a Canada-wide referendum.

As you can see, for some time now, the Province of Quebec has been asking for a veto on amendments to the Canadian Constitution to ensure that it can fully take part in its evolution, and that it is protected from future amendments that could take away some of its powers, rights and privileges and those of the National Assembly.

I firmly believe, therefore, that the bill before us is an appropriate response to the urgent message sent to the federal government on referendum night, October 30, by the people of Quebec, who want quick and concrete action to renew Canadian federalism.

The purpose of the bill is to show clearly, right after the referendum, what the position of the federal Parliament is on this issue. Of course, it is not to say that it will settle everything right away, federalism being a progressive system, but it is a first step in the right direction towards what I call national reconciliation, to use an expression we are familiar with and one which the new premier of Quebec kept using until a little while ago.

I can hear some people saying: Yes, but what does an ordinary act mean compared to amendments enshrined in the Constitution? Actually, I heard my colleague Senator Rivest ask this very question this morning.

To those people I would say, first of all, that constitutional reform has always been a complicated process, not only in Canada but in all democratic countries which are part of a confederation. Hence, the significance of the bill, which should help our country make a first step in a very complicated area, as I said earlier.

It will not be too late in April 1997, at the next constitutional conference, to review the existing amending formula. In the meantime, this regional veto fills the gap, recognizing that some provincial concerns are well-founded.

As for the weight of an act of Parliament compared to a constitutional amendment, a federal statute adopted by the Parliament of Canada should not be taken lightly. The present government and all future governments will be bound by it, and it is not every day that a statute is repealed. Once this bill has been enacted, changing it would be very costly. All future governments will be very aware of that fact.

It seems to me that regional vetoes are more appropriately dealt with in a statute than in a simple resolution, as is the case for the distinct society issue, because they require the federal government to act in a certain way.

In practice, this bill will affect amendments that are subject to the 7-50 rule. These include changes in the distribution of powers in favour of the provinces, changes regarding federal institutions, the extension of existing provinces into the territories or the creation of new provinces, and other constitutional amendments of a general nature.

Bill C-110 does not change the Constitution or the procedure for amending the Constitution. It just indicates some cases where the government will impose its own veto.

The provinces already have significant individual vetoes under the Constitution. For example, each province has veto power in matters that require unanimity such as the composition of the Supreme Court and the amending formula itself. In addition, each province has veto power regarding any alteration to its boundaries and any constitutional amendment relating to that province in particular.

Moreover, the right to opt out of an amendment that transfers provincial legislative powers to Parliament, with reasonable compensation if the amendment relates to education or other cultural matters, is another form of veto power given to a province.

Bill C-110 creates a new regional veto which, in fact, would apply to proposed changes to national institutions such as the Senate and the House of Commons, to the creation of a new province and to all changes dealing with the distribution of legislative powers where the federal Parliament transfers powers to provinces.

It should also be noted that all constitutional amendments dealing with areas in which provinces already have a veto power, for example the composition of the Supreme Court of Canada and boundaries between provinces are, I repeat, specifically excluded from the bill.

Honourable senators, the history of our country, Canada, is the result of a consensus envied by many countries around the world. However, consensus does not mean stagnation. That is why discussions aimed at improving and adjusting the original consensus are held periodically.

Some will say that all these rounds of constitutional talks are a serious waste of time, energy and money. To them I say that regular discussions show that our federation is capable of evolving and adapting. Discussions also prove the great openness of mind of those who have lead the destiny of this country to this day. But we must do more.

As was pointed out so aptly by new federal Minister of Intergovernmental Affairs Stéphane Dion at his swearing-in, and I quote:

> Our second strength is that our federation is based on decentralisation. A strong Canada is more than a strong federal government. It means a strong federation. Canada is fortunate in that its provinces enjoy considerable autonomy, which is conducive to creative emulation. It was a province, Saskatchewan, that paved the way for our public health systems. It is thanks to decentralization that eight provinces out of ten are on the way to balancing their budgets, each using its own resources and its own strategies.
>
> ...The Swiss have the most powerful municipal system in the world and take great pride in this very decentralized system, as another reason to feel Swiss. Similarly, Canadians have nothing to fear from decentralization. We know enough about it to make it work for us.

Honourable senators, for a country as vast and complex as Canada to be able to continue to develop and prosper, those who are responsible for its future must be attuned to the needs and demands of its citizens.

Bill C-110, on which we will soon be asked to vote, is tangible and concrete proof of this awareness, which is part and parcel of a federal system that is constantly evolving and is able to adjust to the needs of its citizens and to economic change.

On October 30 last year, Quebecers said once again that they wanted Quebec to continue to be part of Canada. They also said they were dissatisfied with the status quo and wanted change. By tabling Bill C-110, the Government of Canada has shown that it understood the message and that it is listening.

The outcome on October 30 told us we cannot take Canada for granted. In other words, we have to move and act quickly to prepare for the future, and the bill before us is, in my opinion, a step in the right direction.

Honourable senators, Bill C-110 is a concrete and tangible initiative that confirms the government is determined to do what it can, and must, to protect Canada's regions in the event of constitutional change.

We must not miss this unique opportunity, and that is why I urge the members of this house to vote for this bill and invest in the continuity of this country.

[*English*]

Hon. Edward M. Lawson: Honourable senators, we hear more and more from across the country that it is time to hear from ordinary Canadians on the issue of separation and the unity of the country. That is a good idea but, unfortunately, many of the ordinary Canadians with whom I have spoken are somewhat confused.

After the results of the last referendum, the Prime Minister said that he would ensure that the next question would be more clear and precise. We then heard the Minister of Justice say that the government would examine the matter to determine whether it is legal to separate.

One ordinary Canadian said to me, "If the intention of the Fathers of Confederation was that it would be easy for provinces to separate, they would have put in revolving doors instead of borders, so that the provinces could come and go as they pleased."

Surely that was not the intention. Whenever a problem arises, the government strikes an ad hoc committee. As one ordinary Canadian said to me, the government is making a "mockery of adhockery."

I was speaking with ordinary Canadians at a hockey game in B.C. recently. They said that it appears, from what the Prime Minister has said, that he concedes that there will be another referendum. That will be the third. They said that Minister Rock is studying whether or not this is legal. They said that surely to God someone should have checked this 15 years ago, or at least prior to the last referendum. Should someone not have done that and, if it is not legal, stopped the process? That is a valid question.

They asked what the rules are for separation. I told them that I do not know. They said that, although I may not know, surely the federal government knows. I told them that the federal government does not appear to know.

They explained that, in the playoffs for the Stanley Cup, it is known in advance that the two finalists will play until one team wins four out of seven games. The same holds true in the World Series. They suggested that perhaps we should adopt that rule. If we did, since Canada has won two, Quebec would have to win the next four out of five in order to win the right to separate.

While speaking of baseball, one of those ordinary Canadians with whom I was talking recalled the great Casey Stengel who was the manager of the New York Yankees, with great success. He then became the manager of the New York Mets, where he lost 23 games straight. He gathered the players together and cried out, "Doesn't anybody here know how to play this game?"

That is what ordinary Canadians are asking. Does anyone here know how to play the separation game? Perhaps one should add "other than Quebec."

This is not the Stanley Cup of separation or the World Series of separation. The prize is greater than a cup or a trophy; it is the future of our country.

Recently we read in the newspaper that the Prime Minister has said that 50 plus 1 will not do it. Well, what will do it? Will 50 plus 2 do it? Two-thirds? Seventy-five per cent? No one seems to know. How can ordinary Canadians render any assistance when no one understands the rules?

Mr. Parizeau says that we cannot stop the vote so we should forget what Minister Rock is saying about it being legal or illegal. Premier Bouchard says that we cannot change the numbers, that it would be undemocratic to change them, and that we would be held in disrepute around the world if we did so.

Of course, Mr. Bouchard has a position on everything, and it is to be constantly on the attack. He is an intellectual bully. He may be an intellectual, but if you strip it all down, he is still just a bully; and we seem to be rolling over and playing dead. That is not satisfactory.

We have some suggestions from ordinary Canadians. On the issue of whether it is legal or not legal: find out. If it is not legal, declare in Parliament, by whatever it takes, that there will be no future separations by any province — end of transaction.

With regard to how to respond to Premier Bouchard, since there is the precedent of two previous referenda, we should tell him in a straightforward manner that, although there have been two mistakes made, that is no justification for continuing to make mistakes. That is not a bad suggestion from ordinary Canadians.

I have heard a number of suggestions on how to proceed if it is determined that it is legal to separate. Some people from British Columbia have said that we should not talk only about Quebec separating because they may decide to separate themselves, and they therefore suggest some new rules.

The first is that any province may apply to the federal government for approval to separate after having received its own legislative approval. It would then apply to the federal government for approval. The federal government must examine the question to see whether it meets the test of clearness and precision. It must be something simple such as, "Are you prepared to have your province separate from Canada, to give up your citizenship and to assume your share of the debt?"

The suggestion is that the federal government should set precise rules. That is necessary because, as I read in Rick Gibbons' column in today's *Ottawa Sun:*

> Tell an unchallenged lie often enough and it eventually becomes gospel.
>
> That, more than anything, is what really confronts the Chretien government today in Quebec.
>
> And they really only have themselves to blame for it.
>
> Separatists have been given such free rein to spread their myths and outright distortions about the province's lot in Canada in recent years that their lies have come to be accepted as truth.

In reference to a *Globe and Mail* poll, this journalist says the following:

> Among other things, the poll discovered that a majority of Quebecers actually believe that they pay disproportionately higher federal taxes to Canada and get much less than other Canadians in return from federal spending or from unemployment insurance.
>
> The facts speak otherwise...

The federal government has a great responsibility to ensure a precise question.

The suggestion of my ordinary Canadian friends is that when the federal government determines the question it should send it to the provinces and, if it is not prepared to apply the unanimous rule, it should apply the rule in existence for any other constitutional amendment, which is that it must receive the approval of seven provinces representing 50 per cent of the population. When that is done, the matter will come back to Parliament.

Parliament would then have to approve the next step. My ordinary Canadian friends propose that, when that is finished, the federal government should advise the province which has requested to separate that it may proceed to call a referendum on the specific question drafted by the federal government, with no interference or further involvement by the federal government, with one exception: that is, that it will supervise the vote in order that we will have none of the fraudulent voting practices that occurred in the last referendum.

If the question is passed with a majority previously decided upon by the federal government — be it 60 per cent, two-thirds or whatever — my ordinary Canadian friends suggest that there be a national referendum in order that ordinary Canadians can have a say in deciding the future of their country. They will no longer accept being told, "Don't get involved; don't rock the boat; this is a Quebec issue." They say, as do I, that it is not a Quebec issue, it is a Canadian issue which affects the country as a whole, and that we have the right to be involved.

Although this plan may have many flaws, it is certainly much more clear and precise than what has been happening to date.

That brings me to Bill C-110. If the government had continued with its previous strategy, which, in my view, was no strategy at all, I could not have supported the present position and could not support this proposed legislation. However, I accept that the government seems to be adopting a new policy of tough love.

I am particularly concerned about the Prime Minister's commitment, made during the war of the referendum, to give Quebec distinct society status, the veto and so forth. If he had done that as an ordinary member of Parliament, that would be his problem. However, he did that as Prime Minister on behalf of us all. I am from the old school that says that if you give your word, you keep it; if you make a commitment, you honour it. In view of that, I will support this bill.

Hon. Gerry St. Germain: Honourable senators, I had the distinct honour and pleasure of sitting on the special committee struck to study Bill C-110. I would thank my colleagues on both sides of the house for the patience and understanding which was displayed in that committee and for the sound and intelligent debate which was held on this issue.

I have heard what my colleagues from British Columbia, Senators Lawson and Carney, have had to say on this matter.

• (1500)

There is, without question, in the minds and souls and hearts of Canadians right across this country a desperation for a comprehensive plan to emerge with some logic for dealing with this contentious issue of separation which has been haunting us since 1980.

I will be brief today. Much has already been said on the aspects of the legislation by senators on both sides. I, like many, was taken aback in that we were being asked to support Bill C-110 as presented to us by the Minister of Justice. He came before us and said that the bill was transitory and political in nature. Senator MacEachen brought this point forward while the Minister of Justice was before the committee. Asking individuals to set aside their partisanship requires a bit of consideration and deep thought. I know that Senator MacEachen understands that very well, inasmuch as, I am sure, in the final analysis he will rise in support of Canada over and above any partisanship.

One thing that has concerned me ever since I have been in this place is the fact that whenever we are dealing with legislation, whether it be Bill C-68 or Bill C-110, there is no consultation. That consultation is critical if we are to deal with the numerous challenges that face us as a nation, whether it be with our aboriginal people, with regions, or with provinces.

During the hearings I heard our aboriginal people state that they had not been consulted. I listened to presentations on behalf of the Province of British Columbia, the Northwest Territories and the Yukon, and there was no consultation.

As Senator Carney pointed out, it is a bit of a strange situation when a bill which is presented does not even pass its own test, because the established regions clearly spoke out against the legislation, and the Province of British Columbia asked us not to amend it but to kill it.

I wish to qualify British Columbia's position for the Senate. The party in power in British Columbia is very close to calling an election, and there may have been some electioneering in the position they have taken at this particular point in time, in spite of the fact that Minister Petter from British Columbia made an excellent presentation on behalf of his province.

My greatest concern is that this particular piece of legislation builds huge expectations. I am concerned that the government, in presenting Bill C-110, has not really dealt with the problem head on. They are trying to do through the back door what they should be doing through the front door.

If we are trying to protect and deal with the interests of Quebec, why did we not draft a piece of legislation which gave them vetoes in the areas that they feel must be protected? Why are we giving vetoes to everyone and virtually creating a gridlock situation? We should have been proceeding in the spirit with which Canadians opened their arms to deal with this situation. This was the most opportune time to come forward with legislation of that nature.

I said I would not speak long, and I will not. I will conclude by saying that we must defeat separatism. Failure is not an option. We must go forward. We must defeat these people who are advocating separation, whether it be in my province, the province of Quebec or any other province or region in this country. We must work together. We must team up and set aside our partisanship.

It may be hard for some of you to believe that I would stand in this place and say that after the partisan positions I have taken, but I have never dealt with an issue such as we are dealing with now. I ask honourable senators to consider what was said about my leader during the referendum, particularly the fact that what he said was delivered with emotion. I knew that he would deliver his comments with emotion, but I am saying that it is said and others have said it.

I find it strange that to deal with this problem of separation, we are holding meetings all over, and yet the government is trying to deal with it from a one-sided point of view, as opposed to bringing in more people and groups from right across the country to try to resolve something that will surely destroy us if we fail.

I believe that the Senate should set up a committee. Numerous groups have been in contact with my office, and I am sure they have been in contact with other honourable senators. They have ideas. I speak of universities, academic groups from all sectors, and industrial groups. The head of the Bank of Montreal has said that we came within a whisker of losing our country. I speak of BCNI and whatever organization you can think of. They are prepared to come forward and give their time and knowledge to this cause.

Honourable senators, it is time that we buried the hatchets of partisanship. Believe me, it is time that we dealt with this issue head on, and started working with all good men and women in this country. This is no time to be involved in political activity or partisanship. We are dealing with an issue that could decide the future of our country.

I know that it is hard for those of us who have been in parties, who have been presidents of parties and have been in cabinets and political campaigns, whether they be national campaigns or provincial campaigns, to believe that we should take such a stance. However, we have never faced anything as severe in the history of our country. I urge each and every honourable senator to consider this aspect as we go forward.

Hon. H. A. Olson: Honourable senators, I do not believe that I have ever heard such a repetitious litany of weak arguments from the opposition in all the years I have been here —

Some Hon. Senators: Oh! Oh!

Senator Olson: — to support their reasons for bringing in these amendments. Senator St. Germain makes a plea for non-partisanship and all that nonsense. That is junk, because then they bring in three amendments which have nothing in them except some manifestation of partisanship.

Senator St. Germain: Did you consult us before you —

Senator Olson: Consult? You were at the committee. In fact, you had a majority at the committee. You bring in these kinds of amendments. Why?

Senator St. Germain: Why did you not consult us before you drafted the legislation?

Senator Olson: In case you do not remember, you guys did not get elected. You lost every seat you had but one. You saved Charest, and that is all.

To deal with the arguments that have been made, if I may, Senator Kinsella, the chairman of the committee, tells us that Bill C-110 must pass test number one: Does it give Quebec what it wants? He went on to argue that no, it does not.

It depends on who you are talking about in Quebec. In case honourable senators opposite have forgotten again — they seem to forget things easily on the other side — the vote was 50 per cent plus to stay with Canada. They should remember that.

• (1510)

It was not the other way around at all.

Senator Kinsella said that the second test was this: Does the bill undermine the development of a Constitution? Does it establish the means by which the provinces can give their consent? He then said that the bill offends the principle of federalism, whatever that means. Then he asked if the bill advances the cause of national unity. Whoever said the bill was designed to do any of those things?

Honourable senators, the Prime Minister, the Minister of Justice, and everyone else who appeared before the committee, said over and over again that Bill C-110 is a bridge —

Senator Berntson: To what?

Senator Olson: — from now until the required constitutional conference in 1997. That is clear.

Senator Berntson: It is a bridge into the fog.

Senator Olson: The opposition says that the bill means nothing. I agree that it is not an amendment to the Constitution. Hence, what is all the fuss about?

Senator DeWare: We do not trust you.

Senator Olson: Of course, we understand that, but why come along with all these arguments that the bill is vital to Canada if it means nothing to you anyway?

The Prime Minister made a commitment, and the people in my part of Canada were grateful that he did. He made a commitment during the referendum campaign that he would do this.

Senator Berntson: He made a commitment to get rid of the GST.

Senator Olson: Perhaps members on the other side of the chamber do not understand that some political leaders keep their promises.

Senator Lynch-Staunton: Have you read the Red Book recently?

Senator Olson: Senator Kinsella, the chairman of the committee, said that the Conservatives wanted to be supportive and helpful in dealing with Bill C-110. I must say that I do not think they are being either supportive or helpful. I am having a great deal of difficulty understanding why they introduced these amendments. Are they attempting to throw a wrench into the gears? If that happens, we must send the bill back to the House of Commons. They must then reconvene and deal with those amendments. We know that 102 members voted against the bill in that chamber. We have some problems.

Please do not say that you want to be nonpartisan and pass this bill in the interests of Canada, and then argue that the scenario you would be setting up if we support these amendments would be supportive and helpful, because it is not. It is very definitely not supportive or helpful.

The Prime Minister has said, over and over again since the Liberal victory a couple of years ago, that he does not want to get into a constitutional debate again until the spring of 1997 when he is obliged to do so because of a decision made by all the first ministers some time ago.

Senator Lynch-Staunton: Except one.

Senator Olson: Except one, but 10 out of 11 is not bad. Perhaps every first minister will attend the next conference.

Honourable senators, everyone admits that this bill is a temporary measure. It is a bridge to get us from here to there. The Prime Minister is keeping the promise he made during the referendum campaign. However, supporting these amendments will only gum things up. These amendments add nothing useful to Bill C-110, either temporarily or in the long term.

Senator Berntson: Did you read it?

Senator Olson: Of course I read it. It is only two or three pages in length. It was not difficult to read.

What puzzles me is that the Leader of the Conservative Party, Mr. Charest, was one of the very helpful people in the referendum campaign.

Senator St. Germain: You are right. Without him, you would have lost.

Senator Olson: I am not sure about that. Do not overemphasize what he did.

Canadians, even from my part of Canada, know about Mr. Charest's contribution and they appreciated it. However, now we have the Conservatives coming along with these amendments. Who is running this party anyway?

Senator Berntson: Come along with this gang.

Senator Olson: And wreck all the good you had bestowed on yourselves because of the activities of your leader during the referendum campaign?

Senator Lynch-Staunton: Mr. Charest is opposed to the bill.

Senator Olson: I have not heard him say that.

Senator Lynch-Staunton: Oh, yes.

Senator Olson: Unless that is demonstrated to me, it is difficult for me to buy, because he is in favour of what he did himself, and of what was done by Jean Chrétien and others in Quebec during the referendum campaign. Has he changed his mind since then?

Senator Lynch-Staunton: He is in favour of entrenching the Meech Lake Accord in the Constitution.

Senator Olson: The Meech Lake Accord and the Charlottetown Agreement were defeated years ago.

Senator Lynch-Staunton: What is this bridge? The honourable senator does not seem to know what body of water this bridge will be crossing.

Senator Olson: If you want to live in the past, go ahead; we do not. We will keep our word to the people of Quebec until 1997 when there will be a constitutional conference with all governments being represented. It is to be expected that all will attend and work everything out.

I appreciated what Senator Lawson had to say. I am not sure I agree with all of the details he gave with respect to what the rules should be, but I think there should be rules rather than have people stand back and watch someone else decide what will happen to their country.

The most frustrating part of the referendum campaign was that the people from my part of the country felt they had to sit idly by, helplessly watching someone else decide the fate of their country. They did not like that. They did not like it, and they do not want it to happen again. Mr. Chrétien has that message too, and he intends to be involved.

Senator Lynch-Staunton: Why did he not get the message before the referendum? He was out west raising money for the party and lulling everyone to sleep.

Senator Olson: You are so smart in retrospect. You know all the answers. Your hindsight is 20/20.

Senator Lynch-Staunton: Where was Mr. Charest during the referendum? Where Mr. Chrétien should have been.

Senator Olson: Mr. Charest does not have any party.

Senator Lynch-Staunton: Well, he saved your bacon.

Senator Olson: I am not sure that the generosity of the other side will allow me to finish.

Honourable senators, let us be clear on the rules of the game. The new Minister of Intergovernmental Affairs has said that some things ought to have been said before. If Canada is divisible, so too is Quebec. If Mr. Bouchard wants to divide Canada, he had better face up to the consequences. If my memory serves me correctly, the Northern Cree of Quebec have already voted 96 per cent in favour of remaining part of Canada.

I would bet anything that, if a vote were taken in the region from Montreal to west Quebec, an overwhelming majority would vote to remain Canadian. I would also bet that, if a vote were taken in the Eastern Townships of Quebec, those people would also opt to remain Canadian. They do not want some people in another part of Quebec to decide whether they can remain Canadian or not.

Let us face it, we need some better rules. We need some support from this opposition which Senator St. Germain calls "non-partisan". He suggests that we set our partisanship aside and that we all pull together. I agree with that. Let us not introduce these kind of amendments which just gum up the works.

If we defeat these amendments and pass Bill C-110, a bridge from now until the spring of 1997 will be built. At that time, Canada's leaders will get down to the business of considering what the whole country needs and wants by way of changes to the Constitution, including the amending formula.

What is so unreasonable about that? I ask senators opposite: Why not do that as opposed to bringing in these partisan amendments for no good reason at all, amendments which I do not think are supported by your leader?

Senator Berntson: I am sure he would have called you first.

Senator Olson: I saw him yesterday morning at breakfast, although I guess I should not say that.

Senator Lynch-Staunton: I saw you, too.

The Hon. the Speaker: Honourable senators, I hesitate to interrupt the Honourable Senator Olson, but his time has expired. Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Olson: I thank honourable senators.

I agree that we should set aside our political partisanship in the interests of Canada and do the right thing. Let us defeat these amendments so that we can pass this bill which is the necessary bridge to next year. Then all governments can consult and consider what a good Canadian Constitution ought to contain.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to ask a question of Senator Olson, who is a senior member of the Liberal Party. If a province decides to secede from Canada, is it government policy that there can be divisions within that province if a pocket of the population wants to remain in Canada? Is the government preparing a policy based not only on the possibility of the country being broken up, but on that part of the country being broken up further? Are we talking about fractioning the country rather than keeping it together?

Senator Olson stated that there was a possibility that the Eastern Townships would opt to stay in Canada while other areas would opt to remain without. Is this the honourable senator's personal view, or the view of the Government of Canada which, obviously, was discussed at your caucus meeting in Vancouver?

Senator Olson: Honourable senators, I thought I made it perfectly clear that what I was saying was that the new Minister of Intergovernmental Affairs said that, following the logic that if Canada is divisible, it means that Quebec is divisible. Is there anything wrong with that?

Senator Lynch-Staunton: Where is the logic that Canada is divisible?

Senator Olson: Who has said that we agree with that? Mr. Bouchard needs to understand that.

Senator Lynch-Staunton: Senator Olson has twice quoted the new Minister of Intergovernmental Affairs to the effect that Canada is divisible.

Senator Olson: No, he did not. You left out the word "if."

Senator Lynch-Staunton: I suggest that the honourable senator read the statement made by Minister Dion on the day he was sworn in and that he look for the word "if." I do not think he will find it.

Senator Olson: I am sure it was in the newspapers. I believe the Prime Minister also said that afterwards in Vancouver. Let us not be unclear about what I said.

Mr. Bouchard has jumped up and said, "Oh, no." I remember a time about three months ago, prior to the referendum, when someone made the same suggestion. Mr. Parizeau was still in charge of something — he was the premier of Quebec, as a matter of fact. He became very indignant and said, "For God's sake, leave the borders alone." He made that statement on a television interview which was broadcast all across this country.

My answer to Mr. Parizeau is, "For God's sake, leave the borders of Canada alone." That is what the people in my province want. That is what they will demand the next time, if there is to be any more of these types of referendums. They want to have something to say about the future of Canada.

Senator Lynch-Staunton: Does the Government of Canada now feel that Canada is divisible?

Senator Olson: That is not for me to answer.

Senator Lynch-Staunton: Senator Olson raised the subject.

Senator Olson: I do not make statements for and on behalf of the government. The honourable senator knows that very well.

Senator Lynch-Staunton: That is reassuring. What concerns many of us is the fact that the government is considering the possibility that this country will break up, instead of doing all it can to convince Canadians, as the rest of the world says, that this country should remain intact.

Senator Olson: Do not throw up straw men which you know have nothing to do with it.

Senator Lynch-Staunton: You started it, senator.

Senator Stanbury: I agree with Senator St. Germain. Let us be non-partisan.

On motion of Senator Graham, debate adjourned.

TOBACCO PRODUCT RESTRICTIONS BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, seconded by the Honourable Senator Cools, for the second reading of Bill S-14, to restrict the manufacture, sale, importation and advertising of tobacco products.

Hon. William M. Kelly: Honourable senators, some of you may be aware that in another part of my life I am the chairman of a tobacco company. In order to avoid the appearance of a conflict of interest, therefore, I have refrained from speaking on any initiative that comes before this place that relates largely or exclusively to tobacco.

I have, however, decided to speak today to Bill S-14 because I have concluded that Bill S-14 raises a serious issue. Because of my knowledge of the business, I feel I would be remiss in my duty not to at least comment on this matter.

I will not debate the objectives of Bill S-14, namely, whether tobacco, or any product for that matter that is legally sold in Canada, should be separated out for this kind of special legislative treatment. I will simply comment on the efficacy of Bill S-14, and whether Bill S-14 will achieve its stated objectives.

The purpose of Bill S-14, at least in the context of the issue I wish to address, is to reduce what Bill S-14 sees as the health hazards associated with tobacco by imposing a reduction in tar and nicotine levels. It is this aspect of the bill that I wish to focus on. First, let us look at some history.

For the past decade or so, the federal and provincial governments followed an aggressive policy of tobacco taxation aimed at discouraging consumption. High increases in tobacco taxes became a feature of federal budgets beginning in the mid-1980s but particularly in 1990, 1991 and 1992. The question is: Did that exercise work? The answer is no, it did not.

As the Minister of Health herself acknowledged during her press conference on December 11 last year, high tobacco taxes had no discernible impact on consumption. Instead, high tobacco taxes put in motion the laws of unintended consequences. High tobacco taxes in Canada gave rise to tobacco smuggling on an unprecedented scale. They also gave rise to the illegal production of contraband cigarettes in Canada for sale through the underground market. They encouraged smokers to move to "roll your own" tobacco products and to raw tobacco. What they did not do was discourage consumption.

According to Statistics Canada, in 1989, tobacco prevalence or incidence of usage was slightly below 30 per cent. By 1993, it had edged up to nearly 31 per cent. By late 1992, in some parts of Quebec there was no legal market left. The entire market consisted of smuggled or contraband product. In Ontario and New Brunswick, it was estimated that up to one-third of the market was supplied by smuggled or contraband product.

The federal government acknowledged this situation, and in January, 1993 they rolled back tobacco taxes to the point where smuggling was made uneconomic, and five provinces lowered their tobacco taxes in response to the federal initiative. As a consequence of this rollback, tobacco smuggling appears to have declined to pre-1990 levels — at least in these five provinces.

Perhaps this point must be made as well: According to Statistics Canada figures, consumption did not increase as a consequence of the tax rollback. In fact, the minister herself acknowledged that there has been no discernible difference in consumption rates between those provinces that participated in the tobacco tax rollback and those that did not. At her press conference on December 11, the minister said:

> No, we are not saying there has been any evidence of increase since the tax rollback. We know that the numbers have not changed much, especially if you look in terms of across the country. Those provinces that lowered their taxes and those that did not, the take-up in smoking is about the same.

Yet today, we still live with the legacy. The smuggling network initially set up for tobacco has now turned to beverage alcohol, firearms, stolen credit cards, even illegal aliens. I am told that more than 20 per cent of wine and distilled alcohol consumed in Canada today is smuggled. Furthermore, we have fairly active interprovincial smuggling for the first time in Canada. The smuggling of tobacco products from low-tax provinces to high-tax provinces — in the Lower Mainland of B.C., for example — Finance Canada calculates about one-third of the market is smuggled. Most of that is accounted for by interprovincial smuggling.

While we all abhor this kind of underground activity, we must all take cognizance of the fact that a growing proportion of our citizens are willing to break the law in order to obtain the commodity or service they want at a price that they are prepared to pay. There are also those, evidently, who are prepared to break the law and take considerable risk to supply that demand. The long-term implications of that are grave because it represents an unprecedented erosion of the social contract between the government and the governed.

In the same vein, I want to draw attention to another counterproductive set of initiatives. Anti-tobacco advertising was mentioned by Senator Haidasz in his remarks. The federal and provincial governments have spent millions on various types of anti-smoking advertisements, yet apparently without discouraging smoking.

The federal Department of Health pulled a series of anti-smoking advertisements after they found that teenagers, the intended audience, were laughing at them. Ontario focus groups, set up to evaluate a series of Ontario government-sponsored advertisements, found that one of them made smoking look sexy.

The moral is as old as the story of Adam and Eve in the Garden of Eden. That which is forbidden becomes more desirable through the act of being forbidden. Authors and publishers understand this well: Criticize or ban my book if you will; it will only add to the sales.

Whether or not we are courageous enough to recognize it, in the main, past government initiatives to reduce smoking have been extremely costly but they have been public policy failures. With that experience in mind, let us now turn to Bill S-14. This bill would prohibit the sale of cigarettes that have more than 1.0 milligrams of tar and 0.3 milligrams of nicotine. In the press release accompanying this bill, Senator Haidasz correctly pointed out that these levels correspond to so-called ultralight cigarettes which are currently on the market, and are produced by two of the three Canadian tobacco manufacturers.

Bill S-14 overlooks the fact that only about 1 per cent of the market currently buys these products. If Bill S-14 comes into force, 99 per cent of the market would be left out; ninety-nine per cent of consumers would be faced with a product selection which does not satisfy their preferences.

With history in mind, what would they do? Bill S-14 assumes they would merely adjust their smoking tastes, or give up smoking altogether. I think, honourable senators, we know better. Our recent experience with tobacco smuggling in response to high Canadian taxes proves beyond a shadow of a doubt that Bill S-14, as did high tobacco taxes, would set in motion again the law of unintended consequences. Smokers would not meekly adjust their tastes or give up smoking; they will instead, in large numbers, search out the products they want, even if that means buying smuggled or contraband cigarettes. The smuggling network which already exists will happily satisfy that demand.

At the end of the day, no one is further ahead — except, of course, the smugglers — while a very major portion of the market will shift from legal product to smuggled or contraband product. Tax revenues will be lost. Retailers and wholesalers across the country will suffer.

As a consequence, Bill S-14 will not achieve the objectives it was designed to achieve. I am also advised that there are a number of technical problems with Bill S-14 which would, on their own, effectively neutralize its impact, or cause serious enforcement or interpretation problems. I do not intend to get into those matters today. I trust that the technical experts will appear before the committee and make their views known.

Honourable senators, my message and my point today are very simple: For goodness sake, let us learn from past experience and not make the same mistakes again and again. This government, with the expenditure of considerable capital, recently rolled back tobacco taxes in order to stop tobacco smuggling and contraband. Governments have spent millions on anti-tobacco advertising which even the anti-tobacco lobby acknowledges did not work. With that recent history in mind, and with all respect to my friend Senator Haidasz, whose motives I am sure are unimpeachable, why would we put in place a measure that would only resuscitate the very smuggling activity which has so recently been reduced to manageable levels?

Honourable senators, in my view I have now fulfilled my duty as a senator by calling attention to the very serious issue raised by Bill S-14, of which I happen to have knowledge because of my corporate affiliations. Having fulfilled that duty, I intend to go no further lest some perceive a conflict of interest. I shall abstain from voting on Bill S-14 at any stage during its review.

Hon. Stanley Haidasz: Honourable senators, if there are no other senators who would like to participate in this debate, I should like to do so.

The Hon. the Speaker: I wish to inform honourable senators that if Honourable Senator Haidasz speaks now, his speech will have the effect of terminating debate on this bill.

Senator Haidasz: Honourable senators, I should like first to thank Senator Kelly for his remarks. At the beginning of this debate, I invited all senators to take part in an effort to improve this bill, which I think is necessary in order to stem the more than 40,000 deaths in Canada every year from tobacco-related diseases. At least 330 people die annually in Canada from second-hand smoke, the side-stream smoke which non-smokers inhale when they are in a smoking environment.

It is up to the members of the committee which studies this bill to determine whether it requires amendment.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Haidasz, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

> That when the Senate adjourns today, it do stand adjourned until Friday, February 2, 1996, at ten o'clock in the morning.

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

Hon. Senators: Agreed.

Motion agreed to.

CONSTITUTIONAL AMENDMENTS

MOTION TO AMEND ORDER ESTABLISHING SPECIAL SENATE COMMITTEE ON BILL C-110 ADOPTED

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with leave of the Senate and not notwithstanding rule 58(1)(*i*), I move:

> That, notwithstanding the order of the Senate adopted on December 15, 1995, no later than 1:30 p.m. tomorrow, Friday, February 2, 1996, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of all remaining stages of Bill C-110, An Act respecting constitutional amendments, shall be put forthwith without further debate or amendment, and that any votes on any of those questions not be further deferred; and
>
> That the bells to call in the Senators be sounded for thirty minutes, so that the vote will take place at 2:00 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

PEARSON AIRPORT AGREEMENTS

THIRD REPORT OF SPECIAL COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Special Committee of the Senate on the Pearson Airport Agreements, tabled in the Senate on December 13, 1995—(*Honourable Senator MacDonald (Halifax)*)

Hon. Finlay MacDonald: Honourable senators, I tabled the report of the Senate committee inquiring into the Pearson Airport Agreements on December 13 last. We recessed two days later, leaving no time to begin the debate on the consideration of that report. I do not know how many honourable senators have read the report, which is long, or have compared the report with the dissenting opinion; nor do I know whether any minds were already made up with regard to the evidence and the conclusions.

We had 30 days of public hearings during which we heard 65 witnesses, comprising many hours of sworn testimony, and went through 45,000 pages of documentation. We tackled a difficult issue with painstaking research and probing questions.

My purpose today is to deal almost entirely with the dissenting opinion, or the minority report as it is called. At 125 pages, it ranks as one of the longest minority reports on record. I trust, honourable senators, that because of its creative complexity you will grant me leave to continue should I exceed my allotted time.

In the interests of time, I have prepared an appendix which I had hoped to have appended to the record of today's proceedings. However, it has not yet been translated into the other official language. Therefore, I will ask permission to table that document when it is finally prepared.

The present government purported to be relying on the Nixon report, a study commissioned before the new government was even sworn in. It was completed within 30 days and accepted without further study or debate four days later.

As witness after witness appearing before us testified to the transparency of the process, the benefits of the agreements and the absence of political interference, serious doubts began to arise regarding the reliability of Mr. Nixon's findings. On page 105 the minority report reads:

• (1550)

> Mr. Nixon was assigned a difficult task, made more challenging by the time constraints — time constraints that were necessitated by the new Government's decision to move forward expeditiously with respect to Pearson airport. (At that time, of course, the Government could not foresee that its actions to implement its chosen policy would be frustrated by the Conservative majority in the Senate.)

Nor could they foresee that two years later the Senate would establish a full inquiry to examine the Pearson Airport Agreements.

Realizing this, and not surprisingly, the Liberal members of our committee allot the Nixon report only seven short paragraphs. His report was not based on any substantive research. He sought out people who would state opinions to support a predetermined conclusion. For example, of the 66 interviews he conducted, always in private, 23 were with members of the Liberals' Toronto caucus, and most of the remainder were with people opposed to privatization anyway. He took no notes. The few public servants he did interview and who later testified before us found Mr. Nixon's approach cursory.

I have no doubts about the sincerity of Mr. Nixon's dedication to the public interest, as he saw it. As a matter of fact, I like Mr. Nixon. I admired his candour when he told our committee:

> I very strongly support the partisan method of our democratic process and I support it in any way I possibly can.

Our own inquiry, however, resulted in concerns about the judgment underlying Mr. Nixon's confidence in the process and its results. These concerns only deepened when we considered the number of people with whom he did not meet and should have met because they were crucial to meeting his mandate.

He did not interview two former Ministers of Transport, the Honourable Doug Lewis and the Honourable Jean Corbeil. He did not interview Mr. Glen Shortliffe, the former Clerk of the Privy Council and the former Deputy Minister of Transport. He did not interview any senior member of the Treasury Board Secretariat. He did not interview Mr. Don Dickson, the former Director General of Finance of the department. He did not interview Austin Douglas, the former Associate Director of Transport Canada. He did not interview Michael Farquhar, the Director General of Airport Transfer, nor did he interview Mr. Keith Jolliffe, Financial Advisor, Transport Canada. He did not interview Mr. Ed Warwick, the former General Manager of Major Crown Projects at Pearson airport. He did not interview Mr. Gerry Berrigan, Regional Director of Airports. He did not interview Mr. Ron Lane who was the chairman of the all-important Evaluation Committee. He did not interview anyone representing Paxport or Claridge, the two proponents. He did not interview Mr. Paul Stehelin of Deloitte and Touche. He did not interview any lobbyists.

In short, Mr. Nixon denied himself the opportunity to get information from the key people intimately involved in the policy, the process, and the negotiations. Our committee interviewed them all and recalled some of them several times, always under oath. These were the officials who testified unanimously to the integrity of the process and the consistency of the transaction with the prevailing public policy objectives. Their testimony was not analyzed, but simply obliterated from the minority report.

The Liberals in our committee retained an Ottawa lawyer to write what they termed their "minority report," to employ every device to systematically take words, statements and events out of context and impute meanings which do not stand up under examination. It was an attempt to keep up appearances. This report was overseen and approved by the Prime Minister's Office. It is my opinion that few Liberal members on the committee participated in a meaningful way in the writing of this minority report. Indeed, this report is not in the ordinary sense a report at all, since that term implies a commitment to reflect the evidence.

Where no evidence or quotation was available, they left the innuendo and insinuations unsupported. For instance, the shadow of possible political manipulation loomed large in Mr. Nixon's justification for cancellation. On page 6 of the minority report, they write:

> Was there political manipulation? Absolute proof may be difficult to retrieve.

I think it would have been impossible, since the chief negotiators who would have been affected by it have sworn that it did not occur. The minority, in spite of strenuous efforts, was unable to uncover one piece of tangible evidence to back that assertion of Mr. Nixon.

Again, in Mr. Nixon's report, he writes:

> It is clear that the lobbyists played a prominent part in attempting to affect the decisions that were reached, going far beyond the acceptable concept of consulting. When senior bureaucrats involved in negotiations for the Government of Canada feel that their actions and decisions are being heavily affected by lobbyists, as occurred here, the role of the latter has, in my view exceeded permissible norms.

Mr. Nixon's view was not shared by one single bureaucrat. However, bravely, the minority report ploughs on. On page 118 they write:

> While it is always difficult to specify with any certainty how much lobbying is acceptable, and at what point it becomes excessive, in this case the Committee saw clear evidence of extraordinary influence...

However, their so-called "evidence" reveals their motives.

Then the authors revealed their frustration with a truly amazing conclusion on page 125:

> With or without a Nixon Report, the Prime Minister was clearly justified in cancelling the Pearson Airport Agreements...

Did the Liberal members on my committee decide to jettison the Nixon report? Did they assume it would not be necessary for us to kick Nixon around any more? No, not yet. He still has a lot to answer for.

If the Draconian provisions of Bill C-22 cannot be supported by the Nixon report, on what basis can they be justified? Certainly not on the basis of the advice of the government's own advisors. Every one of the principal negotiators for the government testified before us, as did the senior officers responsible for preparing the request for proposals and reviewing the proposals. All testified that the process was fair and the ultimate deal a good one. With the exception of one who has retired, all of those officers are still with the public service, some having been promoted and others still carrying out the duties assigned to them in 1993. All of them spoke frankly and unequivocally at the hearing. There was no stonewalling. No one feigned memory loss. No one challenged their integrity. And, deliberately, none of their key testimony found its way into the minority report.

Page 5 of the minority report states that the transaction was proceeded with against the advice of public servants. Then, in a mystifying inconsistency, one turns to the next page where they characterize the professional comportment of the same public service as:

> ...an understandable reluctance on the part of civil servants to point fingers in public at their former political masters or to criticize the terms of the deals they themselves negotiated.

Honourable senators, this does not square. You cannot have it both ways. Moreover, it is both insulting and unworthy of the Liberal senators who wrote it.

In the case of Pearson, there is only one conclusion: The present government deliberately failed to seek advice from its permanent officers or, if they did obtain it, they totally ignored it.

It is now time to turn to that which really shows what I consider to be the total impoverishment of the minority report. It is simply this: The concerns expressed in the minority report are quotes from documents written months or even years before the contracts were fully completed. These problems were resolved in the final agreements. Yet, time and time again, the minority reports quote critical reports prepared in the early stages of negotiations which have no relevance to the final agreement. This was without reference to the fact that the issues raised were all ultimately resolved.

Faced with the solid rebuttals of the government's own permanent advisers, the Liberal members were forced to seek solace in the minutiae of the painstaking review carried on by the previous government and its advisors throughout the whole process. Negative quotations were sought from any source, however ill-informed. Failing that, they relied on their own questions and comments during the proceedings.

For instance, at the press conference on December 13, my friend Senator John Bryden — I wish he were here — read and distributed a statement in which he said:

> It gave the developers an exorbitant rate of return, a return of 23.6 per cent when independent estimates provided to the Department and to the Inquiry stated that a return of 14 - 15 per cent would have been adequate and normal in this case, particularly since virtually all of the risks in the development were laid-off on the airlines, the passengers, or the government.

I do not know why Senator Bryden made this very misleading statement. By comparing a rate of 23.6 per cent to a rate of return of 14 to 15 per cent, he implies that the developers were to receive almost 9 per cent more than that which was considered adequate or normal.

As you know and as Senator Bryden had to know, the 14.1 per cent tax negotiated by Transport Canada is simply an after-tax rate, while the 23.6 figure quoted by him is a before-tax rate. There is simply no basis for comparison. However, Senator Bryden's statements are now a danger to his own government. Exorbitant rates of return at no risk, as he alleges, may mean large damages payable by the Crown to the developers.

The Crown's strategy in the litigation before the Supreme Court of Ontario has been to entirely disclaim its own early analysis. The Crown's current position is that the developers underestimated its costs and overestimated its revenues.

The Hon. the Acting Speaker: Honourable senators, Senator MacDonald's speaking time has expired. Is leave granted so that he may continue?

Hon. Senators: Agreed.

Senator MacDonald: The Crown is putting forward the view that the developers would not have realized any profit whatsoever over the next 57 years of the term, but that, in fact, they would have lost in excess of $150 million.

The government lawyers will likely argue this month in the Supreme Court of Ontario that at least a 20-per-cent after-tax return to the developers would have been more appropriate.

You may well ask: How could a government so shamelessly adopt a position that contradicts all of its prior pronouncements? The simple answer is that they have seemingly done so in the expectation that no one will notice.

Then Senator Bryden, in dealing with the issue of Air Canada and the request for proposals, stated:

> When the Request for Proposals was issued in March, 1992, Canada was in a recession, and the Canadian airline industry was in free fall.
>
> Air Canada wanted the redevelopment delayed.

Again, this is typical of the Liberal methodology for dealing with the entire Pearson story. They pick a point in time, recite a negative story, and then never, ever tell the listener or the reader that, at a later point in time, the situation completely changed. Using this technique, they have attempted to completely distort the Pearson saga.

Unlike Mr. Nixon, our committee has a record which Senator Bryden has conveniently forgotten. He does not tell you what the committee heard in evidence. In the case of Air Canada, the Pearson agreements were negotiated in such a fashion as to alleviate the initial financial burdens on Air Canada while meeting its long-term needs. Air Canada, Pearson's largest tenant, gave the Pearson agreements their full support.

As we heard from Air Canada, through Mr. David Robinson, Director of Real Estate for Air Canada:

> The most successful airports in the world such as Schiphol Airport in Amsterdam and Changi Airport in Singapore, have achieved their success for one very important reason: they stayed ahead of the demand curve by developing terminals and runways well in advance of anticipated passenger demand. We have all but lost that opportunity at Pearson to the detriment of Air Canada, other carriers, the Pearson community and the local economy.
>
> The ideal time frame to have commenced the redevelopment of Terminal 2 was in 1993 while passenger numbers were down. Carrying on construction around existing facilities is less than ideal under any circumstances, but the disruption to the travelling public would have been substantially less compared to the impact it will have today and in the future. I would note for senators that the Open Skies agreement, an important accomplishment of the current government, will generate 50 per cent more transborder passengers in Terminal 2 over the next three years.

Then, in last month's publication of the *enRoute* magazine, Air Canada's monthly magazine, we note these remarks from Mr. Hollis Harris, the chairman of Air Canada:

> We have already paid a heavy price for the paralysis at Pearson. Toronto ranks as the tenth largest city in North America, yet Pearson ranks twentieth in terms of passenger volume.
>
> Despite new construction, the terminals, runways and in-transit facilities are inadequate and unable to compete with those of other airports. Clearly, if Pearson cannot handle future passenger and cargo growth, customers will simply go elsewhere.

That is the story you did not get from my friends on the committee who wrote the minority report.

• (1610)

There is yet another story you did not hear which directly affects Air Canada. Page 73 of the minority report, under the heading "Concessions Won By the Developers," deals with rent deferral. The rent deferral was an integral part of the transaction and leads directly to Air Canada's consenting to the arrangement. By rent deferral, I mean that the government agreed to reduce the rental for each of the first three years of the ground lease by $11 million per year. This was not a gift to either Air Canada or to the developers, as the Liberals would like us to believe. It was rent deferred, not forgiven. It had to be paid back. The terms were that it would be paid back over 10 years, starting in year four with interest at the rate of 2.5 per cent above prime.

You will not find any reference in the minority report to the deferred rent having to be paid back by the developers. In fact, by not referring to the fact that this money was to be paid back, the writers of the minority report conclude that "the agreement was not reached on wholly commercial terms." Honourable senators, this is not only an omission, it is more serious than that. This is a deliberate misrepresentation.

In referring to the Pearson redevelopment project, Senator Bryden continues:

> It was even opposed by Conservative MPs in the Greater Toronto Area.

However, he made us aware of only one. Don Blenkarn, former Member of Parliament from Mississauga South, was his favourite. In March 1992, before the request for proposals was even announced, he wrote to Minister Corbeil expressing his concern regarding the public perception of political interference which had come to his attention. It was this kind of perception, of course, that caused the government to be particularly cautious in establishing the procedures and the audits that they did to ensure that no such interference occurred.

You may wonder why I consider this worthy of mention. I suppose I do so for two reasons: first, because it was in the evidence, and we followed nothing but the evidence; and,

second, because I am becoming amused at Senator Bryden's desperate search for anything which might help him. Although Mr. Blenkarn would not have been privy to these steps and the eventual transaction, his letter is cited not less than four times in the minority report. As a matter of fact, his letter, literally, is the first paragraph of the minority report.

While I am in a storytelling mood, perhaps the most remarkable quote is that of one Lawrence Mitoff, who apparently wrote a letter to his local member on October 2, 1993. We had never heard of Mr. Mitoff. He was not mentioned at the hearing, nor was his letter found in any departmental file. It would appear that a copy of his letter found its way into Mr. Nixon's file. There is no indication of how it got there or whether it was actually sent to anyone else. It is in the Liberal minority report.

It appears that Mr. Mitoff, a Mississauga resident, was so concerned about giving Tory hacks Canada's only profitable airport that he resigned from the Conservative Party. In a fit of pique, he returned his PC Canada Fund card. He was concerned about the construction of a runway near his home. It had nothing to do with the terminals at all, but his letter guaranteed him a place in a minority report. As Andy Warhol said, "Everybody will be famous for 15 minutes." We will miss him!

Let me digress for a minute. Many of you will remember that in the Senate on March 2, 1995, Senator Lynch-Staunton, Senator Pierre Claude Nolin and myself asked the Leader of the Government in the Senate essentially the same question. The question was: Why the delay? The question is as follows:

> Is there any impediment whatsoever respecting the immediate redevelopment of the Pearson airport?

The written reply we received some weeks later from the government was brief. It stated:

> The transfer of control to this non-profit airport authority and the subsequent redevelopment cannot proceed until Bill C-22 is finally passed into law.

However, two months ago — in fact, while we were on a recess — on Tuesday, December 19, Transport Minister Doug Young announced that a financial agreement to transfer the airport from federal to local control had been reached. Ah, the road to Damascus! Saul of Transport!

However, both parties refused to release details of the financial agreement that was reached for the 60-year lease that will be signed. Mr. Valo, who is the chairman of the Greater Toronto Airports Authority, did shed some light on the situation. He said:

> This terminal concept will establish Pearson as the global standard for airport comfort, convenience and efficiency.

He estimated the cost at $2 billion and projected its completion within 20 years, noting that the development would be related to demand. That is the year 2016. So much for staying ahead of the demand. Some of us might not even be around.

The significance of this was not lost on *The Globe and Mail*. The day following Mr. Valo's announcement, on December 20, Terence Corcoran wrote:

> Mr. Young is responsible for the delay. For more than a year, he has been living off the phoney story that Pearson could not be developed until the government reached a settlement with the companies who were awarded the contract with the Tories in 1993. There was no truth to the claim that a settlement was needed — and yesterday Mr. Young proved that he was misleading everybody.

While we are at it, also unbeknownst to our committee, in March of 1995, the Pearson airport general manager undertook a report on the safety system of the airport. Not surprisingly, this report was only disclosed a month ago on January 4, again while the Senate was recessed. It seems that the current problems are not limited to Terminal 1. The resulting report identifies over 50 specific areas of concern.

Contrast this with where we would have been today, February 1, had the contracts not been cancelled. During the first two- and three-year period, the $100 million quick-start first phase to correct life and safety deficiencies would have been completed and a new Rapidair facility for Air Canada would have been built. As well, a $254 million renovation would be well advanced, resulting in the completion of Terminal 2 renovations, a Terminal 1 transborder stage, and the construction of a new parking structure and administration building — all this accomplished without spending a penny of the taxpayers' dollars and with the ownership of the terminals remaining in government hands.

Again, on December 13, speaking at his press conference about the development, Senator Bryden stated:

> It was also opposed by the then Leader of the Opposition in the House of Commons, Jean Chrétien.

In retrospect, I tend to agree, but there are questions to be asked.

On March 12, 1992, during Question Period, Mr. Chrétien asked several questions. First, he asked the Minister of Transport this question:

> The government has announced that it is rushing ahead with plans to privatize Terminals 1 and 2 at Pearson airport an airport that makes $100 million profit every year... Why does he want to give $100 million of profit to the private sector at the expense of the Government?

To be charitable, Mr. Chrétien was a victim of lousy research. However, the foundation of misinformation was laid. The Pearson airport never ever made $100 million in profit in any year, let alone every year.

The airport's financial statements for the two years ending 1993-94 present a complete analysis of the airport's profitability. It is important to note that the statements provided present the airport's profit from all operations, including landing fees, terminals, runways, cargo operations — everything. As shown, the airport's reported profitability from all those operations is in the $40 million to $50 million range in those two years.

During that period, Transport Canada issued a request for proposals to construct new runways at the airport, and to operate the airfield for a term of 25 years. In that particular request for proposals, Transport Canada indicated that it was earning $32 million per year in profit on the airfield. Assuming this, it follows that the remaining businesses at the airport, including Terminal 3 and the operations of Terminals 1 and 2, generated some $10 million to $20 million in profit, which would bring it up to the $50 million mark. In other words, the Crown's profit from all non-airfield operations, including Terminal 3, is less than the ground rent which the developers would have paid in respect to Terminals 1 and 2 alone. Also essential to this analysis is the understanding that under the Pearson agreements, the Crown would not have been required to expend a single dollar for capital improvements, while at the same time the developer was obliged to invest hundreds of millions of dollars. It follows that, under the Pearson agreement, the profits represented by the ground rent would have gone straight to the Crown's bottom line.

On the other hand, given the cancellation, one must assume at that time that the Crown would itself be obliged to spend these moneys, and one must consider the effect of the expenditures on the Crown's profitability. If nothing else changed and Transport Canada would spend, on average, $100 million per annum for the next eight years to develop Terminals 1 and 2, then instead of earning a profit of some $10 million to $20 million in non-airfield operations, the Crown would lose some $80 million to $90 million per year. Accordingly, when capital costs are considered, the Pearson agreements would have generated in excess of $100 million more per annum to the Crown than if the Crown were itself to operate Pearson.

Perhaps the most appropriate assessment of the Crown's return is the report prepared for Transport Canada by Deloitte & Touche dated August 17, 1993. According to these calculations, the net present value of the rental payments to the Crown under the ground lease agreements was approximately $809 million to $900 million. That is the rental payments that the developers would have had to pay to the Crown. If the developers defaulted on this agreement, the government would repossess all three terminals.

It is worth repeating Deloitte's conclusion that during the 57-year life of the Pearson agreements, the gross taxes paid to both the federal and provincial governments by the developers would have been approximately $3.8 billion. Said David Broadbent, the chief government negotiator, "This was a good deal for Canada."

Tell me, honourable senators, what in the name of heaven did Mr. Chrétien mean when he said that the government is giving $100 million of profit to the private sector at the expense of the government? These were the only questions asked by Mr. Chrétien in the House. On the Pearson airport matter, he was silent between March 2, 1993 and early October 1993 when he was out on the campaign trail.

In the test used generally by public servants, that is, were the dollar returns for the Crown in this proposed transaction better than the next best alternative, in the case of the Pearson deal the answer was demonstrably "Yes."

Throughout the minority report, the questions and concerns of the Treasury Board are raised as if they provide evidence that the public servants themselves were opposed to the Pearson transactions. As honourable senators know, it is the task of Treasury Board officials to question every aspect of a proposed government transaction. They are the naysayers. They must point out all possible risks for the government. This, of course, is of great use to the negotiators who can then address the issues. In fact, that is exactly what happened in the Pearson transaction. The issues raised by the Treasury Board were resolved to the satisfaction of the secretariat and the board itself.

Proof of this came later in the unqualified endorsement of Mr. Mel Cappe, the senior Treasury Board participant in the file, who testified as to the integrity of the process. This unqualified endorsement does not appear in the Liberal minority report.

Senator Bryden, at his press conference, and the Liberals in the minority report, attempt to make a great deal out of the contracts entered into between Pearson Development Corporation and the corporations which formed the partnership. These contracts were to be for services rendered both during and after development of the terminals. It is argued that these contracts somehow detract from the profit to the Crown, or are simply a sham to syphon off money from the airport to member partners.

Of course, what we are not told is that these agreements must be on commercial terms and conditions, and that they do not detract from the return to the Crown. Also, the members of the partnership are some of the most knowledgeable corporations in Canada regarding construction, design, management, et cetera.

The government also had the right to review these contracts. However, again, the most flagrant misrepresentation about any of these contracts by the Liberals is the same one they make about the rate of return. If what they are now arguing in the litigation before the courts of Ontario is correct, there will be no money to pay any of these contracts.

Witnesses disagreed, among other things, about some of the critical standards that need to be applied, including the limits, if any, which apply to governments during election periods. Senator Stanbury will remember the animated discussion about this in a hearing held by the Legal and Constitutional Affairs Committee.

These issues need to be reasonably considered and resolved if a credible judgment is to be made of the Pearson deal. The committee heard from a panel of three university professors. The panellists disagreed with one another, with the panellist selected by the authors of the minority report standing alone in his contention that, during an election period, a government is obliged to confine itself to routine decisions, and that the final sign-off of the Pearson agreements was not routine.

According to the minority report, the two other panellists were reluctant to endorse these opinions. This is not so. The truth is that they disagreed with these opinions and provided the committee with extensive argumentation in support of their views. One searches the pages of the minority report in vain for any indication that there was serious disagreement, or that arguments were made which had been considered on their merits.

Instead, the minority report provides lengthy quotations — virtually an entire page — from its favourite expert.

In contrast, the panellists whose thinking does not pass the tests of the Liberal political correctness are virtually banished from the pages of their report. Their views on the issue of constitutional conventions are dismissed in a single line. There is no analysis of the respective merits of the arguments presented to the committee. Indeed, there is no analysis at all; there is merely careful selection.

Another of those professors, Andrew Heard, while suggesting prudence, put the matter in perspective. He said:

> So if one concedes, for the sake of argument, that a cabinet must avoid implementing certain decisions during an election campaign period, then the sorts of decisions that are prohibited are important and irrevocable. And as we see with Bill C-22, the Pearson contracts are not irrevocable. One can debate the means chosen to revoke the contracts, but a successor government and Parliament clearly has the power to revoke those contracts.

He said further:

> In conclusion, I would argue that the signing of the Pearson Airport Agreements did not contravene any constitutional conventions, whether those conventions are founded upon precedent or upon constitutional principle.

Now, colleagues, it is time to review the bidding.

In March 1992, the government was ready to announce the request for proposal, RFP, to redevelop the two terminals. This RFP had been drafted with the assistance of outside consultants over a 17-month period during which the government had requested input from interested parties. The evaluation criteria and process were drawn up. Officials from the Departments of Transport and Justice and from the National Transport Agency became involved. The independent investment firm of Richardson Greenshields provided professional financial counsel. Price Waterhouse was put in charge of security procedures for the bidding process and reviewed evaluation criteria and methodology. The auditing firm of Raymond Chabot Martin Paré oversaw the process to verify that the terms of reference had been respected. Deloitte & Touche were retained to evaluate fair rates of return for the developer and the government.

The government's evaluation committee worked through July and August of 1992 comparing the bids proposed by the two proponents, Claridge and Paxport. The evaluation committee submitted its unanimous report to the Deputy Minister of Transport in October, and the draft report of the audit group was submitted shortly thereafter. Both bids were considered acceptable, but the Paxport proposal was judged the best overall acceptable proposal. It scored the highest on business development and operational plans.

In December 1992, the government announced that negotiations would begin with Paxport to enter into a contract to redevelop and operate Terminals 1 and 2. Shortly thereafter, Paxport and Claridge came together in a single company to be known as the T1T2 Limited Partnership, of which the Pearson Development Corporation, PDC, was to be the managing partner. The rationale for this merger was that there were business synergies existing between the two developers since the Claridge group was already the owner-operator of Terminal 3, while the Paxport proposal was the more advantageous to the Crown. The merger with Claridge gave the government financial reassurance.

The financial negotiations proceeded through the early months of 1993. By June, a non-binding letter of intent was signed on the federal government's behalf by the Deputy Minister of Transport and the Pearson Development Corporation. By early July, the government and the Pearson Development Corporation were so deeply committed to the redevelopment contract that they agreed that October 7, 1993 would be the closing date. That is, in July they agreed that October 7 would be the closing date. On August 27, 1993, following Treasury Board approval, an Order in Council authorized the Minister of Transport to enter into the lease and redevelopment agreements with the partnership.

From that date, August 27, until October 7 — and I emphasize this — the only activity on the Pearson file was by public servants. There were no further changes requiring approval from Treasury Board, nor was there any ministerial involvement or intervention. From a political aspect, from the view of cabinet, it was a done deal.

On September 8, Prime Minister Campbell announced dissolution of Parliament for an election to be held on October 25. Still working toward the agreed October 7 closing of the deal, lawyers for both parties drew up the final legal documents. Material documents were signed by the parties on October 3 and put into escrow until October 7. This, you will remember, was the closing date established three months earlier.

During that election campaign, highly partisan rhetoric, amplified in the media, provoked public opposition to the Pearson redevelopment contract, even though the transaction had survived a most elaborate and thorough bidding process.

Encouraged by politicians and interest groups, the media suddenly started advancing claims of cronyism and patronage concerning the Pearson transaction. It made for banner headlines. Oddly enough, no mention was made of the fact that Claridge, which ended up with two-thirds ownership of the partnership, had very strong Liberal connections.

On October 5, Mr. Chrétien made the project an election issue, stating that the contract would be reviewed and, if necessary, cancelled, should he become Prime Minister. On October 7, Prime Minister Campbell was asked to confirm that the documents should be released from escrow, thus allowing the long-awaited redevelopment to proceed. She did so.

There was no doubt whatsoever as to the government's legal and constitutional right to proceed. Moreover, Prime Minister Campbell had been assured in writing several weeks previously by some of Canada's most senior public servants that the selection of the developer had followed "an entirely transparent" competitive process. In a memorandum to her, which is now part of the public record, these officials added that, "we can assure you that officials have reviewed the file and confirm that due process has been followed at every stage."

Following the election, but before the ministry was sworn in, Mr. Chrétien commissioned the Nixon review which was delivered on schedule in a document now proven to be riddled with false allegations and innuendo. Nonetheless, Mr. Nixon recommended cancellation of the contract, which Mr. Chrétien did indeed cancel on December 3, four days later. The *Financial Post* headline after the release of our report read, "P.M.'s Cancellation of Pearson Deal was a Capricious, Ill-advised Decision." The article read:

> Were there provisions in the Pearson agreement that it was reasonable to believe could be improved? If so, a responsible course of action would be to initiate talks with the developers to explore possible gains and tradeoffs, but not necessarily wholesale cancellation.

While I agree with the author, I think he might have misread the political mood of that day. An unpopular government was going down to defeat and Mr. Chrétien, who is nothing if not a politician, could taste the blood. The Pearson saga had taken on a life of its own. Mr. Chrétien was driven to keep a promise made during the heat of an election campaign, regardless of the consequences which ensued, and without regard to public policy. He could be likened to the man sitting in a cafe during the French Revolution. When a howling mob rushed by the window, he jumped and told his friend, "I have to catch up with them. I am their leader."

• (1640)

Senator Grafstein: What election was that?

Senator MacDonald: The French Revolution.

Senator Grafstein: Oh, it was not an election?

Senator MacDonald: The public servants who had worked over so many years to find a workable solution to this Pearson mess had every right to be proud of the results they had achieved.

I wish to thank the Committees Branch of the Senate who worked tirelessly with us over the four-month summer period. I thank all committee members for the courtesies extended to me as chairman. I reserve a special commendation for the counsel to the committee, John Nelligan, Q.C., whose extensive legal background and goodwill kept us all focused and, in many cases, kept us composed. I commend the Library of Parliament, whose draughtsmanship meticulously recorded the evidence we heard, omitting none, and my Conservative colleagues who spent hours and days analyzing the evidence and making additions and corrections where necessary.

I offer a special thanks to my colleague and deputy chairman, Senator Michael Kirby. He alone on our committee has had the greatest experience in government at the highest levels, and he had the conviction and the courage to join with me in writing the appendix underlining the difficulties we experienced in obtaining documents and timely information. In our appendix, we recommended more precise rules to assist parliamentary committees, accountability in the area of document production, a less far-reaching definition of what does and does not constitute a cabinet confidence, and less excessive application of solicitor-client privilege.

Our parliamentary system is heavily weighted in favour of the executive. Together, the cabinet and the bureaucracy are a formidable opponent to anyone, be they individuals or parliamentary committees seeking to examine issues of public policy, particularly controversial ones like Pearson airport. Parliamentary committees offer an effective counterbalance to these forces provided they are given their due place. Unfortunately, this is not now the case. There must be a better way.

By making the ground rules governing the powers and prerogatives of parliamentary committees more clearly understood and accepted, we increase their legitimacy. By increasing their legitimacy, we encourage their use. By encouraging their use, we make government more accountable. Surely this is good for the health of our political system and its political institutions.

I am disappointed that my Liberal colleagues, for reasons best known to themselves, refused to allow the Kirby-MacDonald appendix to be the unanimous report of the committee. As members of a chamber too often described as one of sober second thought, it is our responsibility to reach reasonable conclusions about these reports. If we acquiesce in the view that the two reports of the Pearson committee are merely contrasting expressions of partisan emotion without scrupulous regard to the evidence, we give direct support to those who might question why this chamber exists.

Hon. Michael Kirby: Honourable senators, I rise in part to respond to some of the comments Senator MacDonald has just made, and in part to give you an overview of some of the key findings of the Pearson inquiry from the perspective of my colleagues and myself.

I wish to thank Senator MacDonald for the very good job he did as chairman of the committee, and for the leadership he provided to the committee during what was a very difficult time for all of us, but I think particularly for him.

As he pointed out in his remarks, the committee had a very difficult task to do. Some 45,000 pages of documents were given to the committee in a relatively short period of time. We had to digest those documents and use them to prepare for cross-examining a witness the following morning. We heard, as Senator MacDonald pointed out, some 65 witnesses covering a period of over 130 hours of testimony.

Yet, through all of the tension that frequently surrounded the committee, Senator MacDonald kept affairs under control, kept things moving along, and kept the committee to its fundamental task, which was attempting to determine the facts that lay behind the decision to proceed with the privatization of Pearson airport, and subsequently the negotiations and ultimately the signing of the contract. In handling this difficult and often emotionally charged task, I wish to say on behalf of myself personally, as deputy chairman, and in particular the rest of the Liberals who were with me on the committee, that we think Senator MacDonald did a superb job.

Having said that, I wish I could say the same thing for his speech of a few minutes ago. While I think he is obviously an excellent chairman, he did a very strange thing in his remarks. I have never heard anyone stand up and give a speech explaining a report, in which they entirely ignore their report. Senator MacDonald said that he would focus on the minority report, and I assume he did so because he knows as well as I do that the majority report is largely indefensible.

He did several other interesting things in his speech. In spite of the frequency with which former prime minister Brian Mulroney's name, memoranda to him, statements by him, et cetera, featured in the committee hearings and, indeed, in the minority report, it is interesting that in spending an hour, as he did, commenting on the minority report, at no point in his comments did Senator MacDonald make any attempt to refute anything that the minority report says about the role and activities of the former prime minister in the ultimate negotiation and awarding of the contract. I will come to the details of Mr. Mulroney's involvement in a few minutes. However, since he attempted to deal with such very minor issues as the rent deferral issue, I must assume the fact that Senator MacDonald refused, or neglected, to comment on the issue of the role of the former prime minister, as portrayed by the Liberals in the minority report, implies that he obviously agrees with our assessment of the role of the former prime minister.

One statement that Senator MacDonald made is categorically false, but I will give him credit for the fact that he may believe it to be true. However, early in his remarks, he made the observation that the report of the minority members of the committee was "overseen" by the Prime Minister's Office. In order that there is absolutely no confusion on this issue, and to be absolutely categorical about it for the record, absolutely no one in the Prime Minister's Office, or associated with the Prime Minister — in fact, no one other than the Liberal members of the committee and our own staffers saw what was in the minority report until that report had been completely signed off and sent to the printer. I wish to clarify that for the record. I assume that Senator MacDonald may well have believed what he said, but when he claimed that the report was overseen by the Prime Minister's Office, that statement is categorically false.

Let me then turn to many of the facts surrounding the minority report and, indeed, surrounding the hearings and the majority report as well, which, in the course of presenting his analysis of a few minutes ago, Senator MacDonald chose to carefully ignore.

While it is true that we can argue about the politics of this issue, and we can even argue about some of the judgments that were made both by the Conservative government and, as Senator MacDonald has done, by the Liberal government after it was elected, it seems to me we cannot argue about the facts as they were presented to the committee. I should like to mention a number of these facts to you today, in part because they were so carefully ignored by Senator MacDonald in his hour-long speech which ended just a few minutes ago. Second, they were completely and utterly ignored by the Conservative members of the committee in their majority report.

• (1650)

Honourable senators, let me place on the record some facts as they were presented by witnesses to the committee. I will deal first with an issue which Senator MacDonald raised in his comments. One of the reasons why the Liberal members of the committee concluded that the Pearson agreement was a bad business deal for Canadians — and Senator MacDonald is right that we stressed this fact — was that developers on this project would have received a pre-tax rate of return of 23.6 per cent. The majority report says that the figure should have been 14 per cent, but they fail to point out that the 14 per cent calculation was based on a model for assessing the rate of return which model was provided by the developers themselves. On that basis alone, it has a significant lack of credibility.

Far more important than that, however, is the fact that the rate of return — whether one takes the 23 per cent or even Senator MacDonald's 14 per cent — does not tell the whole story. Not included are a significant number of side deals, side agreements, from which the various members of the Paxport and ultimately MergeCo consortium were going to enrich themselves — non-arm's length construction contracts, management contracts, engineering contracts, consulting contracts. All would have earned consortium members millions of dollars above the money they would have made from the redevelopment and management of Terminals 1 and 2. All of these additional side deals and side contracts would have earned the participants in the consortium millions of dollars above the rate of return that was calculated and presented to the committee by several witnesses.

It is an interesting observation, honourable senators, that the mention of these side contracts and side deals appears absolutely nowhere in the majority report.

Since some honourable senators did not spend the summer listening to these witnesses, let me tell you about two or three of these side contracts just to give you the flavour of the package of proposals which had been put together in this regard.

We learned from witnesses before the committee that there was an agreement to pay $3.5 million to a company headed by Don Matthews, the head of the Paxport consortium, with no obligation whatsoever for Mr. Matthews to provide any specific goods or services under the terms of that contract. It was essentially a one-paragraph, $3.5-million, 10-year contract with no specification whatsoever as to Mr. Matthews' obligations while earning that sum.

It is an interesting observation, honourable senators, that such a fact is not in the majority report. Neither does the majority report include the fact that there was another contract, this one for $2 million, payable to Fred Doucet, a prominent Ottawa lobbyist at that time with close and long connections to Prime Minister Mulroney, having served in the Prime Minister's Office for a number of years. This $2-million fee was contingent on the Pearson airport redevelopment contract being signed. Again, it just so happens — inadvertently, I am sure — that the Conservatives did not bother to mention this particular contract in their report.

There are a number of other similar contracts including one for a post-employment package to a past-president of Paxport for four years' work at a sum which many of us regarded as exorbitant. This, too, was carefully and absolutely ignored by both Senator MacDonald a few minutes ago and in the Conservative report as tabled in the Senate a few months ago.

Senator Lynch-Staunton: Because they have nothing to do with the Pearson agreements.

Senator Kirby: Where was all this money to come from to pay these amounts?

Senator Lynch-Staunton: Irrelevant.

Senator Kirby: The answer is, unfortunately, that these outrageous payments were to come ultimately from money provided by the air-travelling public. Ultimately, Canadian air passengers, particularly those passing through Pearson, would have to pay increased charges for everything in order to make these payments.

Senator Lynch-Staunton: Where is that in the testimony?

Senator Kirby: Well, I am absolutely delighted.

Senator Lynch-Staunton: You are improvising!

Senator Kirby: Senator Lynch-Staunton, this is one of those rare occasions when you are doing a superb job of playing the straight man. I realize you find that difficult to do but I thank you for the prompt. The fact of the matter is that one of the documents which was put in evidence before the committee was a Transport Canada report written by the Transport Canada officials who Senator MacDonald says — and I agree — did such an excellent job.

One of these Transport Canada officials, in a letter to the Deputy Minister of Transport of the day, summarized his views of the Paxport proposals in the following way.

Senator Lynch-Staunton: The Paxport proposal has nothing to do with the agreement. That is not fair.

Senator Kirby: That official said:

> The Paxport proposal as it now stands would certainly leave the Crown better off financially but only at a high cost to the airlines and the travelling public.

Senator Lynch-Staunton has asked where the evidence is to show that these high costs would eventually be absorbed by the Canadian travelling public. That evidence appears in a variety of places including, in one illustrative example, the letter to the deputy minister written by a senior official of Transport and from which I just quoted.

Senator Lynch-Staunton: Paxport did not even sign the agreement. You are the straight man to Nixon.

Senator Kirby: The minority report points out the flawed process, as described during the lengthy hearings, which led first to the request for proposals and then to the awarding of the right to negotiate a contract and ultimately to the actual negotiation of the contract.

Again, since I do not really want to repeat the entire report, let me simply illustrate my point to honourable senators by giving two or three examples of these flaws.

First, the request for proposals was issued at a time when the redevelopment of the terminals at Pearson airport was neither wanted nor needed by those people who best understood the industry and the problems at Pearson. The committee heard evidence that, in 1992, passenger levels were actually on their way down at Pearson airport, and that the recession meant substantial upheaval in an already troubled airline industry.

One of the witnesses before the committee was a former president of the Air Transport Association of Canada, who testified and gave documents in evidence to show clearly that the Air Transport Association of Canada was strongly opposed to the redevelopment. In fact, they urged the government not to proceed to the redevelopment of the airport as a whole, specifically Terminal 1, until a clear need had been established.

Senator Lynch-Staunton: What did they say?

Senator Kirby: You are doing a far better job today than you normally do, Senator Lynch-Staunton.

Senator Lynch-Staunton: Quote the press. I am trying to help you.

Senator Kirby: You may ultimately get, one day, to assume a job on this side of the house. That may take a long time, but keep working at it and it may happen.

Senator Lynch-Staunton: You are reading Nixon, Volume 2.

Senator Kirby: Air Canada strongly opposed the redevelopment of Pearson airport.

Senator Lynch-Staunton: When?

Senator Kirby: Canadian Airlines also opposed it. The City of Toronto went on record as opposing private sector development. All this was happening at a time when the government was contemplating proceeding with requests for proposals.

Even Claridge — who, as a result of the mess that developed, ultimately came to control T1T2 — opposed the issuance of the request for proposal, saying that it was neither needed nor wanted by the industry.

Senator Lynch-Staunton: When? What year?

Senator Stewart: Read the articles.

Senator Lynch-Staunton: Read the details, like Nixon.

Senator Kirby: The fact is that there was only one private sector advocate of Pearson redevelopment and that was the Paxport consortium, headed by Don Matthews, which was the ultimate winner of the proposal.

The Hon. the Speaker: Honourable senators, I regret to interrupt Senator Kirby but his time has expired. Is leave granted for him to continue?

Hon. Senators: Agreed.

Senator Lynch-Staunton: Nixon, Volume 2.

Senator Kirby: Given the amount of interruptions, this may be a story with many more volumes than two.

The request for proposals also contained a number of specific abnormalities and unusual things. Again, because it will take too long to give the complete litany, let me give honourable senators two or three examples.

First, there was no expression of interest stage despite the fact that the public servants — to whom Senator MacDonald correctly paid tribute — recommended that an expression of interest stage ought to be undertaken with respect to this development because of the size of the project.

• (1700)

It is an interesting observation that Paxport, the ultimate winners of the contract, lobbied strenuously for a one-stage proposal with no expression of interest stage. It is interesting how that turned out to be what happened.

As an illustrative example, the request for proposals contained a 90-day response period in spite of the fact that the government's own consultants, Price Waterhouse, recommended a 60-day response period. An interesting observation is also carefully ignored in the majority report that — surprise, surprise — Paxport recommended a 90-day response period for their request for proposals.

As a third illustrative example, the response date for the request for proposals was five months ahead of the date — that is to say, in advance of the date — set for the report of an environmental assessment review panel on the development of additional runways at Pearson. The decision to put out the RFP before the panel reported led two members of the environmental assessment review panel to threaten publicly to resign. Why did they do that? They did so because a previous minister of transport had said that no redevelopment of the Pearson terminals would take place until after the environmental assessment review panel had reported.

Senator Lynch-Staunton: Which minister?

Senator Kirby: Honourable senators, we have 130 hours and literally thousands of pages of evidence that further illustrate the abnormalities involved in this process that ultimately led to the calling of an RFP. The fact of the matter is that the advice that the government followed was not the advice of the public servants Senator MacDonald talked about. It was not the advice of professional firms such as Price Waterhouse and others. The advice that the government followed in deciding the process it would use to ultimately issue the RFP and then ultimately award the contract was the advice given by Paxport, the ultimate contract winners, not by the independent public servants we talked about earlier today.

On the basis of that process, honourable senators, it was self-evident to the Liberal members of the committee that it was absolutely true and indeed a factual statement to say that the RFP process itself was seriously flawed. These flaws in the process continued beyond the issuance of the RFP. They continued into the negotiation stage of the contract itself.

Again, let me illustrate the flaws in the negotiation process by showing you two or three examples of some of the things that happened during the process.

One of the things which surprised the members of the committee — and I made this observation a few minutes ago — was carefully ignored by Senator MacDonald in his long speech and by the Conservative members of the committee in their report. One of the things which did not appear at all was the unusual pressure from the highest levels of political office to get this agreement done, and get it done extraordinarily quickly.

Let me give you one of the examples. The Clerk of the Privy Council, in his own words, held weekly meetings to keep the Prime Minister informed of what was going on. Indeed, in the words of the public service witnesses, the purpose of these weekly meetings was to keep the deal on track. The clerk, in turn, briefed the Prime Minister directly on the status of negotiations at regular intervals.

In spite of the fact that the Prime Minister was being advised on a regular basis of the numerous concerns of Transport Canada officials and others in the industry about proceeding with such an initiative at this time and proceeding with it so quickly, the pressure from the Prime Minister, his office and his senior officials to proceed quickly to get the deal done continued unabated. It is interesting that none of that is mentioned in the Conservative report.

In his remarks, Senator MacDonald made an observation that I have had some experience over the years in senior positions in government. When I heard about this role of the Prime Minister from people like the Clerk of the Privy Council when he appeared as a witness before the committee, I expressed astonishment about what I felt was a truly unbelievable level of interest by the Prime Minister in one simple business transaction, which is the way it was attempted to be portrayed by Conservative members of the committee.

The chief negotiator — again referred to by Senator MacDonald a few moments ago — David Broadbent, who had considerable experience in senior positions in government since he had been a former federal deputy minister, said in response to a question that he could not think of a "comparable situation" when asked about this level of interest by the Prime Minister in what was essentially a business transaction. Yet, Prime Minister Mulroney's role in pushing this deal through to completion as quickly as possible and before he left office is carefully and completely ignored in the majority report and in Senator MacDonald's speech. In the careful ignoring of this element of history, which I assume is the basis of Senator MacDonald's speech, he clearly agrees with our summary of these events since he attempted to pick up every other point in our report with which he disagreed.

Ultimately, and in spite of all this pressure from the Prime Minister, they could not get the agreement done in time. Mr. Glen Shortliffe, who had been Clerk of the Privy Council under Prime Minister Mulroney, said before the committee that "Eventually, even Mr. Mulroney had to accept the fact that he could not get the deal pushed through" before he left office.

The question that those of us on our side of the committee asked ourselves repeatedly was this: Why was the Prime Minister trying to push anything through? What was so crucial and so incredibly important that the head of the country should focus all his energy, time and attention on it and be determined to try to get it pushed through? "Pushed through" are not my words; they are the words of his own Clerk of the Privy Council. Why was the Prime Minister so determined do get this deal pushed through before he left office?

The answer obviously was not that the Paxport offer was too good to refuse. Paxport, at the time they were judged to have the best overall proposal, had no experience in operating or redeveloping airports.

I would add parenthetically that the president of Paxport made an observation at one point. When Donald Matthews' son was asked what he knew about airports, his answer was that he did not know very much at the time.

In addition, there were a number of reports. The Edlund report was prepared for Industry Canada, and the Gauvin report, which was prepared for Transport Canada, expressed a lot of concern about the Paxport proposal and other elements of the negotiations as they evolved. They were specifically concerned about the financeability of the proposal, the lack of equity in the Paxport proposal from the Paxport partners themselves, and the overly optimistic revenue forecasts contained in the Paxport proposal. All of these concerns, expressed early on in the negotiations by public servants, were carefully ignored by those who had been told to get the deal done, and were carefully ignored by the Conservatives in their report and by Senator MacDonald in his speech. All of these concerns ultimately became true.

What ultimately happened, as you all know from the newspapers and the history of this event, is that the financeability of the proposal from Paxport's point of view became impossible. Paxport ultimately had to merge with Claridge to form a new company called "MergeCo" in order to finance the project. This happened virtually immediately after the agreement was done. I will come to the timing on that issue in a moment, because that is the important issue.

It is interesting that, even before Paxport had been selected as having the best overall proposal, Prime Minister Mulroney received a memorandum from his Clerk of the Privy Council informing him of failings in the Paxport proposal. This memorandum told the Prime Minister that there was no need to start construction until 1996 — this, by the way, was 1993 — and that the local airport authority option was still viable.

Senator MacDonald made the point a few minutes ago that the local airport authority option was proceeded with by the current government. In 1992-1993, Air Canada was concerned about the costs and had asked that the development be postponed.

The memorandum from the Clerk of the Privy Council to Prime Minister Mulroney ended by saying that, unless some clear concessions were made, "Paxport will have little incentive to complete the project on terms acceptable to the federal government."

Indeed, at the bottom of that memorandum, Mr. Shortliffe added a note in his own handwriting saying that there was very little incentive for the bidders to get together, and that he was looking into "bid compensation." In other words, he was looking for a way to compensate the bidders for the costs that they had incurred in going to the trouble of preparing a response to the request for proposals.

This memorandum cited the weaknesses of the Paxport proposal referencing the possibility of getting the bidders together. It was sent to the Prime Minister three weeks in advance of Paxport having been announced as having the best overall proposal. In other words, well before the winner had been announced, well before Paxport had been awarded the right to negotiate a contract, the Prime Minister and his senior public servant, the Clerk of the Privy Council, were discussing the possibility of having the two bidders get together in order to solve the financial problems that public servants were concerned would arise with the Paxport proposal.

During this same period Mr. Mulroney, as was put in evidence by his own Clerk of the Privy Council, asked the clerk to try to arrange things with respect to the Pearson issue "so that everybody could get a piece of the action." That is an interesting observation for a prime minister in looking at a business deal of this nature.

Another interesting observation is that neither Senator MacDonald nor the Conservative majority report mention this evidence at all. In his opening comments a few moments ago, Senator MacDonald accused the Liberals of having selected facts. It is interesting that there is not one single comment related to the role of Prime Minister Mulroney as expressed, not by us, but in the words of the person who knew the Prime Minister best at the time, that is, the Clerk of the Privy Council. None of this evidence entered the Conservative report or, indeed, Senator MacDonald's comments. If he is to accuse us of having used selective facts, then one should ask whether his report has not also used selective facts quite extensively. After all, this was looking at a transaction of the Mulroney government initially and, albeit briefly, the Campbell government at the end. Whole references to the Mulroney period were carefully omitted by the Conservatives in the writing of their report.

If we look at the remainder of the negotiation process, we find that the government did not make the money that it was supposed to make. The money it was supposed to make was the primary reason the contract was awarded to Paxport in the first place. Return to the government was the main factor in the analysis of the proposals as done by public servants. Despite the fact that this is what got them the proposal in the first place, in the course

of the analysis the government was forced twice to reduce its rate of return in order to come up with a proposal with which Paxport could live. They agreed, for example, to a rent deferral of 15 per cent in order to allow the cash-strapped airline industry to be able to afford the higher rents upon which the Paxport proposal was based.

Parenthetically, I must say something to Senator MacDonald about Senator Bryden's very clear press release. I realize there is a danger in members on our side using technical language which members opposite have difficulty understanding. Rent deferral was referred to in that press release. Most people who understand the English language understand that a rent deferral does not mean a rent cancellation. It means a deferral to be paid at some time in the future. Therefore, the honourable senator's accusations regarding Senator Bryden having said one thing when he referred to rent deferral are false. I think Senator MacDonald ought, at least, to accept the fact that he specifically used the word "deferral" on the assumption, obviously false, that senators opposite would understand what the word "deferral" means. From now on we will try to use words which have a few less syllables.

In spite of the fact that this contract was awarded to Paxport because of its high rate of return to the government, we not only had a rent deferral of $33 million, we had a far more serious concession in the course of these negotiations, namely, the federal government was to be prevented from developing any airport facility within a 75-kilometre radius of Pearson until traffic volume at Pearson airport reached 33 million passengers. Otherwise, the government would have to pay a penalty fee to the Paxport consortium.

I ask honourable senators whether they think that granting such a monopoly status to this consortium is not a significant concession for which they will find, as they go through the negotiations that the government received essentially nothing in return.

Honourable senators, I could detail a number of the other concessions that were made in the negotiations; concessions which clearly hurt the revenue position of the government and which clearly helped substantially the consortium. They did so in such a way that, in the end, they completely undercut the primary reason Paxport was awarded the contract in the first place, namely, because they were to provide such a high rate of return to the government.

To give an illustrious example, I should like to read from an update on these negotiations written by public servants to the assistant deputy minister of finance. These words are not taken out of context. They reflect the flavour of what this memorandum and a whole bunch of others said.

> Transport officials have been working at a furious pace to meet the goal of signing these agreements by the end of May...

Parenthetically, I should tell honourable senators that the significance of "the end of May" finally became clear when the Clerk of the Privy Council told us that Prime Minister Mulroney wanted the contracts signed before the Conservative leadership convention. The pressure to get it done by May 31 was to meet the timing of Prime Minister Mulroney.

I will continue with the quotation I started earlier:

> We are concerned that Pearson Development Corporation will soon be in position to charge monopolistic fees...

Parenthetically, it is easy to demand monopolistic fees when you control the airport for a 75-kilometre radius around Toronto, and when no one can come in to compete with you. That is an understandable statement. The statement goes on:

> Safeguards need to be built into the ground lease so that the airlines cannot be hit with charges beyond those contemplated in the original proposal...

The fact of the matter is that, ultimately, those safeguards were not built into the final deal.

Continuing with the memorandum, it states:

> Clearly if this deal stands, a communications plan should be developed which defends the higher prices and ground rents;
>
> Risky projects might require a rate this high to attract investors, however, our initial impression of the T1/T2 project is that the developer bears very little risk...

Finally, honourable senators, the concluding paragraph, which was written in the middle of May 1993, states:

> Unfortunately, given the government desire to sign a deal within two weeks, it is unlikely that Transport Canada would be successful in negotiating a lower rate from the developer. No doubt, Pearson Development Corporation feels it has an upper hand in the negotiations.

Honourable senators, I ask: Why would they not think they had an upper hand? They knew the Prime Minister wanted the deal signed before he left office. They knew he was prepared to give them a monopoly position. They knew all they had to do was wait it out and they would bear all the advantages in the negotiations.

None of the evidence that I just put on the record was mentioned by Senator MacDonald, and none of it appears anywhere at all in the majority report.

Senator Stewart: Not even anything to refute this.

Senator Kirby: I am glad Senator Stewart made that observation. Senator MacDonald went to extraordinary lengths in his opening remarks to say that he was not going to defend his own report — defending the indefensible is difficult even for him, so I understand why he did not try. Instead, he decided that he would try to attack our report. It is interesting — and I am glad Senator Stewart raised the point — that all of the points I just raised, which are in our report, were not mentioned by Senator MacDonald. Therefore, honourable senators, the only conclusion we can draw is that he agrees with those criticisms, just as he agrees with every comment that we made about Prime Minister Mulroney in the course of our discussion.

In fact, we learned how public servants felt about this process. We saw all kinds of documentary evidence attesting to the fact that there was clearly intense political pressure to get this deal done on time — "on time," by the way, being related to the exit strategy of the Prime Minister. This became a sufficiently significant issue with public servants that one Treasury Board official advised his colleagues to keep notes so as to preserve an audit trail. In the words of his memorandum — the official's words, not mine — one public servant wrote to another, "Keep these notes so as to preserve an audit trail so that we will not get hung out to dry." Public servants were clearly worried about what would happen in the event that there was an inquiry into the signing and the process by which this contract was developed.

I ask honourable senators: If this was such a good deal, if the process was so perfect, if everything was as wonderful as Senator MacDonald and the Conservative members have said it was in their majority report, why do you think civil servants would send themselves messages saying that they must keep notes, otherwise they would get hung out to dry? Why would you do that if you really believed that the process was perfect? In fact, why do you think, during this stretch, that the Department of Transport went through three deputy ministers and four chief negotiators? Do you think that was an accident? Why did Treasury Board officials complain several times, in memoranda and in evidence before the committee, that the chief negotiator was reporting directly to the Privy Council Office?

In case honourable senators have forgotten, the head official in the Privy Council Office is the Clerk of the Privy Council. That is the same clerk who was reporting on a weekly basis on this issue to the Prime Minister and getting instructions back. Treasury Board officials complained several times that the chief negotiator was reporting directly to Privy Council officials instead of going through them.

Why do you think a senior assistant deputy minister in the Department of Transport, a man the committee heard called "highly professional and hard working" by two successive deputy ministers in Transport, was sent home for five weeks of paid gardening leave in the middle of the negotiations? Is there any possibility that this occurred simply because Paxport felt that this person was not cooperating sufficiently with them, was being a little too slow in the negotiations? Is there any chance that is the reason this happened?

All of these peculiarities, all of these odd situations, for anyone who knows how the public service works, are documented in the report. They are not figments of our imagination. We did not make them up. Witnesses came and told us about them and produced documents that confirmed the report. But, guess what? If you listen to Senator MacDonald, or if you read the majority report, is it not amazing that all of these facts are not touched on at all?

That leads me to one final fact which is crucial to this entire issue because it is incontrovertible and uncontested. It is the fact that these agreements were signed by a government 21 days before election day, an election that everyone in the country, every public opinion poll, every Tory candidate, and anyone who even thought about public issues, knew the government would lose.

Forgetting entirely about the rest of the process, this decision to sign an agreement that would be legally binding on an incoming government, an agreement that would represent a major public policy initiative with profound implications for the country's largest air terminal for 57 years, taken three weeks before election day, is, in my view and in the view of the Liberal members of the committee, sufficient reason on its own, entirely independent of any other factor, to justify the cancelling of this contract.

Senator DeWare: The decision was taken in August.

Senator Kirby: At some point, honourable senators, the issue of responsible government must be taken into account in this process.

Honourable senators, the fact of the matter is that had the Conservative government, which at that point had become the Conservative government of Prime Minister Campbell, acted responsibly and behaved in accordance with Canadian tradition and in accordance with the traditions of the British parliamentary system, Senator MacDonald and I would not be before you today debating this issue. In fact, had they behaved appropriately, it may very well be that the Conservative Party might not be reduced to the mere two seats it now has in the House of Commons.

What was the hurry? That is the question the other side has never answered. If they really believe, as they claim, that this contract was in the best interests of Canadians — and I understand that they must make a case, and if you have a bad case you do the best you can — if they genuinely believe that it was fair and equitable, and if they, in their hearts, believe that there was no flaw in the negotiation process, why did the government insist on signing it 21 days before they left office? If the deal was that good, does anyone doubt that it would have been preserved and signed by an incoming government? What, after all, was the rush? Who stood to benefit? That must be the question, then, if the deal was signed.

Did the Canadian people stand to benefit? Were they any better off by having it signed 21 days before the election than they would have been if it were signed six weeks later? Clearly not. Nothing happened in that intervening 21 days. The only people who stood to benefit were the MergeCo partners, the partners of Paxport, and ultimately of Claridge as they got into the deal — clearly not the Canadian public.

What defence did members opposite put up for this clearly extraordinary act of signing the contract 21 days before the election? They tried to claim, until they were finally shot down by lawyers who were called as witnesses, that the government had no choice but to sign the contract. The fact of the matter is that, right up to the day before the date of signing, there was no contract between the parties. Indeed, the Clerk of the Privy Council testified that serious negotiations were going on up to 24 hours before the contract was signed. Clearly, there was no contract.

The argument the Conservatives then attempted to make was essentially that there was some kind of law of semi-contract; that there was a deal of some kind. However, if they were still negotiating major issues — which the public service witnesses said they were — then clearly there was no legal contract, nor was there a legal obligation on the government to sign anything 21 days before the election. Indeed, if there was any obligation on the government, if they had had any sense of understanding of the responsibility of a government during an election campaign, their obligation was not to sign the contract.

Senator MacDonald is quite right: We quote one of the witnesses who came before the committee, Professor John Wilson, who described that as a reckless disregard for propriety.

Let me make a parenthetical comment. Senator MacDonald then proceeded to imply that the other two witnesses who talked about this issue, Professor Heard in particular, came out in favour of this process. Professor Heard said that no formal constitutional convention was broken. We know that. We never argued that. We never even argued that it was illegal. We just argued that it was immoral and, as Senator Grafstein said a few minutes ago, it was clearly against Canadian political convention.

We concede that the government had the legal right to do it. However, it is not a constitutional issue but a moral issue. It is an issue of what is appropriate, proper, reasonable and sensible for a government to do during an election campaign.

Madam Bourgon, the Clerk of the Privy Council, was asked by Conservative senators what factors should be taken into account with regard to government decision-making during a transition period. She cited three factors and, having served in the Privy Council office myself, I agree with those.

The first factor was that you do not do things which will bind future governments. Guess what? The Pearson contract bound future governments for 57 years.

The second factor was whether there were alternatives. There certainly were. There was the alternative of waiting three weeks to see the outcome of the election before making a decision.

The third factor was to not do things which cause controversy. It is hard to believe, for anyone who read the newspapers, at least in the Metropolitan Toronto area 21 days before the election, that signing this contract would not be full of political controversy.

Every one of the three criteria which the Clerk of the Privy Council says should be considered by a government in making a decision as to what it will and will not do during an election campaign were violated by the decision of the government of Prime Minister Campbell to sign the contract.

Lest you think that this is a simple Canadian view of only Canadians on this side of the house, that these are things that should not be done during an election campaign, and that we are being holier than thou, in Australia, which also follows the practices of the British parliamentary system, there is an explicit written statement from the Prime Minister's Office that a "caretaker government," the phrase they use to describe a government during an election campaign, is very constrained in terms of what it can do during an election. Specifically, it is instructed to avoid implementing major policy initiatives. It is instructed to avoid making significant appointments; a specific example being appointments to the judiciary. This Australian convention also explicitly prevents governments from entering into major contracts during an election campaign, so do not try to tell us that we are trying to dream up some new, holier than thou view of what is appropriate during an election campaign.

The fact is that Canada should have a law similar to the Australian practice. The Australian practice is clearly what it is because the people and politicians of Australia clearly understand, as do the politicians in Canada — except those who were in office at the time — what is appropriate, right, proper, moral and responsible during an election campaign.

In summary, honourable senators, we reached the conclusions we did because we believe that the entire process was flawed. It was flawed from the decision to issue the RFP; it was flawed because of the terms of reference of the RFP; it was flawed because of the way the negotiations proceeded; and it was flawed, ultimately, because of the decision to sign the contract during the election campaign.

It was bad public policy. It was public policy that flew directly in the face of the government's own policy on airport devolution. It was flawed because it ran counter to several statements made by Conservative ministers during the process, including, for example, statements about the role of the local airport authorities, the role of two airports and, ultimately, the role of privatization.

Therefore, honourable senators, we on this side, having looked at the facts which came before us, which, if you look at our terms of reference, is what we were asked to do, reached the inevitable conclusion that the decision to cancel the deal was the right decision.

What did the Conservative senators do? Senator MacDonald confirms something that I have been saying for some time; namely, that the entire Conservative strategy with respect to this issue was to discredit the Nixon report. Their logic was that if they could discredit the Nixon report, it would follow that the decision to cancel the agreement was the wrong decision.

We did not do that. We set out to investigate whether the decision was the right decision, to look at the facts, and to reach our own decision. We were not there to attack the Nixon report. We were there to write our own report and see whether we would reach the same conclusion as that reached by Bob Nixon.

Our analysis is different from his because we had some facts that he did not have, we had more time than he had, and we had a lot of information that he did not have. I concede that our analysis is quite different from his, but our conclusion is the same. The fundamental position of the Tories was to attack and discredit Nixon, thereby discrediting the decision. They absolutely refused to look at any facts whatsoever which made Nixon's conclusion the right conclusion.

In the end, it is not our judgment or that of the Conservatives which matters. What ultimately matters is the judgement on this issue of the Canadian people. Canadians knew in October of 1993 that this deal was wrong. They knew that it was important

that this deal be cancelled in order that the needs of Pearson airport could be addressed in a manner which is appropriate and consistent with the public interest rather than the private interest of a small group of people. The public interest was paramount, and the people of Ontario, and those of Metro Toronto in particular, knew that.

Honourable senators, in the court of public opinion, which is what ultimately matters, my colleagues opposite and their friends in the previous Conservative administration have been judged harshly by the people who ultimately have the right to make that decision: the Canadian electorate. That, honourable senators, is the bottom line of this very sad chapter in Canadian politics.

[*Translation*]

Hon. Marcel Prud'homme: Would the honourable senator be prepared to consider the possibility of presenting a bill aimed at preventing future governments from entering into such contracts in their final months or weeks of their mandate, or during an electoral campaign?

We will recall Senator Pitfield's words, extraordinary ones in my opinion, on these matters. They made a real impression upon me. What I am thinking of is what could be done in future to avoid what the senator described as an abuse, to ensure that any new administration, including this one, will not have the opportunity to get into the difficulties that have befallen all governments, as Senator Pitfield so aptly described.

[*English*]

Senator Kirby: The answer to your question is a categorical "yes." This case confirms my strong belief that we should have in Canada a law which puts into effect the Australian convention. It should not be left to convention, whim and political judgment. During the Pearson hearings we learned that a government which knows that it will be defeated is removed from any constraint to be responsible. The way to deal with that is by passing a law. I have had some unofficial talks with members on both sides of this chamber about the desirability of doing that in the next session.

On motion of Senator Bernston, debate adjourned.

• (1740)

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I wish to make a brief intervention at this time. It has been a long day. With the exception of Senator Thériault's inquiry, No. 73, there appears to be agreement that all other orders, inquiries, motions, and reports stand. If we do have that agreement, I would suggest that Senator Thériault's inquiry be called now.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

SOCIAL PROGRAMS IN CANADA

INQUIRY—DEBATE ADJOURNED

Hon. L. Norbert Thériault rose pursuant to notice of Wednesday December 6, 1995:

> That he will call the attention of the Senate to concerns with respect to social programs in Canada.

He said: Honourable senators, it is 5:30 p.m. This is likely the last time I shall have the privilege of speaking to this chamber, for which I have such great respect. I am pleased to have heard an old-style political debate between Senators MacDonald and Kirby, Maritimers both, and a credit to us.

I am also aware that the Speaker has announced a reception tonight in honour of the new senator, but before leaving I have some things to say. I will need a bit more than 15 minutes, perhaps even 30.

I do not expect senators to stay to listen to me, but if there were some way to get what I have to say recorded in the *Debates of the Senate*, even if there is no one present, I would appreciate that.

Honourable senators, I will not stop reflecting on certain matters that have been of concern to me throughout my political career just because I will no longer be in the Senate. Some of them will remain with me, and it is precisely of those I wish to speak today.

My attachment to Canada is unconditional. This country has always been one to confront us with stimulating and sometimes difficult challenges. Behind the political decisions, people require and deserve actions that are focused on the greatest public good. You will not find it surprising if I tell you that what lies behind my words is a basic concern with the future of social programs. One might say that my entire life in politics has been closely linked to that concern.

I had the honour of being at the helm of the ministry of Health under then Premier, now Senator, Robichaud. I had the honour of being at the head of that ministry when it inaugurated health insurance in the late sixties. Those who remember what New Brunswick was like at that time will need no convincing that that policy made a real difference.

The times they were a-changing, whether CCF policies in Saskatchewan or the Lesage government's reforms in Quebec. Today as well, the times they are a-changing. I would merely like assurance that, in the changes that are to come, we do not lose sight of the intent and the scope of past changes. Our country must continue to produce wealth and, in order to do so, it is imperative for our public finances to be put in order. However, is the ultimate measure of the wealth of a society not the condition of its least fortunate members, its poorest members? I have always believed that, and I still do.

I have always been one of those people who believe that better program management is essential. I have never hidden my view that the federal government must maintain its capacity to set national standards for social policy, while leaving program administration for the provinces, in order to attain the desired objectives.

National standards must reflect the legislative provisions prescribed by the Official Languages Act for attaining the desired objectives. This approach has the two-fold advantage of sharing responsibilities and bringing social program administration under one and the same mechanism, thus allowing economies of scale by eliminating program duplication and overlap. It strikes me as essential, moreover, for the Canadian government to preserve its ability to intervene in various ways to support the development of francophone communities outside Quebec.

Devolution of powers could be very damaging to the development of these communities unless accompanied by specific guarantees that take into account the local economy. The local experience with school boards is a case in point. One of these specific guarantees is recognition of linguistic duality. In other words, any proposal for devolution of powers to the provinces should include a clause recognizing the Official Languages Act.

Honourable senators, it is my opinion that Canada's social security system must be updated to adjust to the situation we are facing at the end of this century. That is what the government did when it announced its proposals for changes in unemployment insurance, now to become employment insurance. I come from one of those regions with a resource-based economy. These sectors are now in decline. Less manpower is needed by industry. Comparatively speaking, these regions are more dependent on transfer payments than the national average. However, the people in my community are proud and want to take charge of their own lives.

The aim of social assistance policies should be to get people who are able to work off the welfare rolls. It is not true that most welfare recipients would rather live on government handouts than work. Canadians want to earn an honest living. When GM announced in January 1995 that 500 jobs might be created at its plant in Oshawa, 25 000 people turned up one morning to apply for one of those jobs. They came from all over Canada to apply for a job that had yet to be created. Do not tell me that Canadians do not want to work.

We must not concentrate only on reducing the deficit. It is my conviction that it is our duty to develop a Canadian social security system that is fair and equitable for all Canadians. Any changes should respond and adjust to the particular circumstances of individuals and regions faced with an economy based on seasonal jobs. The employment insurance system will require that the unemployed make a serious effort to find work. I agree with this type of measure. We must break the dependency cycle. However, such measures do not deal with the fundamental problem of an economy based on seasonal employment.

In the fisheries, for instance, the industry must diversify by processing seafood while increasing the added value and developing a marketing strategy for the sale of quality products on international markets. It is not enough to protect and rebuild resources to get this industry out of the doldrums. Modernizing the fisheries and new marketing strategies are two aspects that are essential to the development of this economic sector.

• (1750)

[*English*]

I now turn to my concern about health care. In this current wave of reform and cutbacks, it is of great importance that we maintain the highest health care standards for all of our citizens, standards which we have worked so hard to establish and maintain since World War II. It is crucial that we do not end up with special health care access and services for the privileged. We cannot allow this to happen while the majority of Canadians witness the demise of universal health care. There should be no distinction in health services based on region or class.

I know that some people are attracted to the U.S. style of health care system, but this example in itself should be a good deterrent to such a temptation. Even if our American neighbours can brag about having some of the best hospitals in the world, I, for one, would not brag about a system where millions of people, mostly poor, have no insured coverage whatsoever in 1996.

That is not to say that there are no savings to be made in operating such a system. Even the Americans will acknowledge that the Canadian way of doing things is actually less expensive. Studies show that the Big Three automobile producers estimate that, for every vehicle built in Canada, there is a net savings of $1,000 in the health care premiums paid to its Canadian workers. This constitutes a clear competitive advantage for us. A healthy workforce is also good for the economy.

Change is inevitable. In 1994, in Ontario alone, the government spent $450 million to deal with the common cold in emergency rooms. You do not need to be a rocket scientist to figure out that we no longer have those sums of money to deal with that obnoxious cold for which there is no cure in any event.

Clearly, there are some ways in which we could improve our health care system. These days we are more prepared to stress preventative measures which could also be cheaper in the long run.

Ultimately, what matters is the health of the Canadian people, including our children in the classrooms and the elderly. Equal access to our health system, from sea to sea, is also important.

There are different ways to reform the system. While Roy Romanow, Frank McKenna and Ralph Klein have all shut down hospitals, and while Mike Harris will do the same and Quebec will likely see closures shortly, we can still see important differences in their respective approaches. The first two have concentrated, first and foremost, on the good health of the people, while the other two are obsessed, almost exclusively, with the bottom line.

Do I need to remind you which vision I favour? The bottom line is there to serve the quality of life of the people. It is, in itself, neither an abstract concept nor a holy quest; we should never forget this.

[*Translation*]

Honourable senators, I have long regretted the fact that the unemployment insurance plan was not flexible enough to permit a capable individual wanting to improve his lot to take training without losing his benefits. My view of things, where a little imagination is needed not to see all UI claimants as system abusers, is fair.

[*English*]

Training in the workplace remains our best bet, but it must at first simply exist. In entire regions where small business accounts for most of the jobs, training is nonexistent. Our previous UI system was inadequate because it favoured dependency on the system over individual and collective responsibility to find work. Nowhere is this dependency higher than in regions built on seasonal industries.

If a UI recipient decides to pursue training, the system should encourage this person to do so without loss of benefit. This could be done by a mix of grants, low- or no-interest loans and actual employment benefits. There is a false perception out there about seasonal workers. Many Canadians think that the government programs aimed at seasonal workers are too generous and just feed dependency.

I have always thought of seasonal workers as professionals of their trade. A fisherman will never be able to fish the whole year through. He must follow the natural cycle of his industry. Governments must understand this and take it into account. I will never accept, as is proposed in the new reforms for UI, that these folks should be treated as second-class citizens.

I am hopeful that Doug Young will fix that. I have faith that with Doug Young as Minister of Human Resources Development, it will not be the bureaucrats and the rich industrialists from central Canada who will make the policy decisions; he will make those himself.

[*Translation*]

Honourable senators, this does not mean that we should not reform the social programs for the people working in this sector. An Acadian working in the Acadian peninsula who earns $50,000 or $100,000 in two or three months should not be entitled to unemployment insurance benefits. I feel that school age young people who have not completed high school, should not be entitled to unemployment insurance. In addition to the costs to government of unemployment insurance benefits in many of these cases — I am talking of school age young people — a further investment is made in training these young people to get them into the job market. Had they completed their studies, we could have saved the benefits and the training costs. To achieve the same results, such a measure perhaps might be effective in preventing school dropout and its ever-increasing, disastrous effects.

I am not satisfied either that tightening conditions of eligibility or reducing levels of benefits are the solution. These actions may shift the problem and cause the unemployed to swell the ranks of those on welfare. Our aim should be to eliminate unemployment and not the victim of the situation. Savings to be made in the area of unemployment should come from a drop in its use with equivalent job creation.

The savings should be reinvested, in part at least, in a job creation strategy to fight the deficit. Let us not forget that those who work pay their share of income tax and help reduce the infamous deficit. The new high tech world economy requires a period of transition and adjustment for workers.

[*English*]

I fear that entire rural communities do not even have an access ramp to the information highway. More and more so, we are talking about this highway as the road to the economy of the future. In many rural communities, this highway has yet to be accessed. Small businesses are not fully equipped to take their place on this highway. They often lack the specialized staff which would be the backbone of their ability to compete.

I would point out that, in New Brunswick, under Premier McKenna, we are the leader in this field. What has been done in New Brunswick can be done all over the country, and I highly recommend it.

[*Translation*]

Honourable senators, the Government of New Brunswick did not stop at improving the state of public finances. It placed the provincial economy on new economic paths, including those of telecommunications, while focussing on the bilingual character of the province's labour force. It demonstrated its vitality and even an aggressiveness, for which some criticized it, in its efforts to draw business to New Brunswick. The McKenna government showed political vision and will, which are today paying off. Other Canadians deserve as much.

In my opinion, the Liberal social security philosophy should be backed up by a real strategy based on the development of Canada's regions. More than ever before, the federal government must act as a catalyst in the creation of jobs. It must promote the development of private business by upgrading human resources and improving the adaptability of our communities. The proportion of the population that has benefited from post-secondary training and still remains unemployed or is in a threatened job increases relentlessly.

The aftermath of an economic crisis is extremely difficult and hard to accept for a country like ours. The technological sector can create only so many jobs. What is more, it has a direct influence on the increased rate of unemployment because, for example, robots are replacing workers increasingly. This is why Canada, and we are all involved, must strive to create jobs in order to remedy the problem of unemployment found throughout the country. The challenge is to carry out this feat within the reduced fiscal manoeuvring room available.

The Hon. the Speaker: Honourable senators, it is six o'clock. Is it agreed I should not see the clock?

Hon. Senators: Agreed.

Senator Thériault: Thank you, honourable senators, and I must again apologize because this is very likely the last time I shall have the opportunity of speaking to the Senate. I appreciate the time you are giving me.

The social and intellectual climate we are living in is hardly a reassuring one. In the name of economic doctrine, one barely open to question, there seems to be unanimity of opinion and an absence of debate. However, do not misunderstand me. The deficit and debt issue is an absolute priority for the country.

The Minister of Finance's budget forecast of a $24-billion deficit next year is on the right track. It is still too high for the good of the country. We have reached the point of borrowing money just to pay our grocery bills. That is shocking, and cannot continue. I agree with the Minister of Finance's last economic statement, that the deficit must be a maximum of 3 per cent of the gross national product. The lower it is, the better. The battle against the deficit must continue to be a priority until the deficit is eradicated.

• (1800)

[*English*]

Having said this, there are different approaches to deficit reduction. There is Ralph Klein's way; there is Frank McKenna's way; there is Mike Harris' way; and there is Paul Martin's way. When reading editorials in *The Globe and Mail* or *The Financial Post*, one would be forced to think that there is only one way to slash the deficit, with only one tool to do the trick. That tool is a torch so governments can slash every program in the community and then burn the remains.

Honourable senators, if I were the last person left on earth, I would fight this view of things to the end, this blind, right-wing ideology, not for ideology's sake but because behind every statistic and number lies a human being. Someone who has worked hard often does not make ends meet.

My point of view does not exclude any reform to social spending or any cuts to social services. Of course there have been abuses. Of course some programs are a trap of dependency. However, what we need is to get people out of this dependency. To see welfare as a big case of massive fraud is preposterous. In my opinion, only ideologues such as David Frum, who grew up in Toronto's posh confines and probably never knew anyone or any family on welfare, could reach such an ignorant conclusion. Let me tell you that is it easier to reach such conclusions if you are from Rosedale or Westmount than if you are from my region of Canada.

Honourable senators, it is the unanimity of the right-wing view that really bugs me. Call this outdated, but I am still preoccupied with the people behind the statistics. As a democrat and a pluralist, I am still preoccupied by the unanimity of horrors in the media and elsewhere. The recession we have endured since 1990 has been devastating. It was caused by a number of factors, the high cost of government spending being one of them perhaps, but I will underline one of them. One cause which has been grossly overlooked is the high interest rates imposed by the Bank of Canada at the beginning of the 90s. Why did the central bank maintain such high interest rates while industry was on its knees, when families could not afford to buy a new home to kick-start the construction industry and could not afford new household appliances to spur the manufacturing sector?

[*Translation*]

It could even be argued that this overly tight monetary policy has contributed to the deficit by favouring financial capital over manufacturing capital.

Such detailed analyses have rarely appeared on the editorial pages. Here again, they said that social program expenditures had to be reduced. These represented 19.7 per cent of the gross national product in 1994, whereas the figure for 1992 was 17.8 per cent.

In the present climate, almost no role will be left for governments to play. Elected officials will be there to facilitate companies' doing business. It is commonly said that businesses are by far the best managers of the economy, anyway. There are excellent Canadian entrepreneurs. Some of our companies, such as Bell Canada and Bombardier, are among the world's best. However, might the recent bankruptcies of Campeau, the Reichmanns and the like not also be an indicator that there are management errors in the private sector? That sector, too, is human.

According to Mike Harris, Preston Manning, Diane Francis and *The Financial Post*, the only raison d'être for any government, is to eliminate the deficit. Social expectations, like collective well-being, are reduced to a strict minimum.

[*English*]

Do not get me wrong — government has a responsibility to foster a good business climate, but if it must sacrifice its social responsibilities, is business willing to pick up the slack? We have not seen any trends pointing in that direction yet, and rightly so, because that is not the job of business — it is the job of government.

In early December, *The Globe and Mail* reported two different but complementary stories. The first was that the Royal Bank recorded a record profit of $1.3 billion. Good. The next day, the same paper reported that one out of six Canadians is barely literate. They have problems reading textbooks, application forms and manuals. I mention these two examples because I think they are closely linked. Literacy is economy; good health care is economy; public infrastructure is economy. However, too many politicians today forget about that. It does not seem too difficult to understand that if we cut too much from the colleges and universities, we will pay a price for this somewhere down the road.

Senator Kinsella: Hear, hear!

[*Translation*]

Senator Thériault: According to the neo-conservatives, we should not consider investments in the public sector until we clean up our public finances. However, what if it takes five or ten or fifteen years? Who will look after the people affected by cut-backs? The churches? The Salvation Army?

Honourable senators, Canada is a rich country, and it can do much better than that. The vulnerable and the needy are not going to go away, even if they are less dependent on government programs. Taxes are way out of all proportion. What about Germany with its vigourous economy, although its citizens are taxed more than we are?

They realize over there that the common good is not just the good of one segment of society but is imperative for a healthy economy. I am sure this understanding exists among Canadians as well.

We must appeal to our greatest common virtues in order to put our financial house in order, review the tax system and impose a minimum tax as a direct contribution towards reducing the deficit.

Canadians want to work, and job creation is the real solution to the fiscal crisis. Canadians want to take care of the most vulnerable in our society. Canadians want to keep their social programs. It is only common sense to find various ways to reduce the deficit, because the American way, the way of the neo-conservatives, leads inevitably to a society of rich and poor, a society where the middle class is constantly shrinking and intolerance is the order of the day. That is what is at stake. That is what I am worried about.

Like my colleague Senator Roux, I am a pacifist at heart. Like him and most Canadians, I would like to see a review of the national defence budget, in light of our problems with the deficit. I am worried about the differences in treatment of budget cutbacks. The easy target, as I said before, is our social programs, which are being slashed in a spectacular way. The real challenge is to take a courageous and responsible attitude by reducing the national defence budget. Whether we like it or not, money is being wasted on defence while the needs of the public are not being met. In fact, it is estimated that the world spends 20 billion American dollars a week on defence, while the same amount spent annually between now and the year 2000 would be enough to meet all the objectives set for this period at the world summit on children held in 1990, objectives that include reducing malnutrition by half and achieving an immunization rate of 90 per cent.

[*English*]

Nonetheless, the budget of the Department of National Defence for 1995-96 will still be 27 per cent higher after inflation than it was in 1980-81 when the last Cold War build-up began. In 1994, Canada remained the twelfth largest military spender in the world. Between 1994 and 1995, world military spending dropped by 29 per cent while Canadian military spending increased by 3 per cent.

[*Translation*]

It was social security that budget cuts affected the most. I believe that the role of Canada, the envy of everybody, is to help prevent conflict in the world. It must provide an example by providing more humanitarian aid.

When we realize that social injustice and intolerable inequality lead sooner or later to revolts such as hunger strikes and civil or international wars, we who live in peace must give thought to security and to the prevention of wars. This is where, in my humble opinion, our country can and must make its mark.

The aim of our considering this question is to do away with the myth that violence is man's attraction to war, a natural component of human nature. We must stop thinking that violence is natural and war inevitable.

Canada must provide an example. No military force can succeed when the international or political diplomacy of the countries involved is not based on an accurate assessment of the political situation, adapted to local realities.

Canada's requirements, in terms of national security, coastal and air surveillance, rescue, and police force back-up, cannot be met in the context of a major war. Our troops need training and equipment in keeping with the missions they will now be expected to carry out. The review of the military organization also must be in response to this new mission. It must be directed toward a diplomatic resolution of conflicts. Canada's real challenge is not military, but technological and economic.

At a time when Canada is embarked upon a major deficit reduction operation, it would be the height of paradox if it were to forgo the rare means at its disposal to take up and win the urgent and vital battle to put the country back on the rails of prosperity and to reaffirm unity and its national identity.

What would be the point of having the finest shield if only to defend symbolically the borders of a nation that no longer had the means to keep its standard of living and security?

In the past ten years, Canada's national debt has almost tripled, going from $168 billion in 1983-84 to $458 billion in 1993. It has forced the government to spend a third of its tax revenues on servicing the debt. This is totally unacceptable. The National Council of Welfare stated in its 1993 report that one Canadian in six was poor; that nearly five million people lived below the poverty line.

According to the May 1994 issue of the magazine *Affaires*, business paid $14 billion for jobs in 1976 and only $7 billion in 1992. Individual income tax increased on average by 7 per cent annually between 1984 and 1992. Those in the high income bracket pay an average of 10 per cent of their income in taxes, whereas the average worker pays 40 per cent. Business people and the rich have some 59 ways of completely avoiding paying taxes in addition to over 105 tax shelters, deductions and tax credits available to them. Nearly 400,000 businesses pay no taxes despite receiving over $36 billion a year in government subsidies.

Investors, too, should pay their fair share of taxes. In his tax reform paper proposing a single tax system, Dennis Mills, the hon. member for Broadview—Greenwood in Toronto, shows how the tax system is unfair by giving preferential treatment to investors. For example, a worker making $50,000 a year will pay 23.7 per cent of his income in taxes, while an investor with the

same $50,000 income will pay 17.5 per cent. This amounts to 6 per cent of $31,100 a year. A worker earning $100,000 will pay 34.1 per cent in taxes as opposed to 21.3 per cent for the investor. In this case, the difference is even greater as the investor will pay 12 per cent or $12,800 less in taxes.

Therefore, the higher the investor's income, the more tax shelters there seem to be. We should take a good look at the tax shelters used by Canada's wealthy families. The taxes recovered by the government could be used to fund social programs and to reduce the debt. I think that asking those Canadians who are better off to pay more money in taxes based on their income would give us a way to fight the deficit. We must stop continuously going after lower-income taxpayers.

I listened carefully to today's debate on Bill C-110. Even with the best social programs in the world, how can this country get ahead while the federal system is paralysed by Quebec separatism? This is a matter that bothers me and that will eventually have to be resolved once and for all.

We have been hearing the same thing over and over for far too long. I look forward to seeing this malaise dissipated as soon as possible. Must I remind you that the October 30 referendum was won by the federalist side? It is true that the results could hardly have been any closer, but it was a clear victory nonetheless.

It is easy to understand the strategy behind the separatists obstinately persisting in talking and acting as if they had won. They are trying to create the illusion that the way to separation is all laid out and obstacle-free. In their quest for separation, however, separatists have been using for nearly 30 years tricks as questionable as humiliating Quebec. To go to such lengths is incomprehensible to everyone in the world, except for old-stock nationalists, of course. This approach had an impact on Quebec's economy as well as on the rest of Canada.

• (1820)

The ultimate proof, in my mind, of their dead-end mentality is found in the nosedive Montreal has taken. Montreal used to be, for us Acadians in particular and for other French Canadians as well, a leader of the economy and in the promotion of the French language. Montreal used to be a large urban reflection of what we were collectively. Needless to say, that it is no longer the case. First of all, instead of being the metropolis of all French Canadians, Montreal has become the private preserve of Quebecers, as advocated during the quiet revolution. Does anyone who is not a Quebecer feel comfortable in Montreal today?

Second, Montreal's economy is so weak that the city is no longer the focal point it once was. It no longer attracts those workers from the maritimes who keep looking further and further west for work. Montreal is the mere shadow of its former self. Worse yet, there is a clear connection between Montreal's decline and the obstinacy of the nationalists, who are obsessed with having a country at any cost. They have no qualms about sacrificing their most important city. It does not bother the most radical of them to know that other French Canadians no longer feel at home in this metropolis. It does not bother the nationalists that there is a constant malaise between them and immigrants, who symbolize the future.

If you compare Montreal to Toronto, the contrast and decline is even more apparent. Walking through a Toronto ethnic neighbourhood, it is easy to see where the open-mindedness and healthier economy is to be found. While experiencing economic difficulties of its own, Toronto has clearly taken over from Montreal as this country's metropolis, and this for the most part because of the nationalists' obsession and stubbornness.

I have never believed in nationalism, this ideology based on race and narrow-mindedness. When Quebec nationalists refute such accusations, they invariably point to their open-mindedness and tolerance. However, these values are universal and are shared by all Canadians; indeed, they form part of Canada's reputation on the international scene. Do not get me wrong; Quebecers are open-minded and tolerant, they are also Canadians. Separatist propaganda makes no mention of the fact that Quebecers are an integral part of our country.

At the constitutional level, the time has come to make some changes and to counter the Bloc Québécois' efforts to state its separatist views in a Parliament that it considers to be a foreign institution. The time has come to stop the Reform Party members who see bilingualism as an obstacle to their narrow and limited view of the country. What does the Reform Party know about bilingualism? Surely as much as its COR party cousins in New Brunswick, which has just been wiped off the political map along with its bigoted ideas regarding Acadians. Quebec must join the Constitution of its own volition. If we are to have a strong Canada, Quebec must be part of it as a major partner. I cannot imagine a strong Canada without a strong Quebec. However, I insist that the rights of French-speaking minorities and all other minorities must be adequately protected in any constitutional agreement.

The Canadian government has a responsibility to make realistic and acceptable offers to a majority of Quebecers. English Canada must also accept these offers with an open and positive attitude. Should that process fail, we all know what the consequence would be.

I supported the Meech Lake Accord and the Charlottetown Agreement, and last October I participated in the huge rally held in Montreal to promote Canadian unity. I also support the current change. I am in favour of Quebec rejoining the great Canadian family. This is an urgent and pressing issue which must be settled as quickly as possible.

Even in making such a profession of faith, I can never satisfy Quebec separatists, who do not even want to hear proposals from Ottawa, and who dream only of embassies, and of a presidential residence. We must solve this issue as quickly as possible. We must make sure that Quebecers can overwhelmingly support Canada.

At a time when opinion polls dominate political life, perhaps we should remember that government's role is to govern. We must put in place ways to create new businesses by stimulating and encouraging economic expansion. We should never forget

the reasons for a healthy economy. We must do everything we can to stimulate Canada's economy, because work, dignity and prosperity must be available to everyone. When, for any reason, this is impossible, the government should still be responsible for supporting and helping the most vulnerable in our society. Social justice is a policy, a political choice that Canada has made ever since it was founded, and a political choice it must maintain today.

Government's role is also to define and defend the public space. It is not necessary to privatize everything to be efficient. We must take a pragmatic attitude instead of being hung up on obsolete ideologies. As we enter the twenty-first century, we absolutely must deal with this constitutional issue that has been plaguing us for far too long. Canada must take its place at the forefront of the industrialized world. The stakes are high, and we have practically all the assets we need to make Canada the country of the next century.

Honourable senators, I must express my gratitude for having been allowed to say something that I needed to say and also — since this is probably my last time here — to pass on my very best wishes to everyone here. You have your work cut out for you. When I arrived here 17 years ago, it seemed to me that I had a whole lifetime ahead of me. Now that time is nearly over, there is one thing left for me to say: Here in the Senate, I met the best people I have met anywhere in my life, men and women devoted to their country, honest and sincere, informed, specialists in all areas. We have not yet found a way to work together, perhaps because we are too tied up in our own partisan politics. I would ask you, however, in the coming months or years, when the future of the country is at stake, to try to put partisan politics aside and to work together to preserve this wonderful country which we all love.

On motion of Senator Berntson, debate adjourned.

[*English*]

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham, (Deputy Leader of the Government): Honourable senators, there will, of course, be other opportunities to pay appropriate tribute to the life, times and many accomplishments of our dear friend and colleague Senator Thériault, but, before moving the adjournment, may I observe, on behalf of all honourable senators in the chamber and elsewhere, that we have just heard from one of the greatest, most sincere, most eloquent, most forceful, and most persuasive social consciences in all of Canada.

Hon. Senators: Hear, hear!

The Senate adjourned until Friday, February 2, at 10:00 a.m.

THE SENATE

Friday, February 2, 1996

The Senate met at 10:00 a.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE SHIRLEY MAHEU

TRIBUTE ON APPOINTMENT TO SENATE

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am particularly disappointed that I was unable to be here yesterday, through no fault of my own. I wish to extend the warmest of greetings and welcome to the newest senator in this chamber, Senator Shirley Maheu.

I know that many things — all complimentary — were said about Shirley yesterday, and I should like to echo them. She is what is known as a "people's politician." She is a listener. She pays attention to the people whom she represents. This is as important in the Senate as it is in the other place.

Yesterday, the remark was made that she is simply known as "Shirley" around her area. I have a special way of corroborating that fact because my city of Lethbridge is twinned with her city of St-Laurent. I know from the exchanges that have taken place over the years how highly she is thought of and respected.

She will be a great addition to this chamber through her experience in her former constituency, her experience in the other place and her desire to reach out to people, as she has done particularly in the area of citizenship and immigration. Last, but definitely not least, her addition to this chamber, I am sure, is expressed in her fervent love for the unity of this country and Quebec's place in it.

THE HONOURABLE JOHN SYLVAIN

TRIBUTE ON RESIGNATION FROM SENATE

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, there is another very important person to whom I wish to pay tribute today, the former Senator John Sylvain.

Honourable senators, I speak as a colleague of Senator Sylvain, who admired him enormously. He brought to this chamber not just a background in his personal field, which was commerce and the insurance business, but a willingness to share that background and, as a result, the Senate was the benefactor of the tremendous work he did on one of our major committees, the Standing Senate Committee on Banking, Trade and Commerce.

He also brought with him a military background in both the active and reserve forces, which was of great assistance in some of the work done by the Subcommittee on Veterans Affairs of this place.

More than anything, though, whenever one had conversations with John Sylvain, he talked about this country. The last intervention he made in this house concerned the work all of us in Canada have to do to keep the country strong and united.

I wish him and his family well. I know that as the weeks and months unfold, and the debate about our country unfolds, there will be in Quebec a strong and passionate voice from John Sylvain for a strong and united Canada with Quebec at its heart.

THE HONOURABLE EARL A. HASTINGS

TRIBUTE ON RESIGNATION AS CHAIRMAN OF INTERNAL ECONOMY COMMITTEE

Hon. Colin Kenny: Honourable senators, on behalf of Senator Di Nino and myself, I should like to inform the Senate that at yesterday's meeting of the Standing Committee on Internal Economy, Budgets and Administration, the following motion was passed:

> That the Standing Committee on Internal Economy, Budgets and Administration expresses its appreciation to the Honourable Senator Hastings, Chairman of the Committee from February 24, 1994 until December 14, 1995, for his leadership and contribution to the work of this Committee and to the Senate of Canada.

Honourable senators, it would be appropriate to remind the house of the accomplishments of the committee under the leadership of Senator Hastings. In addition to the routine but nevertheless essential duties of reviewing budget applications from committee chairmen and from the administration, Senator Hastings' successes were many.

In the nearly two years that he served as chairman, he oversaw major construction initiatives, including the renovation of the 1910 wing of the East Block, which is scheduled for completion in the summer of 1997, and the construction of the new committee room in the Centre Block, which is scheduled for completion early in 1998.

Under his leadership, the committee improved the enhanced program for visitors to Parliament, as proposed by the Speakers of both Houses, opening the doors for the first time in Canada's history to permit visitors to behold the two Houses of Parliament from our own viewpoint here within.

Although it has been a topic of discussion for several years, it was Senator Hastings who had the Internal Economy Committee give the Senate administration an official mandate to discuss with their House of Commons counterparts matters of mutual interest to identify potential cost efficiencies.

Senator Hastings is an open-minded individual. It was under his leadership that the Internal Economy Committee blessed the electronic distribution of documents on the Parliament site of the Internet. Transcripts and reports from three major committees, the Special Committee of the Senate on Euthanasia and Assisted Suicide, the Special Committee of the Senate on Pearson Airport Agreements and, currently, the Special Committee on Bill C-110, an act respecting constitutional amendments, have been accessed by the public over the Internet.

His biggest achievement by far, however, was the repatriation of the administrative support role to the parliamentary associations. As a reflection of our constitutional equality with the other place, fully half, or four of the eight parliamentary associations, namely, the Inter-Parliamentary Union, the North Atlantic Treaty Organization/North Atlantic Assembly Parliamentary Association, Canada-Europe Parliamentary Association and the Canada-France Inter-Parliamentary Association, are now being administered by Senate staff. This represented a huge cost saving. In addition, Senator Hastings advocated the creation of a smaller Joint Inter-Parliamentary Council that he, as chairman of Internal Economy, would jointly chair along with an appointee of the House of Commons.

In brief, honourable senators, circumstances have not permitted Earl Hastings to continue in his role as the chairman of the Internal Economy, Budgets and Administration Committee. However, Senator Di Nino and I invite all senators to recognize the significant contributions that he made to the betterment of the Senate in that role.

THE HONOURABLE MARJORY LEBRETON

CONDOLENCES ON RECENT BEREAVEMENTS

Hon. Colin Kenny: Honourable senators, I would be remiss if I did not say a few words about the recent tragedy that has befallen a distinguished member of our committee, the Honourable Senator Marjory LeBreton. On behalf of all members of the Internal Economy Committee, we extend to her our prayers and best wishes.

CANADIAN BROADCASTING CORPORATION

YOUTH CRIMINALITY—
CONGRATULATIONS ON RECENT PRODUCTION

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to commend the CBC for its production entitled, *Little Criminals*.

Little Criminals, which aired on Sunday, January 21, is a fine piece of work which portrays quite accurately the complexities surrounding the issue of youth criminality. The movie follows the exploits of an 11-year-old boy who, because of his age, is not subject to prosecution on criminal charges. The boy's problems are portrayed as his criminal activities are explored, as his brutal family life is revealed, and as his poor living conditions are exposed.

By addressing subject-matter that is both emotionally charged and complex, the CBC ventured where other broadcasters would, perhaps, not dare. The result, however, was a quality production which, although shocking at times, was couched in a contextual framework which allowed for a better understanding of the phenomenon of violence and, in particular, youth violence.

Little Criminals as a CBC in-house production came into being thanks to the hard work and creativity of its all-Canadian actors, writers, researchers and producers. It was filmed in Vancouver, and its story line is a result of the extensive research of its writer, Dennis Foon. Although fictional, the movie can be considered a collection of true stories, as many experts attested in *The Making of Little Criminals* which aired on CBC the day before.

According to the producer, public response has been phenomenal. In addition to receiving highly favourable reviews from critics, 1.6 million Canadians were interested enough to tune in. These ratings are considered by CBC to be some of the best that that time slot could offer. Perhaps most significant is the fact that *Little Criminals* has created not only awareness but action as well. Producer Phil Savath has indicated that he has been contacted by various groups across the country, ranging from school groups to victim awareness groups, to crime prevention groups. These groups have been spurred to action and have made requests for copies of the movie, as they seek information with regard to how they can help in the tackling of this problem.

By producing *Little Criminals* without partners, the CBC was able to reap 100 per cent of the dividends. Already, the movie has been sold to channels in Britain and Italy, while American cable companies have also expressed interest and are expected to buy soon.

The CBC and all those involved in the making of *Little Criminals* deserve much credit. As a viewer, I was personally impressed and would like to commend the CBC for taking on such a difficult and potentially controversial subject-matter. The problems surrounding the issues of youth and youth crime need to be addressed realistically, responsibly and in a manner that takes into account Canadian values and experiences. *Little Criminals*, and its evident impact, is to be applauded in this regard. Let us hope its success translates into more of this type of programming. Canadians can and will be proud of a public broadcaster that is able to both create awareness and spur positive action.

I do not wish to enter into the debate surrounding the recently released Juneau report. That being said, it is my opinion, however, that Canada can accommodate a public broadcaster that is willing and able to deliver efficiently programming that is not offered elsewhere.

Little Criminals shows that programming that is distinctively different and Canadian is palatable. In this respect, *Little Criminals* is a meritorious production and may point to a possible way ahead for the CBC.

THE HONOURABLE ROYCE FRITH Q.C.

TRIBUTE ON RETIREMENT AS
HIGH COMMISSIONER TO LONDON

Hon. M. Lorne Bonnell: Honourable senators, I rise to say a few words about a friend of ours, His Excellency Royce Frith, High Commissioner to London. Yesterday, I returned from London, England. The former Senator Frith asked that I should extend his best wishes to his honourable colleagues in this chamber, and especially to the Speaker. He told me that he would like to have stayed a little longer in his job as High Commissioner, but that he is looking forward to having a year to travel around his native province of Ontario and his country of Canada to know all of it better, and to get a little rest for a change.

THE HONOURABLE JOHN SYLVAIN

TRIBUTE ON RESIGNATION FROM THE SENATE

Hon. M. Lorne Bonnell: Honourable senators, I should like to say a few words about John Sylvain who, I regret, has left us. John Sylvain was a member of the committee which I chair, the Standing Senate Committee on Social Affairs, Science and Technology. He was very active on behalf of the veterans of this country.

John Sylvain was also a member of our NATO Parliamentary Association, to which he made excellent contributions, especially while at a conference in Italy.

He and his good wife are excellent companions and great Canadians. The members of the House of Commons in England asked me to pass on their regrets that he has left the Senate and will no longer be active in NATO.

WINNIPEG, MANITOBA

OUTSTANDING COMMUNITY SUPPORT
FOR THE PERFORMING ARTS

Hon. Mira Spivak: Honourable senators, I wish to draw your attention to a secret that the people of Manitoba have known for a very long time and which *The Globe and Mail* let out of the bag only last weekend.

Winnipeg is the performing arts capital of Canada, and possibly of North America. That claim is based on the number crunching of a Toronto consulting firm. Its study of performing arts activities in North American cities found that, on a per capita basis, Winnipeg enjoys about 75 per cent more professional activity than Toronto. Its citizens privately contribute about 10 per cent more to sustain the Royal Winnipeg Ballet, the Manitoba Theatre Centre, the Winnipeg Symphony Orchestra, and many more professional companies, than do their counterparts in Toronto in support of their performing arts.

• (1020)

Support for the performing arts in Winnipeg is broad-based, enthusiastic and loyal, which allows professional artists to nurture their talent in relative comfort and safety. Winnipeg-based companies have produced Evelyn Hart, John Hirsch, and countless other performing artists. I should also note that Winnipeg has also produced many renowned visual and literary artists, including Pulitzer Prize winning author Carol Shields.

As *The Globe and Mail* acknowledged, Winnipeg is a thriving cultural centre, large enough to support a wealth of activity and small enough for everyone to feel a part of it. I am pleased to represent a region of the country that, year after year, decade after decade, affirms the value of the arts and enjoys them. I applaud the people and the artists of Winnipeg. I am glad that Toronto and our national newspaper have "cottoned-on" to our secret.

ROUTINE PROCEEDINGS

NATIONAL PROTECTED AREAS STRATEGY

REPORT OF ENERGY, THE ENVIRONMENT
AND NATURAL RESOURCES COMMITTEE TABLED

Hon. Pat Carney, Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources, tabled the following report:

Friday, February 2, 1996

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

TWENTIETH REPORT

Your Committee, which was authorized by the Senate on Wednesday, April 27, 1994, to undertake a study of the policy options available to the government to complete the network of pristine areas that represent Canada's natural regions and of the creation of a National Protected Areas Strategy and to make recommendations thereon, now presents its report entitled *Protecting Places and People: Conserving Canada's Natural Heritage.*

Respectfully submitted,

PAT CARNEY, P.C.
Chairman

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

On motion of Senator Carney, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to questions raised in the Senate on November 22 and 23, 1995 by the Honourable Senator Forrestall, regarding the search and rescue helicopter replacement program; a response to a question raised in the Senate on November 23, 1995 by the Honourable Senator Kinsella, regarding science and technology research; a response to a question raised in the Senate on December 6, 1995 by the Honourable Senator Tkachuk, regarding the welfare residency requirement in British Columbia; a response to a question raised in the Senate on December 13, 1995 by the Honourable Senator Gustafson, concerning western grain marketing; and a response to a question raised in the Senate on December 13, 1995 by the Honourable Senator Balfour, regarding the sale of Airbus aircraft to Air Canada.

TRANSPORT

SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—STATUS OF EH-101 CONTRACT—NATURE OF MILESTONE PAYMENTS—GOVERNMENT POSITION

(Response to questions raised by Hon. J. Michael Forrestall on November 22 and 23, 1995)

On November 5, 1993, following a promise outlined in the Government's Red Book, to cancel the $5.8-billion EH-101 helicopter program, termination notices were issued to the two prime contractors: EH Industries Limited and Paramax Systems Canada Incorporated (subsequently Unisys GSG and now Loral Systems Canada Incorporated).

The settlement agreement with Loral Systems Canada which was announced publicly on March 31, 1995, totalled $166 million. It included the amounts due to Loral, its subcontractors and suppliers. Of the amount, $98 million was for work completed prior to termination and the balance of $68 million was for work in progress at the time of termination and termination costs.

On January 23, 1996, the details of the settlement agreement reached between the Government of Canada and E.H. Industries Limited were made public.

The settlement agreement with E.H. Industries totals $157.8 million. This includes $136.6 million for the cost of work completed prior to termination and work in progress at the time of termination, and $21.2 million for termination costs.

A further $155 million was spent on project definition, research and development and project implementation.

INDUSTRY

SCIENCE AND TECHNOLOGY RESEARCH—CUTS TO BUDGET—TIMING FOR RELEASE OF STUDY—GOVERNMENT POLICY

(Response to question raised by Hon. Nöel A. Kinsella on November 23, 1995)

The government plans to announce its science and technology strategy in the near future. We will be setting out a response to a far-reaching review of S&T which included consultations in communities across Canada, an internal review of federal S&T policies and programs, and a report by the National Advisory Board on Science and Technology.

The strategy will re-enforce S&T as a priority for this government. It will advance the critical role played by S&T in relation to the health and well-being of Canadians, sustainable job creation and economic growth, and the advancement of knowledge.

Objectives and principles for guiding federal S&T activities and initiatives will be part of the strategy. We will increase the effectiveness of federal S&T research by emphasizing scientific excellence, full value for money and the dissemination of knowledge and technology throughout the Canadian economy.

HUMAN RESOURCES DEVELOPMENT

BRITISH COLUMBIA—IMPOSITION OF WAITING PERIOD FOR PAYMENTS UNDER CANADA ASSISTANCE PLAN—SUSPENSION OF TRANSFER PAYMENTS—GOVERNMENT POSITION

(Response to question raised by the Hon. David Tkachuk on December 6, 1995)

Pursuant to the provisions of the Canada Assistance Plan, (RSC, 1985, c. C-1, s.6(2), an agreement between each province and the Government of Canada shall provide that the province a) will provide financial aid or other assistance to or in respect of any person in the province who is a person in need... and d) will not require a period of residence in the province as a condition of eligibility for assistance or for the receipt or continued receipt thereof.

In the case of *Findlay v. Canada*, (1989, 57 DLR, (4th), 230, confirmed by the Federal Court in 71 DLR, (4th) 422) the Federal Court determined that where a province (in that case Manitoba) is in breach of its agreement with Canada under CAP it is illegal for Canada to make payments to the province under the Canada Assistance Plan as long as the breach continues.

Thus, according to the precedent set in the *Findlay* case, it would be illegal for Canada to make payments to the Government of British Columbia under the Canada Assistance Plan as long as the province continued in breach of its CAP agreement by having residency requirements for eligibility for social assistance.

AGRICULTURE

WESTERN GRAIN MARKETING—POSSIBILITY OF NATIONAL PLEBISCITE—GOVERNMENT POSITION

(*Response to a question raised by Hon. Leonard J. Gustafson on December 13, 1995*)

The Western Grain Marketing Panel has conducted a series of town hall meetings across western Canada. These meetings concluded on January 26, 1996. They provided farmers with the opportunity to express their views regarding the strengths and weaknesses of Canada's current grain marketing system and what features they would like to see in the system of the future.

The Panel will now hold formal hearings in Winnipeg, during the period March 11 to 22, 1996. These hearings are being held for farmers and organizations to advance their arguments and supporting evidence for or against different marketing methodologies which will be subject to examination and cross-examination.

The Panel is to present its final report to the Minister by the end of June, 1996.

JUSTICE

SALE OF AIRBUS AIRCRAFT TO AIR CANADA—ALLEGED CONSPIRACY TO DEFRAUD FEDERAL GOVERNMENT—STAGE OF TREATY WITH SWITZERLAND AT TIME OF REQUEST—GOVERNMENT POSITION

(*Response to question raised by Hon. R. James Balfour on December 13, 1995*)

The letter of request in the Airbus investigation was sent to Switzerland on September 29, 1995. This was a non-treaty request. At that time, a mutual legal assistance treaty between Canada and Switzerland had been negotiated but was not in effect. The treaty came into effect on November 17, 1995.

ORDERS OF THE DAY

CONSTITUTIONAL AMENDMENTS BILL

REPORT OF COMMITTEE—VOTE DEFERRED

On the Order:

Resuming the debate on the motion of the Honourable Senator Kinsella for the adoption of the Report of the Special Committee on Bill C-110, respecting constitutional amendments, with amendments.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, during the referendum campaign last fall, the Prime Minister spoke of his commitment to recognize Quebec as a distinct society, and to make constitutional change contingent on a regional consensus. In my judgment, this was a fair-minded promise to renew our federation which was, in part, made to encourage and support all those who voted "no" to secession. We must remember that, first and foremost, this was a basic act of reassurance to the people of Quebec.

The challenge of building consensus will always be with us. It is a daunting challenge. In the quest to achieve a greater balance within our federation, and in our efforts to create a better understanding between all of our citizens, Bill C-110 represents our pledge not to proceed with constitutional change without the support of each of our great regions.

As the Prime Minister has repeatedly explained, this modest legislation is basically a commonsense bridging approach to the rekindling of a spirit of cooperation and tolerance in our country.

Honourable senators probably do not need to be reminded that, in our country, the practice of politics has become almost more dangerous than war. Winston Churchill once said this to emphasize that: in war, you are killed only once. In fact, the game in Canada has become so deadly, the tone of our political life at times so sour, that even a modest and fair-minded measure such as the bill before us is deemed to give too much to some Canadians and too little to other Canadians.

Bill C-110 is an attempt at drafting a little more equity into our federation, and yet its appearance draws criticism from all those players who think in the interests of the short term, in the self-interest of one region or another, of one player in one region against another in the same region.

This self-centred approach is the opposite of the generosity of spirit which led to the creation of this great country. Ask any of the thousands of people who wait in immigration offices around the world what a Red Maple Leaf symbolizes for them. I have seen it personally, and I have heard it firsthand from people who have treasured the presence of our peacekeepers in places such as Nicaragua and on the Angolan border. It symbolizes promise, it symbolizes tolerance, it symbolizes hope, it symbolizes generosity. Most of all, it does not symbolize selfishness.

Perhaps it is time that we all took a look at ourselves in the looking-glass of the world community, in order to get a better sense of the real truths about ourselves and about the real meaning of being Canadian.

Canada has been conceived and has evolved on an infrastructure of hope. Bill C-110 is a modest addition, on a temporary basis, to that infrastructure. It represents no structural shifts in the foundations of our country. We must remember that this regional veto is only one of the building blocks in the larger national unity design. It does not imply permanence or finality, nor is it meant to be a measure that addresses the constitutional aspirations of all parties in the federation.

• (1030)

It is simply a reminder to all Canadians that we are a real country, and that although one of the principal players argues differently and falsely, the Government of Canada will continue to guard and protect their interests. It is a challenge to secessionists to explain to all those Quebecers who do not share their views and who opt for Canada, why they will not accept what for so long Quebec has wanted. In this respect, Bill C-110 is the proverbial velvet glove concealing the iron hand.

Honourable senators, when Minister Rock appeared before our committee, he fairly and forcefully dealt with the fears expressed by many Canadians over the intent of the government with regard to this legislation. Many legitimate concerns about the significance of Bill C-110 have been put forward throughout the country. I refer to only a few examples raised in the ongoing discussions over the last few weeks.

There has been a fear that the bill constitutes an attempt by the Government of Canada to unilaterally alter the present constitutional amending procedure. There have been important and legitimate fears and concerns raised by our aboriginal people, such as the concern that the effect of the bill is to exclude them from the amendment process. I believe Minister Rock has put to rest the bulk of these concerns in an honest and fair-minded fashion.

As I have said, honourable senators, Bill C-110 is part of the infrastructure of hope. It is meant as a reminder to all those who doubt and who have lost conviction or, in some cases, who despair about the future of Canada, that this country has been built to outlast its enemies. It is meant as a reminder that the federal government will exert friendly pressures — the best kind, as Lester B. Pearson once observed — to ensure that it is not such an easy target for its enemies. We must never forget this, because there are many voices in our federation telling us that the dream is impossible. They say that cooperation cannot be possible because every gain for one region means an equal loss for another region.

In a speech I gave on the unity issue in this chamber on December 12, I pointed out that too many voices across Canada see federalism as what has been called by some a "zero-sum" game. In other words, the voices say, "We want more, always more. What is more for us is less for you. What is less for us is more for you." In this kind of mug's game, we will all be losers and we will be losers forever.

As these voices become more numerous in our country, the resolve and will to be Canadian, the spiritual glue of our country, becomes debilitated and weakened. We must remember that countries are often lost when people surrender, and where they surrender first is in their hearts and in their minds.

It was once said — by Abraham Lincoln, I believe — that he has a right to criticize who has a heart to help. Selfishness within and amongst the regional alignments in this country is the gravest threat that we face today, not just because of the unity issue but — what is even more important — because it imperils the national soul.

In the Atlantic region, much needed signs of cooperation serve as portents of hope. Nova Scotia's Premier John Savage and New Brunswick's Premier Frank McKenna have agreed to extend to Premier Catherine Callbeck and Prince Edward Island full status where they think it is essential under the prospective veto rule. In this regard, the Atlantic provinces have exercised one of the basic principles of successful negotiation. They have taken the interests of the other parties into account — a simple truth indeed, but perhaps one of the most important truths in the ongoing struggle to revitalize our federation. However, it must be emulated by all those who presently feel that criticism is a right, but that a heart to help is unnecessary.

Recently, I heard a wise man talk about how you treat people equally and/or the same. He was responding to a presentation by a leader in one of the regions of the country who was asserting, even complaining, that his province wanted to be treated equally, the same as every other province. My friend responded by saying that he had three daughters. He treated them all equally but not necessarily the same, because they had different needs. I believe the same analogy can be applied to our regions — equal but not necessarily the same.

Honourable senators, we must remember that the Red Maple Leaf which flies over this united country is a symbol of hope for millions of people the world over. We must not fail because of mean spiritedness or rancour or lack of will to insure that it flies forever, not over a vast, zero-sum game, but over a united Canadian dream based on tolerance, on justice, on cooperation and on compromise.

Honourable senators, Bill C-110 is part of the infrastructure of hope. As such, for all those who have the heart to help, it is an indispensable building block in a re-imagined Canada which will leave the old world behind.

Hon. Consiglio Di Nino: Honourable senators, in the past, I supported the Meech Lake Accord; I participated in the debates on the Charlottetown Agreement and its promotion. In fact, the Metro Toronto area, where I made some small contribution during that referendum, is one of the few areas of the country where the accord was accepted. I have often spoken on behalf of, and in support of, Quebec's distinctiveness, as well as Quebec's importance to Canada. Frankly, I doubt Canada would be a country without Quebec.

• (1040)

I have always maintained that the main difference between the USA and Canada is the French factor. However, I have a number of concerns about the unity package, this "peace offering" made by Prime Minister Chrétien to Quebecers, including the bill we are debating. This offer is an ill-conceived, knee-jerk reaction to the federal government's failures during the months preceding the Quebec referendum. Those failures nearly cost us our country.

This package of goodies to try to appease Quebecers does no such thing. I do not believe the majority of Quebecers support Mr. Chrétien's offer. Canadians across this country mirror their sentiments, albeit in some cases for different reasons.

The hastiness with which these goodies were put together without consultation and the closing off of debate in the other place has aroused the anger of many Canadians, including many political leaders. The manner in which this offer was conceived and rammed through the House is both disrespectful and contemptuous. It has further alienated some regions of our country, resulting in further dividing some communities, and it may very well damage attempts at real negotiations to keep Canada together.

Many Canadians are losing their tolerance for meaningful reconciliation, and the actions of this government are not helping. This offer to Quebec reinforces the fact that the Liberals have no agenda, no policy, no real plan to deal with the Quebec issue. Mr. Chrétien should have taken the advice of Mr. Charest and others who asked for a period of time to let us catch our breath and reflect in a calm and tranquil manner before plunging once more into the turbulent waters of constitutional reform.

Honourable senators, the problem is really not insurmountable. In my opinion, the real problem is that Canadians do not know each other very well. It is not accidental that the Montreal area voted overwhelmingly in favour of the "No" side. This is the area of Quebec where Canadians of all backgrounds have had more opportunity to meet and to get to know each other better. Finding opportunities for Canadians to get to know each other is not a difficult challenge; it is one which we should take on.

Honourable senators, one of my main concerns is that these debates seem to be an emotional dialogue between the federal government and French-speaking Canadians in Quebec. At times, it seems to be more about revenge than justice, more about politics and turf than people and their needs.

I am told that recognizing Quebec as a distinct society is about identity. I repeat that I have supported, and continue to support, this notion because it only recognizes reality. Distinct society does not confer special privileges; it only recognizes what is a fact. However, when we raise the question of identity, then we must talk about the identity of Canadians, all Canadians, including aboriginal communities and Canadians whose background is neither English nor French. For obvious reasons, the dialogue has been about Quebec, Quebec culture and the two founding nations. This has been going on for such a long time that Canadians of other backgrounds, including First Nations, have felt excluded. These Canadians have as much of a stake as everyone else in Canada's future and are committed to a united and strong country. In future discourses, they must be included to ensure that their place and their role is both recognized and assured. I have no doubt that most Canadians would welcome the just and equal treatment of all other Canadians who, in turn, mostly accept the cultural, language and civil law reality in Quebec.

In all of these unity debates, seldom if ever are communities other than those of French or English background made to feel part of the process. Maybe it is right to ask, as aboriginal communities have asked, who is included? Are all Canadians equal? Are some more equal than others? When other communities have been included as a part of the debate, it has often been in negative terms. We heard Mr. Bouchard talk about "white babies." We heard Mr. Parizeau accuse "ethnics" of being responsible for the "No" side win. We heard Mr. Landry insulting and disparaging new Canadians. Too many others have made similar remarks. These kinds of accusations seem to be too frequent, and for those of us who passed through those dark days of discrimination, and for those among us who are today suffering from discriminatory practices, these accusing and irresponsible statements echo the silent alarms of discomfort and fear felt by some of us in the past.

What is this word "ethnic" or, for that matter, "multicultural"? When I walk down the street, do people point and say, "There goes an "ethnic," or "Hey, look at that multicultural"? When I came to Canada, I did not know I was a multicultural or an ethnic. Do these terms make me better or worse than others? When I swore the oath of allegiance, I thought I would be a Canadian like everyone else. Little criticism has been heard — and only from a few of our political leaders — about these people who speak so callously and so contemptuously of other Canadians.

Because this unity dialogue has gone on for so long and because, understandably, the attention has been on Quebec's wonderful culture, primarily focused on English-French issues, other communities are beginning to question and to ask whether their presence, their contributions, their values, have any meaning in this whole dialogue. Little or no public discourse has dealt with the valuable contribution made by the rainbow of cultures which continues to help make Canada what it is today — the best country in the world — a fact that seems to be lost in this long and acrimonious debate.

This bill and the whole unity package being offered to Quebec not only does not make a meaningful and substantive contribution to solving the problem, it may damage the opportunity for reconciliation because it was conceived without due thought and without consultation with Canadians who care fervently about Canada and who, by omission or commission, are being left out.

It seems to me this government is desperate and has nothing better to offer. Mr. Chrétien should reach out to Canadians, all Canadians. They can help him. They have the answers. Some, as Senator Graham has just done, will make spirited and eloquent speeches in support of Bill C-110, but apart from the Prime Minister and his flock, who is in favour of this bill?

Remember, this is the same gang who defeated the Meech Lake Accord, gave lukewarm support to the Charlottetown Agreement and who, during the referendum, said to us: "Shut up and trust us; we know what is best for you." Look what happened.

Honourable senators, I think we should send the whole package back to the other place and ask the government to take more seriously its responsibilities to Canadians.

Hon. Anne C. Cools: Honourable senators, my seatmate, Senator Charlie Watt, had intended to participate in this debate but has been delayed in arriving. He is presently in transit, and called me to ask that I read into the record on his behalf a letter from the Inuit Tapirisat of Canada, or ITC, articulating their position on Bill C-110.

The letter is written and signed by Mary Sillett, the vice-president of ITC. It is addressed to Senator Watt and dated February 2, 1996. With the Senate's indulgence, I shall read this letter in its entirety, thus:

> Dear Senator Watt,
>
> We have reviewed the amendments proposed to Bill C-110, "An Act respecting constitutional amendments" tabled in the Senate by the Special Senate Committee and we wish to inform you of ITC's position.
>
> ITC re-iterates our first preference that the federal government should withdraw this Bill in its entirety because it is unconstitutional and because it is not conducive to national unity in the long term.
>
> Furthermore, the federal government should be retaining its current powers to respond, and to speak in its own Parliament, through proposed constitutional amendments, in the event of a 'yes' vote. Whatever the federal government's national unity strategy, there is no guarantee that it will forestall another referendum. This means the risks attendant to a 'yes' vote, however small or large, are still with us. Why should the federal government in any way be weakening its ability to act on behalf of all Canadians in its own Parliament?
>
> Nevertheless, we urge you to vote in favour of proposed amendment number 2 of the Committee's Report. This amendment to clause 1 of Bill C-110 would provide at least some protection to our position in any future constitutional reform negotiations. Unfortunately, the proposed amendments do not preserve our current constitutional position in its totality. We point out the following shortcomings:
>
> 1) the amendment proposed as a new subsection 1(3) to the Act should have referred generally to any proposed amendment referring to aboriginal peoples or aboriginal and treaty rights in order to cover amendments outside the sections named (you may recall that in the Charlottetown Accord, the proposed amendment on recognition of aboriginal peoples governments as one of three orders of government and proposed protections or recognition of aboriginal language and cultural rights did not fall in any of the sections named in this Bill but rather were contained in proposed new sections to the Constitution including new sections of the Constitution Act, 1867 and the Constitution Act, 1982);
>
> 2) at a minimum there should have been a reference generally to any amendments to Part II of the Constitution Act, 1982 rather than listing specific sections of Part II as is done in proposed paragraph 1(3)(b) — (again you may recall that during the negotiation of the Charlottetown Accord, it was Inuit who first proposed and who successfully argued for the recognition of the inherent right of self-government as a new section to Part II rather than including it as a subsection to s.35 — in order to avoid any extinguishment arguments arising from the word 'existing' in s.35(1)).
>
> Finally we wish to comment on some important strategic questions raised by the proposed sunset clause calling for the expiry of the Act on December 31, 1997. The addition of an expiry date suggests that the legislation is a temporary measure pending a constitutional conference in 1997. At such a conference, Quebec's approval and that of the other provinces and regions would be required under Bill C-110 for any proposed amendment to proceed. Under the proposed amendments, Quebec's approval would have to be secured through the provincial legislative assembly. Securing Quebec's approval at the 1997 conference for anything aimed at national unity does not seem at all likely given Premier Bouchard's statements (both as Premier and as the former Leader of the Bloc Québécois) that he does not support participating in any constitutional negotiations before another referendum in Quebec on separation.

Because Bill C-110 would severely hamper the federal government's ability to respond to a possible 'yes' vote, perhaps this amendment inadvertently will suggest to the Parti Quebecois a possible deadline by which it should hold another referendum in order to retain this advantage.

On the other hand, if the 1997 constitutional conference does not produce an amendment entrenching the Bill C-110 vetoes, and if another referendum is not held by December 31, 1997, then the federal government's current powers to table proposed constitutional amendments to deal with any constitutional crisis generated by a referendum held after that date would be preserved.

We ask you to convey our position to your colleagues in the Senate and urge them also to vote in favour of proposed amendment number 2 of the Senate Committee's report. We will be sending copies to the Prime Minister as well as to Senator Kinsella, Minister Dion, Minister Irwin and Minister Rock.

Sincerely,

Mary Sillett,
Vice-President

Honourable senators, as I have said before, Senator Watt had called me and asked me if I would do him the favour of reading this letter into the record. It was not my intention to participate in this debate on Bill C-110, but I thought a colleague deserved this consideration. For me, it is an honour to do a small service for the Inuit people of Canada.

Senator St. Germain: Will you support the amendment, senator?

Hon. Allan J. MacEachen: Honourable senators, I should like to begin by congratulating the committee and its chairman for the work that the committee did in the examination of Bill C-110. I certainly was impressed with the work of the committee. It renewed my appreciation of the potential value of Senate committees.

The committee was a good committee. On our side, I was pleased to work with Senator Marchand and Senator De Bané, with whom I served in the House of Commons and in the Government of Canada, and with Senator Gauthier, with whom I worked in the House of Commons. Senator Carstairs was not part of my past history, but her perspective on the committee was always present and always valuable.

I will depart from a rule I have had for a long time, which was never to praise my political opponents in public. I did not mind doing it in private, but in public it was a different matter. However, I must say that I was impressed by the members of the opposition, each of whom brought a very important perspective to the work of the committee, particularly Senator Murray, who certainly showed objectivity and understanding, even vision, as he approached quite a number of the items under discussion. I will not say I was surprised. Of course, Senator Beaudoin was very valuable, as was Senator Rivest and the others. We learned, of course, from Senator St. Germain the value of non-partisanship. It has infected even me in my approach.

I followed or examined Bill C-110 from a very limited perspective; that was the perspective of a parliamentary practitioner: how would it work, and how would Bill C-110 potentially affect the constitutional process in the future? Many witnesses had differing perspectives. Some had expected that Bill C-110 somehow would meet all the constitutional aspirations of Quebec, of the west, and of the aboriginals, to name a few examples. Naturally, they would be deeply disappointed because Bill C-110 did not do that. It was not intended to do that. It had a very limited purpose.

It was from that perspective that I viewed the bill. Many of the witnesses, I found, burdened the bill with their expectations, and when their expectations were not fulfilled, they found that the bill had many shortcomings. Minister Rock, in his appearance before the committee, made it clear that the bill is modest, limited and procedural. I certainly agreed that it is procedural.

• (1100)

I remember an old standing order of the House of Commons. Standing Order No. 33 conferred a right on a minister to move closure, a right enjoyed by no other member of the House of Commons. That was the conferring of a parliamentary right. This bill really establishes a parliamentary prohibition upon a minister of the Crown; that is, a minister cannot move a constitutional amendment without the consent of all the regions. Mr. Rock inferred that this objective could have been achieved by a declaration of government policy. This government and the Prime Minister could have said that they will never introduce a constitutional amendment unless there is consent from all the regions. That would have done the job. From a technical point of view, it would have lacked the political impact of parliamentary action. It would have lacked the transparency of parliamentary action. It could have been done by changing the standing order to read that no minister will move a constitutional amendment except in such circumstances.

Honourable senators, I can understand why these options were discarded in favour of a bill which, in its simplest form, prohibits a minister from moving a constitutional amendment except in particular circumstances. Bill C-110, in a sense, declares in a profound way the policy of the Prime Minister that no bill will be introduced by himself or his ministers unless these conditions are met. That declaration in the bill is a response to the crisis in Quebec. It is intended to be a powerful political message that, in the future, this government will never act to amend the Constitution without the consent of Quebec, period.

Honourable senators, I must say that I agreed with the analysis made by the chairman of the committee in saying that fulfilling the rule established in Bill C-110 would require a higher level of consensus than is presently required in the Constitution. The chairman of the committee, Senator Kinsella, said that it would

require seven provinces representing 94 per cent of the population of Canada. I do not quarrel with that. However, that result flows from a limitation on ministerial action. It does not limit the ability of a member of the House of Commons to introduce a constitutional amendment; it does not limit the right of a senator to introduce a constitutional amendment; nor indeed does it limit the right of a provincial legislature or a premier.

In the committee, I explored the possibility of moving ahead with a constitutional amendment at a lower level of consensus than that required by Bill C-110. That is possible. There is no prohibition on securing a constitutional amendment under the lower hurdle of 7/50. I think that is important to bear in mind from a procedural point of view. I am talking about the process and what is possible procedurally. I am not judging what may be politically possible in the future, or what political circumstances may recommend particular courses of action.

Notwithstanding the provisions of Bill C-110, I say that constitutional amendments could go forward at a lower level of consensus provided by the current Constitution, which requires seven provinces representing 50 per cent of the people. I can foresee circumstances in which that would happen, and could happen. It might be a good thing if it did happen.

Taken together, honourable senators, Bill C-110 and the Constitution provide protection for Quebec in the way the Prime Minister suggested, and allow for changes beneficial to Quebec to go forward under the 7/50 formula in particular circumstances. Senator Rivest and others on the committee talked about the protection that this would provide to Quebec. We agreed that that was the intent, but raised the point that the higher hurdle would prevent changes beneficial to Quebec from occurring. My answer is "not necessarily so" because such changes could happen, procedurally at least, under the 7/50 formula.

Nothing in Bill C-110 prevents the federal government from launching a constitutional process and putting proposals before the provincial governments for constitutional change. Presumably that must happen in 1997 under the present framework.

The federal government, in line with Bill C-110, will have to strive for maximum consensus; namely, the Prime Minister will say, "I cannot introduce a constitutional change under Bill C-110 unless I have all the regions with me." However, suppose a single region were to withhold its consent? What happens then? Has the process come to a dead halt? The federal government and the Prime Minister have done their best, and they have reached that point in the discussion where one region says "no." We know that the federal government cannot introduce a motion, but the Premier of Ontario could, as could the Premier of Quebec, or the Leader of the Opposition in the Senate or in the House of Commons, or any other member. Constitutional change could conceivably go ahead under the 7/50 formula.

I put this question to one of our constitutional experts. In such circumstances, I said, there would be nothing to prevent ministers and government supporters from supporting that constitutional amendment. Nothing in the law provides for anything except a prohibition on ministerial action. This particular constitutional authority said, "That would be against the spirit of the law." That shook me a bit, but I was sure another constitutional expert would disagree with that view, and it did happen with the very next expert.

• (1110)

I then said, "What about the spirit of the law?" He replied, "All that is possible. Your outline is possible." I then repeated: "What about the spirit of the law?" He said, "When you talk about the spirit, you are talking about the spirit world. I am talking about the legal world, and in the legal world it is possible. I put that forward to you as my conclusion."

I understand that the right and favourable political circumstances must exist in order for this to happen, but what if much progress was made at a constitutional conference, and an amendment of particular interest to Quebec was opposed by one region of the country?

The Hon. the Speaker: Honourable Senator MacEachen, I hesitate to interrupt you, but the 15-minute period is over.

An Hon. Senator: Let him continue.

The Hon. the Speaker: Honourable senators, is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator MacEachen: If at that stage there is an amendment that is of interest to Quebec and suddenly a region says "no," obviously the federal government cannot introduce a resolution.

However, there is another alternative, which brings me to this tricky question of consent. It is alleged that the bill is ambiguous because it does not say from which entity consent will be sought before a resolution can be introduced in the Parliament of Canada. Will it be the consent of the government, or of the legislature, or of the people? That is unclear, and it is intended to be remedied by the amendment proposed by the committee, namely, that you must have the consent of the legislature of the provinces — that is, everyone, so to speak — before the federal government could introduce a motion.

That consent is not the consent of a province to a constitutional amendment. That is a different beast altogether. The consent here is merely a consent to introduce a resolution in Parliament. If that consent is not forthcoming, a particular region says, "No. We do not agree. We do not give the government's consent. We will not put a resolution before the legislature," and the process is stopped. At this point, the federal government, not having received the consent of the government or governments of a region, or of the legislature, could seek the consent of the people in a referendum. If a referendum were held

and the people said, "Yes, we agree with this particular constitutional amendment," then the federal government could introduce a constitutional amendment in the Parliament of Canada. That would be all.

That, in itself, would be a powerful symbol to a province like Quebec, yearning for particular change. If the people of a region said, "We agree with that," it would be a powerful message in itself. However, it would not change the Constitution, not at all.

At no point does this bill remove from a legislature the necessity of passing a resolution which gives its consent to a constitutional amendment. The legislature is never bypassed. It cannot be bypassed because it is in the Constitution that legislative action is required for a constitutional amendment.

You would then say, "Well, what is the point of having a referendum? The people say "yes," and the government has said "no". Honourable senators will have noticed an interesting discussion in the committee, in which Mr. Ryan and Senator Murray participated, about the political results of that type of situation, namely, if the people in a region were saying, "Go ahead. Put your resolution in Parliament," but the government or governments were saying "no." Mr. Ryan argued that, if that happened in Quebec, the Government of Quebec would act with greater restraint if it had refused, in that case, to give consent to the Government of Canada to introduce a resolution. He then went on to say, "Well, there could be. It would become a political problem or a political issue in the province which might be resolved by an election." However, this instrument in the hand of the federal government, namely, going to the people, will never bypass the legislature in consolidating a constitutional amendment, but it has a political potential that may be useful.

I was not consulted about the bill, but I would think that is why it is there, namely, to advance the constitutional process by going to the people when you think that there is a possibility that the people will support an improvement when the government will not take any action. It provides some momentum.

I understand the arguments that have been made, but I am simply saying that the committee has recommended to the Senate that we remove this possibility of referendum in this context, and that the Government of Canada could only move with the consent of the legislature. I regard that as not a good amendment because it removes a possibility of referendum action that might be useful in a political situation. However, at no time, as I understand it, would it bypass the legislature in achieving a constitutional amendment. The government may reconsider as a result of the referendum; the legislature may reconsider and legislative action would be taken. That is my procedural analysis. All this must be considered in a particular political context.

My colleagues have dealt with the aboriginal situation, and I will not add to it. However, let me say a word about the expiry date. Senator Kinsella used the word "kill" in connection with this amendment. Instead of "kill now" he says "kill later." Why not kill the bill now rather than at the end of December, 1997? The effect of that amendment will be to kill the bill two years hence. Right? There is no doubt about it. So why have it in the meantime? Why not kill it now?

Some Hon. Senators: Good idea.

Senator MacEachen: The committee reported the bill with amendments. One of them was to kill the bill — not now, but later. The committee did not recommend to kill it now because it must see some merit in the notion of giving protection to Quebec against any amendment that would be introduced against its will. Otherwise, they would kill it now. Why kill it later, when you have no guarantee that anything will have been put in its place?

That is what worries me about that amendment. You could have said that the bill would expire when an equivalent provision had been provided in the Constitution. Instead, you want to say to Quebec that they are protected, but only until the end of 1997. If the Constitution has not been changed by then, the minimum protection provided in Bill C-110 will fall to the ground. I do not like that. I would like to see the protection continue until some equivalent agreement is reached.

I hope, Senator St. Germain, that I have lived up to your enjoinder of non-partisanship. I have stuck to a procedural analysis.

Hon. Lowell Murray: Honourable senators, I had not intended to take part in this debate, and I shall not detain you for very long. You will be disappointed if you expect me to live up to Senator MacEachen's description of my contribution as "visionary," but I do hope you will find in my remarks some objectivity.

I would speak first about the protection which this bill offers to Quebec. Senator MacEachen, speaking as he has from the perspective of a parliamentary practitioner, outlined to us the bill's flexibility and the many ways in which an end run can be effected around the bill. In doing so, he underlines the inadequacy of the protection that the bill offers to Quebec or to anyone else.

He points out that the bill is a restraint only on ministers of the Crown. Private members of the House of Commons or of the Senate can initiate resolutions for constitutional amendments. Ministers of the Crown could even support such resolutions. The only restraint is that ministers of the Crown would not be able to introduce such a resolution. It seems to me that he is giving some aid and comfort to those in Quebec who see the bill as an entirely inadequate protection of their interests.

If the first ministers achieve agreement on an amending formula in 1997, then of course the bill will no longer be necessary. First ministers must have unanimity in order to achieve any change in the amending formula. This bill does not affect that process.

I am, however, concerned that this bill, by erecting the higher hurdle it has, would make it more difficult, perhaps even impossible, one day to entrench the recognition of Quebec's distinctiveness in the Constitution. That is only one of the reasons why I do not want to see Bill C-110 as a permanent part of the constitutional landscape in this country.

If the first ministers, in 1997, fail to achieve agreement on a new amending formula, the federal government and the federal Parliament will have to consider another approach. It may well be that another bill or another resolution or another policy statement by the federal government and the federal Parliament will have to be brought forward.

Bill C-110, as a practical matter, cannot last. It is a change to the amending process which has been unilaterally decided by the federal government and Parliament against the opposition of several provinces. We know that British Columbia is opposed because their minister came to the committee and told us so. The Premier of Alberta has indicated his opposition. Saskatchewan and Manitoba which, in the early going, seemed to have good things to say about Bill C-110 in its original form, have backed off from their early support for the bill. That is quite an insufficient consensus in a country like this for a permanent change in the amending process.

It seems to me it would be bad federal-provincial relations, bad for the future constitutional development of the country and bad for national unity to leave Bill C-110 in place longer than December 31, 1997, if the first ministers have failed to achieve agreement on an amending formula. If, unfortunately, they cannot agree in 1997, we must revisit this situation, and revisit Bill C-110, in the light of the situation that will then exist.

Since I proposed the amendments on behalf of my colleagues, I have no difficulty whatever in supporting the proposed sunset clause; nor indeed do I have any difficulty supporting the non-derogation clause in respect of aboriginal rights. I have listened to the letter read by our colleague Senator Cools earlier. I am also aware of the arguments put forward quite logically by Minister Rock and by the Associate Deputy Minister of Justice Ms Dawson to the effect that aboriginal rights are already protected. However, the aboriginal leaders who want an amendment have told us, as we have been told by minorities many times: If that is true, why not put it into the bill, and confirm and secure the protection of our rights in this legislation? Therefore, out of an abundance of caution, if you like, we decided that we would propose the non-derogation clause in respect of aboriginal rights.

With regard to the method of obtaining consent, the bill is far too flexible in that regard. It would enable the federal government, in respect of the same amendment, to take a different approach with different provinces. The Prime Minister could say that, in the case of Nova Scotia, he would accept a letter from the premier as sufficient consent, but from New Brunswick, only a resolution of the legislature will be sufficient, and from Quebec, only a referendum will suffice. The bill leaves it entirely in the hands of the federal government to decide, province by province — or indeed amendment by amendment — what constitutes adequate consent. I do not think that is very good legislative practice. It is even worse as constitutional practice, and worse still in terms of federal-provincial relations and the harmony that we want to promote in this country.

With those few words, honourable senators, I declare my support for the report presented by our colleague Senator Kinsella.

Hon. Gerry St. Germain: Honourable senators, I seek to ask a question of Senator MacEachen relating to Mr. Ryan's evidence.

Both Senator Murray and Senator MacEachen have had great exposure to Mr. Ryan, to his past experience and to his ability to deal with issues of this nature.

• (1130)

On this question of consent, why would the government not be listening to someone who is living day-to-day in the fray with the separatists and who knows first hand the reaction of Quebecers? I understand the present leader of the Liberal Party, Mr. Johnson, is also opposed to the flexibility in the bill with regard to consent. All these people are great Liberals. I am certain they would not exercise partisanship.

Why does the honourable senator think that this would be ignored? He pointed out so deftly in his closing remarks the divisiveness that this could cause in dealing with future constitutional amendments in this country.

Senator Murray: Honourable senators, there is a long history to this question of referenda. As long ago as the 1981-82 process, a proposal for referenda was on the table as part of the formal amending process, and it fell off. At the time, Prime Minister Trudeau wanted to keep in hand the possibility of a referendum to break the deadlock that existed among the first ministers. There is much history to the discussion of referenda.

In the present circumstances, the government decided that it wanted to leave open the possibility of going over the heads of a Parti Québécois government in Quebec City and a legislature which has a majority for the sovereigntist party, and appeal directly to the people in this process. As a parenthetical comment, I should say that the government already has the right and the power to hold a referendum in Canada, or any part of Canada, thanks to the legislation passed back in 1993.

I think it is predictable that, if the federal government invoked that possibility, it would get the backs up in Quebec, not just of the separatists but the federalists as well. There are Quebecers who can speak more authoritatively about this than I, but Quebecers have invested in the Quebec legislature and National Assembly a certain trust and confidence, in terms of that legislature speaking for the Quebec community.

It was entirely predictable, in my view, that people such as Daniel Johnson and Claude Ryan and other federalists would object to the idea, not of a referendum but of the possibility of an end-run by a federal government over the heads of the duly elected Government of Quebec on a matter on which there is authority vested in the government and legislature of Quebec. They take the position that this is a federation, after all, and if the Quebec government wants to have a referendum so as to obtain consent to a federal initiative, the Quebec government should be in a position to do it. There should not be an end-run by the federal government.

Senator MacEachen: Honourable senators, I refer for a moment to the comments of Claude Ryan before the committee on this point. They are as follows:

> It is quite conceivable that reasonable proposals from the federal government and the provinces will be rejected by the current majority in the Quebec National Assembly. What happens then? The federal government is free at any time to consult with Quebecers. It can stage a referendum at any time. It does not need Bill C-110. Assuming that it wins its case in a referendum, then you are faced with a hitherto unseen political situation.

I refer to this, and the following sentence:

> At the very least, the Quebec government will have to act with considerable restraint. Another election battle will be waged. It will be up to those who support this initiative to defend it come election time and to defeat the government. That is how the democratic process works.

That is what I had in mind as I analyzed the ability of the federal government to consult the people on a constitutional amendment to which the government may have been opposed. It just stirs up and opens the political arena to move the process forward.

I understand that is all it is. Never at any point would the federal government go to the people to overrule the legislature in approving a constitutional amendment. That is not possible under this bill.

I found Mr. Ryan's comments very interesting. I agreed with most of them.

Hon. Stanley Haidasz: Honourable senators, I appreciate this opportunity to make a few remarks on Bill C-110, which I believe is an important piece of legislation in the whole strategy of achieving Canadian unity.

As we all know, the cabinet met yesterday, and, according to the press, they said that they have agreed upon a strategy of Canadian unity. I have confidence in the Prime Minister and his new team to achieve that goal to which we all aspire.

This legislation comes just a a few months after that awful referendum of October 30, in which the federalists only won by approximately 1 per cent of the vote. What appals me is that Premier Jacques Parizeau, in speaking to the public after the result, stated that the separatists simply lost because of the ethnic vote in Montreal and some financial assistance of Quebec corporations.

Nonetheless, I still have some caveats with regard to Bill C-110 which I wish to express to discharge my duty to the public record. I will be supporting the bill, as I said, because I have confidence in the Prime Minister, who has been involved in many federal-provincial conferences and who led the one which helped formulate the new Constitution which we now have.

I should like to deal with the precedents that this bill sets. We must not forget that Parliament is not the executive branch of the Canadian government. The government exerts a crucial role, and, if one followed the media over the past generation, one would conclude a preponderant, almost unilateral, role. However, we are historically and legally a parliamentary democracy, of which Parliament is the custodian. A custodian behaves often like a servant, it is true, but Parliament is never and should never be the servant of the government. It is the other way: Government, great leader of parliamentary debate and initiative, is a humble servant of the Parliament of Canada. Unfortunately, Bill C-110 ignores that fact. That is what makes it inflexible, as some speakers before me have mentioned.

Honourable senators, I make this point for the record: The preamble of every bill in Parliament asserts that the Crown acts on the advice and consent, not of the Government of Canada but of the Senate and the House of Commons of Canada — the Parliament of Canada. The government has advised Parliament in this bill that it conceives an overriding political value in enacting a statute that does some highly irregular things.

Does Parliament consent to Bill C-110? With reservations, perhaps Parliament consents. Accordingly, does Parliament advise the Crown to act? If so, in this case, I maintain, with reservations, some of which have been expressed by previous speakers in this place.

What of the reservation that this process and this bill sets precedents? First, there is the precedent that it treats Parliament as a servant of the government, which is wrong. Notwithstanding the portent and consequences of this bill, upon which I will touch momentarily, the bill proposes to set aside the confines of the present constitutional pro forma approaches to change, at least insofar as the executive is concerned. That is more than a consequential matter; it is of prime constitutional significance. Were we to stand strictly on principle, it ought to be referred to a Committee of the Whole, as was done in our debate on the Meech Lake Accord.

Honourable senators, I believe it is important to say for the record that if consent had been sought not to convene a Committee of the Whole, I would not have granted leave; rather, I would agree to convene such a Committee of the Whole and recommend it, as I hope would every honourable senator in this place. Unfortunately, leave was not sought to proceed as we now are proceeding.

The formula proposed by Bill C-110 will set a precedent of its own. We know that precedents are dangerous things. Apparently the political argument on the bill — and I do not say necessarily a bad or baseless argument — held by a number of important minds is that Quebec has, or should have, a right to veto by convention. In several tests, the courts have not recognized a conventional right as argued thus far. Enactment of this bill can have one effect, which is to change that finding at court, but it can also ossify an artificial basis of that veto. Where argument for a better basis may come to light without detailed study, it cannot be concluded that the enactment of this bill will not prejudice the result even of the constitutional conference to which we are looking forward in 1997.

Honourable senators, I am not to be taken this morning as saying that good arguments for a veto by convention for Quebec might not succeed in future. I can think of at least one related to the old principle of duality of founding partners of Confederation; namely, that Quebec happens to be the only province whose government is elected in general by a francophone majority. In other words, the one place in Canada where the preponderant francophone opinion or interest lies is Quebec, notwithstanding significant francophone communities in the other provinces of our country. By contrast, when looking to anglophone interests, there are, of course, several provinces to consider.

Language and cultural rights and fundamental freedoms, including religious and confessional education rights and freedoms of the francophone population of Canada, are on equal footing, whether by Charter or by natural law, with those rights and freedoms of the anglophone population of this country. Indeed, there well may be other rights and freedoms cognate or rationally related to these few I have mentioned which also are to be paired with rights enjoyed by anglophones and our aboriginal peoples, or even matched three ways with a plethora of cultural ingredients whose members constitute a third of the Canadian population. I refer to the non-francophone, non-anglophone, non-aboriginal sector of Canadian society to which I belong. It is reasonable, therefore, to balance effective or *de facto* veto powers held by some combination of mainly anglophone provinces with a veto power held in Quebec.

Thus far, my simple argument for acknowledging some basis in convention for an implicate right to veto in matters germane or highly important to Quebec obviously points to a different formula than is enunciated in Bill C-110, but that is not the point of my observation. My point is that if there is a good argument, a jurisprudent argument and a constitutionally sound argument to be found that Quebec should be accorded a veto power to match certain combinations of other provincial powers to withhold consent, it is not likely to be that formulated in Bill C-110 except by a phenomenal stroke of luck.

We should be asking ourselves today before we vote: What may be the effect on convention, case law and precedent that will be introduced for some indeterminate length of time with the statute, Bill C-110? That is the important question we should be considering at this moment as a body of sober second thought.

Honourable senators, my points thus far with respect to precedent are, first, that a statute takes the role of an act of government, using an act of Parliament as servant, and that is a step which is irregular in custom. I maintain that always the government is a servant of the Parliament of Canada, the representative of the people of Canada. Add to this neglect to assess its significance in sufficient detail in Committee of the Whole, and one has an abrogation of custom that appears unparliamentary in its haste. We are forgetting that we are a parliamentary democracy.

Finally, to enact as statute a measure that is bound to set precedent is to alter the very equation we wish to solve, rather like the famed Heisenberg Uncertainty principle. We seem to be saying that Quebec is a problem of quantum mechanics, say tunnelling, best grasped with gambits, guesses or gambles. At any rate, it is uncharacteristic of sober second thought.

Honourable senators, as to details, I will be brief. Mr. Claude Ryan, who appeared before our special committee endorsing this bill, could not say it would go far to encourage earnest participation of the Quebec government in negotiating constitutional change. Of course he could not, and that is no blame on him. However, so extreme a measure ought to be avoided where its assurances are slim.

Mr. Ryan could not disagree that participants in the process in Quebec may even find the bill counterproductive. However, it is a matter for consideration that this bill is only temporary, and only a first step in our efforts to attain Canadian unity.

There are other obvious weaknesses in the bill, honourable senators, but I will not take your time to describe them. You have heard of them from previous speakers. I will only say that this bill is apparently deliberately vague in the extreme about what constitutes the consent, or withholding of consent, of a province. It could, I suppose, be interpreted as including a last-minute telephone call from a premier's office, or perhaps from a lieutenant governor. However, one shudders at the concept. Of course, it is amenable to the interpretation that it would take a resolution by the government of the province, but that is little better.

• (1150)

Besides the obvious resolution of a province's Parliament or legislative assembly — and Mr. Ryan, among others, felt it important to limit the objects to that — it does not exclude recourse to referendum, either by the provincial authorities or even, conceivably, by the federal government, to find either consent or confidence in a purported veto by the people of the province.

Should a referendum be contemplated, as the objects allow, I am astounded to find no other language to guide principle of sufficient majority. No guidance is given to us in this bill, in the event of a referendum under the terms of this bill, as to what result would be required — for example, a two-thirds majority, or a 50 per cent plus one, or something in between. What is it that the government wants, as far as a referendum being the final voice of the people to which the government has to listen?

Indeed, there is nothing in the bill to discriminate a weak popular vote from a substantial referendum majority which, of course, depends in no small measure on the enumeration and surveillance practices, as was seen in the recent Quebec referendum.

The argument that this is just a bill, that it is dispensable as a statute and, in fact, binds only the ministers of the Crown, is not a good one, but Bill C-110 will be law, I believe, by two o'clock this afternoon. It will become a statute. The courts will know that rather than using the cabinet resolution signals it could have used, the government has chosen, with purpose, to enact these principles, using Parliament to do so. These principles, however they are applied, so long as they meet the vague test of this statute, will establish practices and make any contest or appeal of the referendum results more difficult. In the wrong hands, this bill could become an instrument for undermining democratic representation, one of the bases of political freedom and responsibility.

I do not say that this bill is in the wrong hands, but again, the bill has no sunset clause. Who is to say that it will not be found to be the least onerous action to take politically just to let it stand, to do little or nothing at the time of negotiations in 1997? That is no magical year, honourable senators. Some of us will still be here to see it. How will we feel as we vote at two o'clock this afternoon?

The concept of Bill C-110 is something like an end-run, as we have just heard, around the Constitution. Not touching the Constitution with a 15-foot pole is one thing; running circles around it is another. I think it is the running circles that will draw the foundation of law in Canada, the extant Constitution itself, into doubt, into ill-regard, like some old codger the children of Confederation need not heed.

If perhaps there are terms in the Constitution of 1982 that were ill-conceived or inconvenient to change today, it is well that the government would take a leading role in promoting change, but with due caution and due regard for what does work — what has worked for, well, one-eighth of a millenium at least.

Nevertheless, honourable senators, I applaud the federal government's intention to limit its freedom in propounding change. The government is showing its desire to let Quebec and other provinces know that it will not contemplate introducing into Parliament, of all high places and bars in the land, any motions or resolutions that it has reason to believe would not have approval in populous provinces or regions.

For the record, however, this may be a most ill-advised instrument with which to make that laudable announcement. I believe the people of Canada are accustomed to taking on faith the fact that what is done in Parliament is intended to be in their best interests, and as a senator, I worry that this precedent may only serve to undermine a presumption to which I think all persons are by right entitled.

Should this bill not carry in this house, should Parliament not prorogue imminently, then I would recommend the bill be reintroduced and amended, or at least subjected to a proper discussion, and probable amendment, in Committee of the Whole.

Honourable senators, it is already twelve noon. Our clock at 2 p.m. will show whether Parliament reigns today.

Hon. Noël A. Kinsella: Honourable senators —

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if Honourable Senator Kinsella speaks now, his speech will have the effect of closing the debate on this motion.

Senator Kinsella: Honourable senators, we have engaged in a very fruitful debate on the report of the Special Committee on Bill C-110 which, as Senator MacEachen pointed out, was a very focused study on Bill C-110.

Honourable senators, the record will show, I think, that we have met our responsibility of examining a bill that was passed by the House of Commons, albeit under the press of closure in the other place. Although we received this bill prior to the Christmas break, we used that period of time to do our individual studies of it, and to prepare for the careful, focused hearings that we did conduct.

The proposition we have heard from colleagues opposite is that there are some problems with this bill. I am not sure whether those problems, as they have seen them and as they have articulated them in the debate here, will lead them to the conclusion that they will therefore vote in support of the committee's recommendation that there be three amendments which would eminently improve this bill.

As I have listened to the debate, all senators seem to agree that this bill is a first step. We seem to have a divergence of views as to whether or not it is a hollow step. Most on this side are of the opinion that there is a bit of a façade abroad with reference to the bill. The façade or myth is that many in the public are expecting that this bill somehow will solve the constitutional amendment problem — and they underscore the term "problem" — that we have in Canada. It is a problem that goes to the heart of the nation.

• (1200)

In my judgment, these days we are experiencing a rupture in the fabric of Canadian life. The community of brothers and sisters in the province of Quebec are experiencing daily a serious fracture in their community life. Because Quebec society is living with this rupture, Canada is living with this rupture. It is a fracture that goes to the very foundation of our country. It is a fracture that cannot be rectified with Polyfilla. We have to re-engineer the very foundation of this great Confederation, a Confederation in which the practice of freedom has enjoyed immense success for over 127 years.

The Canadian Confederation, in my view, has proven itself in so many ways. Notwithstanding that, the reality we live with today is that there is a fracture in our country. I am not satisfied, nor do I think are colleagues who support the government, that this particular measure will be much more than a band-aid over a major wound. We must do much more. We must assume the leadership. We must articulate the vision of Canada 2000. We must underscore the need for national conciliation. We must be imaginative and creative in order to bring our country into the 21st century. We must provide this country with a renewed foundation on which it will stand for another 127 years!

Honourable senators, it is important — and I think we have done this here — to demythologize this bill, particularly that somehow we have come up with a constitutional veto for the people of Quebec, a demand they assumed the Prime Minister of Canada was committed to as he made his important undertaking in Verdun on October 27, 1995. If the government proceeds with its great communication plan to camouflage the reality that we do not have a constitutional amendment that responds to the real needs as articulated by the people of Quebec and their leadership, the people will see through the veil.

We, on this side, have stated that we support the principle; we support the step in the direction of trying to come to grips with the notion of a veto for Quebec. However, this measure, as Senator MacEachen accurately described for us, is simply a restriction on the executive and on the Government of Canada. It does not even place a limitation on the actions of backbenchers or of members of the Houses of Parliament.

Honourable senators, we are prepared to accept that this is a first step. We are anxious to know what the other steps will be because this is not a significant beginning.

By way of a notice of motion, we have before us a proposal that this chamber should strike a committee to identify some of the constitutional amending options the Government of Canada and other governments might wish to look at as they prepare for their mandated conference of 1997. I hope that in the fullness of time this chamber will be able to act on that recommendation by our colleague Senator Beaudoin.

One of my concerns centres around a concern that Claude Ryan and Daniel Johnson raised about how provincial consent will be determined should Bill C-110 receive Royal Assent. Thus, it is the subject of a specific amendment in the report of our committee. That question and this amendment also speak to a divergence in vision that we on this side and our colleagues on that side have about the nature of Confederation itself. If the vision of Sir John A. Macdonald and the Fathers of Confederation was that Canada is the coming together of real entities — the four initial partners in Confederation — then the proposition that the central government should have the power and the tools to interpret the public interest of the parts, as distinct or separate or in place of the public interest being determined by the parts, is a fundamental difference in vision.

I believe in Confederation. My values, my starting point and my criteria are that the provincial parts of Canada are sovereign within their spheres of jurisdiction. They have the legitimate right and responsibility to interpret the public interest of their provinces and their peoples. On the other hand, within its sphere of jurisdiction, the federal government has the duty and responsibility to ascertain and articulate what would constitute the pan-Canadian public interest. Bill C-110 commits an affront to the fundamental principles of Confederation. We are taking the federal Parliament into the realm of what is legitimately and appropriately the jurisdiction of provincial legislatures.

Honourable senators, we heard from one colleague opposite that perhaps it would have been better to kill the bill now rather than allow a sunset clause. There is agreement amongst many of us on this side that that would be a better course of action. However, our approach and commitment at the beginning of the study of Bill C-110 was that we would be as constructive and helpful as we could. We felt that the three amendments we brought forward in that spirit of attempting to be constructive would find a good degree of support from members opposite, for these amendments do not detract from the fundamental principle and objective which the Prime Minister set out in Verdun.

• (1210)

Therefore, I urge all honourable senators to give full consideration to supporting the adoption of this report.

The Hon. the Speaker: Honourable senators, it was agreed by motion yesterday that we would complete discussion at 1:30 p.m. with a vote at two o'clock. The discussions on this particular motion are now complete. The bells will ring at 1:30 p.m. and the deferred vote will be held at two o'clock.

We will now proceed with other items on the Order Paper.

PEARSON AIRPORT AGREEMENTS

THIRD REPORT OF SPECIAL COMMITTEE—
DEBATE CONCLUDED

On the Order:

> Resuming the debate on the consideration of the third report of the Special Committee of the Senate on the Pearson Airport Agreements — (*Honourable Senator Berntson*)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I had not intended to speak to this report until after I heard Senator Kirby yesterday. Even then, I will only briefly make reference to some of his comments in view of the time and the day. When we return, I certainly intend to put down an inquiry and continue the discussion, particularly with reference to the minority opinion and Senator Kirby's reflections on it, as they were made yesterday.

First, as one who was not exactly passive in the debate on the motion that set up the committee, I wish to thank all the members, the chairman, members on both sides, and the staff at

all levels for having given so much to make this committee, a very unusual committee, the success it was. In particular, I wish to thank them for having, in many cases, altered summer plans to bring their energies and efforts to the successful completion of the committee's work. Many had to alter plans. They did so gracefully. I thank them in particular, and all those associated with the committee's work, for the excellent contributions they made to it.

I have nothing to add to what Senator MacDonald said yesterday. However, as I said earlier, I have a lot to say about what Senator Kirby said. First, I want to remind honourable senators about the purpose of the committee, of which some seem to have lost sight. Our concern here has not been with the cancellation of the contracts themselves. We believe it was an unwise decision, but we also accept the fact that the Government of Canada has a right, through the parliamentary process, to cancel the agreements.

Hon. John G. Bryden: That is not what the terms of reference say, senator.

Senator Lynch-Staunton: I am trying to explain the purpose of the inquiry.

Senator Bryden: Read the terms of reference. Events leading up to and the negotiation and the cancellation of the contract. That is what it says.

Senator Lynch-Staunton: Our argumentation on the Pearson controversy has never been with the government's right to cancel the contracts, although we do question the wisdom of so doing. The purpose of the committee was sparked by certain statements made by a number of ministers of the Crown, including the Prime Minister, the Minister of Justice and, in particular, the former minister of Transport.

The former minister of Transport, in his appearance as a witness before the Legal and Constitutional Affairs Committee to discuss Bill C-22, set the tone of his approach by asking me, the first questioner, whom I was representing. This implied, quite unsubtly, that my colleagues and I were there objecting to Bill C-22, not on the question of the rule of law or the other arguments we had raised, but to represent the interests of certain individuals and companies who had a vested interest in the contracts themselves.

That statement set off a litany of what I can only call vitriolic statements which, in summary, accuse just about everyone involved with the Pearson agreements and those involved with the protestations over Bill C-22 with having one motivation, namely, to protect the interests of Conservative supporters.

I will not read all the condemnation to which we and others have been subjected. Let me just remind honourable senators of some of the more colourful ones. First, that the Pearson agreements were the biggest rip-off in Canadian history.

Senator Bryden: That has been proven accurate.

Senator Lynch-Staunton: Second, that they were "a cesspool of intrigue," and senators in this chamber on this side were involved, in condemning Bill C-22, "to line our friends' pockets."

These were not just casual statements made in the heat of debate; these were calculated condemnations of parties involved in a straight-up agreement, and of senators concerned over a reprehensible bill drafted to obscure the true motivation of those who cared about the rule of law.

In particular, two provocative statements were made — one by the former minister of Transport when he said, in commenting about our concerns, that he would "let the Conservative majority in the Senate continue to try to take care of their friends." The other statement, by the Minister of Justice, is a little more subtle but the implication was the same when, in commenting on the changes we wanted to make to the bill, he said that he regretted the changes. He went on to say that he observed that the majority of the committee that made those recommendations are Progressive Conservative senators and that he thought that had a lot to do with it.

The implication is clear. Over and over again, government members have deliberately embarked on a campaign of condemnation of colleagues on this side, and have characterized the agreements as being in the worst interests of Canadian taxpayers.

This alone justified an independent inquiry. If Canadian taxpayers were so badly ripped off; if favourite friends of previous governments were so well taken care of, surely an inquiry was essential in order to see, first, the validity of the charges; and, second, if there was any, to take whatever proceedings were necessary against whatever individuals were found to be involved in criminal activity.

Senator Bryden: We have already heard this speech.

Senator Lynch-Staunton: Third, an inquiry was necessary to find out if there are members of Parliament who happen to sit in this chamber who are carrying out their responsibilities with the sole purpose of lining their friends' pockets.

The government refused to set up an independent inquiry. It was not with any enthusiasm — and I am quoting myself — that we made a motion to set up a Senate inquiry. We knew that the interpretation of the results would be obscured by the partisan nature of the makeup of the committee, but better a Senate inquiry than none at all.

As it turns out, none of the major malicious statements made by any minister were ever proven by any witness who came before us. There was no cesspool. There was no rip-off. There was and is no lining of pockets.

Senator Bryden: I do not know what inquiry you attended. What about the $3.5 million? Stick to some facts.

The Hon. the Acting Speaker: Order, please. Senators will have an opportunity to participate in the debate. Senator Lynch-Staunton has the floor.

Senator Lynch-Staunton: None of those who made those statements have had the decency to retract them, even less to apologize for them. That does not surprise me in the least, because these are the same people who showed no concern whatsoever when the Department of Justice sent a letter to a foreign country indicating that a former prime minister had engaged in criminal activities —

• (1220)

Senator Bryden: Your Honour, I rise on a point of order.

The Hon. the Acting Speaker: The honourable senator rises on a point of order.

Senator Bryden: Honourable senators, is the honourable senator using the debate on the Pearson inquiry report to also deal with the Airbus scandal?

Senator Lynch-Staunton: Honourable senators, that is not a point of order; it is a point of information. I am commenting on the Pearson report and giving some background to it. If some of the things I say are touching a nerve, so be it.

I will add one thing, whether or not it is out of order: Given a choice between casting my lot with Brian Mulroney or with those who would deny innocent citizens the rule of law or a former prime minister the presumption of innocence, I will pick Brian Mulroney any time.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: As for the report itself, I do not have the time and this is not the day — particularly in view of the vote to be held at 2 p.m — to reply to Senator Kirby's diatribe. It is hoped that we will have another occasion because we cannot let his tirade go unanswered. Any unsuspecting reader of Hansard may take it for fact when it is, in large part, a harangue based on hearsay, selective documents, irrelevant facts and out-of-context statements. It is a perfect sequel to the Nixon report, the contents of which were long ago discredited. The report's author and his associates as witnesses in front of the committee proved equal to the report and the unprecedented legislation which it fostered.

Senator Kirby's presentation should be attached to the Nixon report as Volume 2, as both start from preconceived notions to arrive at incoherent conclusions. Both take particular offence at the fact that the Pearson contracts were concluded shortly before the last federal election and that, somehow, this was a violation by a government of established tradition, particularly by a government whose chances of being re-elected were universally considered to be nil.

As a result, the cancellation of the contracts, claim Liberal ministers and their supporters, will cost taxpayers hundreds of millions of dollars if Bill C-22 is not passed. This will be said to be the fault of a Conservative government which directed a sweetheart contract to its supporters, which had to be cancelled because it was against the public interest. So goes the Liberal line, incorporated in the Nixon report, parroted in the Pearson committee minority opinion and in Senator Kirby's remarks of yesterday.

The evidence is all to the contrary. The agreements were not signed by Conservative or government supporters. The contracts were in the public interest.

Here we are, over two years later, and nothing but the bare minimum is being done at Pearson airport. A lease with the airport authority has yet to be signed. Both carriers and travellers plead for improvements to Terminals 1 and 2 which everyone knows have been long overdue. Had the contracts been respected, hundreds of millions of dollars in private capital would have been invested and thousands of jobs would have been created in a region which is desperately in search of jobs. Cancelling the contracts was done for no other reason than narrow, partisan purposes.

I intend to elaborate on this and other aspects of the sad, not to say tragic, Pearson story on another occasion. Now I want to comment on the myth that the main contracts were signed in late October 1993. They were not.

All of the evidence indicates that both parties recognized that, by the end of August 1993, negotiations had led to agreements from which neither party could unilaterally remove itself without being exposed to major financial damages.

Senator Bryden: That is absolute nonsense. That is absolutely not true. How can you stand up there and simply state what goes against the facts found in the evidence and the report?

Senator Lynch-Staunton: This is what Prime Minister Campbell was faced with. Had she refused to allow the deal to be closed in October, some 20 days before the election, without the approval of the other parties, an immediate claim for damages would have ensued.

I urge honourable senators, including and in particular Senator Bryden, to read the testimony of the now Clerk of the Privy Council and other government officials involved in the negotiations, including senior Treasury Board officials. They will find in that testimony unanimous agreement that, as the negotiations moved to a successful conclusion, beginning in the early summer of 1993, potential liability based on the backing off of one party or another was increasing accordingly.

It is all there in the testimony by those involved in the negotiations on behalf of the Government of Canada. A deal began to take shape.

Senator Lynch-Staunton: A deal began to take shape as early as June 1993. The closing date of October was set sometime in early July.

Senator Bryden: No contract until October.

Senator Lynch-Staunton: The date was set sometime in early July.

Senator Bryden: There is evidence that there was no contract until July.

Senator Lynch-Staunton: That confirms that both sides were committed to a successful conclusion of negotiations which took place at the end of August. It took place at the end of August.

Honourable senators, I am very new here, but is there any rule of this house that the statements of a senator must bear some relevance to the facts about which he is reporting?

Senator Berntson: Obviously not. We listened to it all day yesterday.

Senator Lynch-Staunton: If Senator Kirby is an example, the honourable senator has answered his own question. My intervention has been an exception, which is perhaps why the honourable senator rose.

The closing date of October had been agreed upon in early July. By the end of August, the deal was successfully completed. At the end of August, cabinet approval was given to a Treasury Board submission, and an Order in Council was issued giving the Minister of Transport authority to sign the contracts based on the submission made to cabinet.

There we were, in the same position as someone who had agreed to buy a house. The price was set and the actual closing date was to take place a month or two months later, but there has been an agreement between the two parties before the final, formal closing. In this case, a firm commitment between the two parties was made at the end of August. What happened in October was a formality.

At the end of August, honourable senators, the Government of Canada and Pearson Development both knew that they were committed to each other and that any breach of that commitment, other than by mutual agreement, would have costly legal and financial repercussions.

What Prime Minister Campbell agreed to was not the signing of the contracts but their release from escrow where they had been put, already signed, by the minister and Pearson Development until certain obligations were met. Did Prime Minister Campbell have a choice? I suppose she did. Yes, politically, it no doubt would have been preferable had she decided to postpone the closing date until after the election. Politically, that might have been the best choice.

However, in terms of the country's interests, this would have been the wrong choice as taxpayers would have been exposed, as has been confirmed in testimony from all sides, to damages arising from a unilateral breach of contract. As Prime Minister, Ms Campbell had no choice.

• (1230)

Let me remind honourable senators that, during the campaign, Mr. Chrétien spoke of reviewing the contracts and about the public knowing all the facts. Immediately after the election, Pearson Development Corporation agreed to postpone the execution of the contracts to allow a review to take place. The events that followed are well known. The so-called "review" by Robert Nixon was nothing but a politically motivated argumentation against private development, and a recommendation that the contracts be annulled based on innuendo, prejudice and preconceived notions.

To compound this, honourable senators, the government then introduced Bill C-22, which would give the Minister of Transport absolute discretion in the determination of the type of damages to be awarded and the amount. Unfortunately, these decisions have had repercussions way beyond our borders, for this would be the first time that not only has a Canadian government repudiated a contract without justification, but also has refused the repudiated party the right to seek redress before a neutral party. Our reputation abroad has suffered tremendously from this unprecedented action.

If a convention was broken, it is not because of what Ms Campbell did in October of 1993; it is because of what the Prime Minister authorized a few weeks later: the breaching of the convention that one honours the obligations of his or her predecessors and, in disagreement, respects the rule of law and fairness in changing or abrogating them; something which was not followed in the case of the Pearson Airport Agreements.

Some may question whether or not this is indeed a convention, so let me quote to colleagues a statement made by the Prime Minister himself when he was in India recently, signing trade agreements at the time that either an election had been called, or was about to be called. I do not have precise information, but what I have learned since is that a vote is expected in India in April. No exact date has been announced, but the election campaign is on, and was on at the time.

The Prime Minister, after signing trade agreements, was asked by an Indian reporter if any Canadian trade deals would be jeopardized or could be jeopardized if the government lost the election. If the Indian government signs contracts in which the government has an involvement, could a successor abrogate the contracts?

Senator Stollery: After the writ has come out?

Senator Lynch-Staunton: I do not know their system, but the election campaign was on. The situation is similar enough to the one we were in for me to make mention of it.

The Prime Minister replied — without blushing, by the way, because I also heard him on television — that a change in the government would have no effect. He said that "governments make it a tradition to respect the words of previous governments."

I can only assume that, in this case, the statement is not divisible. What Mr. Chrétien said applied to agreements this country makes outside Canada also applies to agreements made by the Canadian government domestically.

Senator Olson: Why not tell the rest of the story? He said before the election that he would cancel the contract.

Senator Lynch-Staunton: No. He said before the election that he would review the contract. The word "cancellation" appears nowhere. He said that he wanted the public to know all the facts. That is a long way from giving Mr. Nixon a 30-day mandate, with the first draft report coming out on November 18, halfway through that mandate, with a conclusion, even before Nixon heard from his so-called witnesses, for, by the way, many of the witnesses who should have been there were not invited, and of the others he had little recollection, and had no notes with which to jog his memory. It is also interesting that Mr. Nixon has made no comment on the Pearson report, and with reason.

Honourable senators, let us hope that the government has learned from this tragic story, and that it will not be repeated by it or its successors. In particular, if the Prime Minister's statement is not divisible, he has no choice but to see that Bill C-22, whether in its existing form or as a successor bill, will not be brought here again to do dishonour to the Parliament of Canada.

Some Hon. Senators: Hear, hear!

Senator Bryden: Honourable senators, I wonder why we are doing this today. I was not here yesterday, but why was this issue raised yesterday? The purpose of these past two days has been to address serious issues relating to the future makeup of our country. These issues may have implications not only for us but for generations to come. I am bewildered as to why, at this time, we are back to continuing to pick at the political cadaver of the last days of the moribund Mulroney government.

Senator Lynch-Staunton: The item is on the Order Paper.

Senator Bryden: I had the opportunity to read the debate of yesterday. The only reason I can think of as to why Senator MacDonald, the chairman of the committee, would have taken an hour to review and rehash what has gone on and attack the minority report is that he, for some reason, felt he needed a rematch after what happened at the press conference on December 13. The way I read what happened yesterday, he was overmatched. I do not think Senator MacDonald did such a bad job on December 13; not nearly as bad as some of his friends opposite implied. Given what he had to work with, he did a very good job.

This place, surely, has had enough of the Pearson deal. I would think that the Canadian public has had enough of the Pearson deal. They voted on this issue. It was a large part of what happened in October of 1993. We have invested goodness knows how many dollars in the inquiry that took place this summer. It changed no one's mind in particular. What it did do is present once again to the jury of the Canadian public what this deal was all about. That jury turfed the Conservative Party, which entered into that deal out of office, and virtually obliterated it. I found no indication that anything that came out of that inquiry changed their opinion.

Honourable senators, I want to draw the attention of this house to something that happened which may be of interest. On December 13 last, the committee report was tabled and a press conference occurred with media interviews. On December 15, a lead editorial appeared in *The Globe and Mail*, together with a treatise on Bill C-22 by Professor Monahan. The lead editorial basically reiterated the conclusions of the Conservative majority, with Professor Monahan supporting the fact that he thinks Bill C-22 is unconstitutional.

On December 21, I faxed a letter to the Editor-in-Chief of *The Globe and Mail* replying to both. Predictably, the paper refused to publish it. Being basically a fatalist, I put my letter in the file, thinking that the time is past, the issue is done, we have beaten this dead horse as much as we can beat it. Then, lo and behold, I came back here to find that it has been resurrected. Since I could not get it on the public record through *The Globe and Mail*, I should like to put it on the public record now.

This is a letter dated December 21, 1995, to William Thorsell, Editor-in-Chief of *The Globe and Mail*. It reads:

> Dear Editor:
>
> I was disappointed, although not surprised, that your editorial "A lapse of judgment on the Pearson Airport" (Friday, December 15), presented such a one-sided view of the evidence and conclusions of the Report of the Special Senate Committee on the Pearson Airport Agreements, that it might more properly have been authored by Conservative Senate leader John Lynch-Staunton than an editor of what purports to be Canada's national newspaper. Your editorial omitted many important facts, which I hope you will allow me to present to your readers, so that they may draw their own conclusions about the "Pearson Airport affair."

Fact: The evidence showed that the Pearson contracts gave the developers $200-$250 million more in profits than prevailing rates of return required....

Fact: The rate of return to the developers was not 14%, as stated by the majority report, but a pre-tax 23.6% —...

Fact: The model used by the Government in assessing the rate of return was a model provided by the developers themselves — who were hardly impartial or disinterested in the results of the assessment....

Fact: Over and above their 23.6% profits, the developers would have earned millions of dollars in non-arms length side agreements. These included construction contracts, management contracts, engineering contracts, international promotional contracts and consulting contracts. One of these contracts, signed during the election campaign, was a no-cut promise to pay $3.5 million over ten years to a company headed by Don Matthews, with no obligation by Mr. Matthews' company to provide any goods or services in exchange for this money. None of these contracts was mentioned anywhere in the majority report.

Fact: Time after time when lobbyists pitted themselves against the recommendations of the public servants, the Minister of Transport expressly directed the public servants to accept the lobbyists' recommendations. The public servants' dismay was evident in a 1991 memorandum shown the Committee, which said: "Paper trail — Min[ister] can overrule us...but audit trail on decisions." This evidence was omitted from the majority report.

Fact: Mr. Fred Doucet, a long-time close personal friend of Prime Minister Mulroney, won for his company over $2 million for lobbying services for Mr. Matthews' groups —...

Fact: Mr. Bill Neville, another lobbyist for Mr. Matthews' group, not only received "full debriefings" on what transpired in secret Cabinet committee meetings, but was also brought in on Kim Campbell's transition team and helped shuffle senior public servants involved in the Pearson file.

This while he was still invoicing Paxport.

Senator Tkachuk: Where is that in the evidence? Read it out of the evidence.

Senator Bryden: It is in the evidence. You just did not do your homework, senator. The letter goes on:

Fact: Prime Minister Mulroney was very heavily involved in this file. There was repeated evidence that pressure was being exerted from the very top to conclude the deal before Prime Minister Mulroney left office.

Senator Tkachuk: Who said that?

Senator Bryden: It's in the file.

Senator Tkachuk: Don't just say it. Who said it?

Senator Bryden: I can cite the transcript if you want. I am reading the letter. I do not want to confuse the fact that I am reading my letter. To continue:

None of this evidence was mentioned in the majority report...

Fact: Mr. Shortliffe, Mr. Mulroney's top civil servant, testified under oath that Mr. Mulroney asked him to try and arrange things with the Pearson project "so that everybody could get a piece of the action." ...

Excessive profits, sweetheart deals, busy lobbyists, political pressure — this was how Canada's largest and most profitable airport ended up in the hands of a private group of developers in a 57-year lease. And who would pay? The travelling public, in increased charges for virtually everything at the airport.

We detailed all this evidence (and more) in the minority report. Our report was not, as suggested in your editorial, an interpretation of the evidence. Our report simply quoted the evidence before the Committee. The evidence speaks eloquently for itself. This was a bad deal, negotiated by a flawed process, and pushed through during an election campaign in a way that the academics who testified described variously as "bizarre," "imprudent," and "constitutionally inappropriate exercise of power."

It was evident from reading your editorial that you had confined yourself only to the majority report. I invite you, but more importantly, I invite your readers to read both reports. I ask them as taxpayers, as members of the travelling public, and as citizens, to decide whether the Chrétien government had any choice but to cancel this deal.

Having participated in the hearings, I cannot say it was a worthwhile expenditure of time or taxpayers' money — not in these times, when government services have to be drastically reduced, and every tax dollar has many needy hands reaching for it already. The evidence simply confirmed the judgment already made by the Canadian electorate in October, 1993. The Liberals in the Senate did not ask for the inquiry; but the Conservative majority voted for it. And we did our best to get at the truth.

It was an interesting coincidence that on the same day that your one-sided editorial appeared, on the op-ed page was a treatise by Professor Patrick J. Monahan entitled, "Why the Pearson legislation may be unconstitutional." Its

entire thesis is based on the assumption that the Pearson agreements resulted in a "fairly bargained contract", and that the cancellation of this contract by Bill C-22, which restricts the proponents' legal claims to the recovery of actual costs incurred, but denies any claims for lost future profits and consultants' and lobbyists' fees, would somehow be contrary to the rule of law referred to in the preamble to the Constitution. Two points need to be made in regard to this thesis.

First, the vast preponderance of evidence presented at the inquiry into the Pearson deal established that this was not a fairly bargained contract. It was enormously generous to the developers, failed to protect the interests of the travelling public and the Canadian taxpayers, and its terms were virtually dictated by the proponents directly, or indirectly through their lobbyists, with the acquiescence if not the active promotion of the Ministers and Prime Ministers. This was not only in violation of the Conservative Government's own policy on airport devolution, but was also in total disregard for the Government's three principles governing major contracts, that require competition, equal treatment, and openness and transparency of process.

Second, this was not a contract entered into by a Government and then cancelled by the same Government. It was a contract driven to completion and directed to be signed by the Prime Minister in the dying days of the Conservative Government, and it was cancelled by a succeeding government, whose mandate was, *inter alia,* to do exactly that. If one were to follow Professor Monahan's thesis to its logical conclusion, any succeeding government must either perform such a contract, no matter how exorbitant the costs, or if it cancels the contract, incur the risks of huge damages for lost future profits and lobbying fees that may be awarded by the courts at the expense of Canadian taxpayers. Surely this is taking a reference to the rule of law in the preamble to the Constitution to ridiculous extremes.

It should also be pointed out that Professor Monahan's view is not the only one expressed by constitutional experts to the Legal and Constitutional Affairs Committee of the Senate.

• (1250)

In addition to the Justice Minister and his constitutional experts, Professor Wayne MacKay of Dalhousie Law School, and others, find Bill C-22 to be in total compliance with the Constitution and well within the powers of the Parliament of Canada. Indeed, if one reviews the testimony of the various 'constitutional experts' before the Committee, one is reminded of what is sometimes said of the expert opinions of economists, that they have an opinion not because they know, but because they are asked.

Under the guise of the reference to the concept of the rule of law in the preamble of the Constitution, Mr. Monahan is setting the stage for gross abuses of power by outgoing governments. If accepted, his argument would allow — perhaps even encourage — governments that have lost the trust of the electorate, to engage in a patronage spree beyond anything we have seen before. Governments would have no constraint on their power to conclude rich deals with their friends and supporters. Any succeeding government would then be bound — by Mr. Monahan's thesis — to honour such contracts. If they were to elect to cancel the contracts, they would still be liable to pay the friends and supporters damages for all the profits they anticipated receiving.

A court cannot rewrite a bad contract, even one made by a government on its way out of power. And according to Mr. Monahan, Parliament is powerless to undo such a contract, unless the parties can claim damages for all the profits and fees as if the contract had been completely performed.

Surely this is absurd; surely this is not how our parliamentary and judicial systems protect our interests as citizens. And what value does our vote then have? The electorate voted to undo the deal; yet Mr. Monahan's thesis would refuse the electorate that right. Or would it?

Bill C-22 would cancel the Pearson contracts, and provide a mechanism for the Government to reimburse the developers for their reasonable costs and legal fees, plus interest. If one reviews the testimony before the Senate Legal and Constitutional Affairs Committee, it is this reimbursement mechanism that Mr. Monahan has declared falls afoul of the rule of law.

The Hon. the Acting Speaker: I regret that I have to inform the honourable senator that his speaking time has expired, but he could, of course, continue with the unanimous consent of the house.

Is it agreed?

Hon. Senators: Agreed.

Senator Bryden: Honourable senators, allow me to continue from where I was before I was so graciously interrupted. My letter continues:

It will be a rather bizarre result of the Conservatives' position on this bill, if the Government is forced by the Conservatives to return with a new bill, one which would cancel the agreements and provide no compensation at all. All the witnesses who appeared before the Senate Legal and Constitutional Affairs Committee, including Mr. Monahan, are on record as saying that this would be perfectly constitutional and well within the power of the Parliament of Canada.

Remember, honourable senators, that this was written on December 21. Continuing with my letter:

> I believe that Bill C-22 is constitutionally sound, and sensible public policy in view of the circumstances of this particular — highly unusual — deal. This bill has been debated twice in the House of Commons, studied in the House of Commons Transport Committee, debated extensively in the Senate, and has now sat in the Senate Legal and Constitutional Affairs Committee for 18 months. Twice the Government attempted to break the gridlock on the bill, by proposing amendments that would address the concerns raised by the Conservatives' experts; however, each time one concern was addressed, a new one suddenly emerged.
>
> It is time to pass the bill, so that it can be a law to be considered along with other laws by the courts during the legal action on the contract which is currently before the courts. That is the proper action for the Conservative majority in the Senate to take at this time, unless the real purpose of continuing to hold up passage of the bill is, to use Senator Finlay MacDonald's words, to have it "die on the order paper." In trying to understand the motive for such stonewalling of this bill, during this season of the year —

Remember, I wrote this on December 21 —

> — I turn to the words of Mr. Scrooge when confronted by the ghost of his former partner Marley, in Dickens' *A Christmas Carol*: "There's more of gravy than of grave about you, whatever you are!" An objective observer might conclude in this case that there is much more of gravy than of grave constitutional concerns motivating the Conservative majority in the Senate on Bill C-22.

Hon. H.A. Olson: Honourable senators, I have a word or two to say in this debate because of the interventions and heckling of the two members from Saskatchewan, who seem to think that the government has done something wrong by dealing with a matter that was finally authorized just before the election, long after the writ was issued. They should go back and read some of the debates of one of their compatriots, the Right Honourable John Diefenbaker, and see what he had to say about governments making long-term commitments of any kind after the writ is issued.

While the government of the day did have a majority — and could legally and constitutionally sign these agreements — morally, and in the name of decency, they should have waited at least until they saw whether or not the people would endorse them. My understanding is that the Prime Minister of the day signed the deal nine days before the election day. Why could the government not have waited to see whether or not it had the moral authority of the electorate in Canada?

Senator Tkachuk: You should appoint a judge.

Senator Olson: No. You should not appoint a judge to determine what payments will be made out of the public treasury. That is done sometimes but it is not a good idea generally. Parliament has control of the purse strings in this country, and so it should. That is what the bill calls for. It calls for the government to pay some of those expenses.

I recommend that Senators Berntson and Tkachuk read some of Mr. Diefenbaker's speeches about the type of situation in which the previous Conservative government found itself. All they needed to do was to refrain from signing the agreements until election day, because the present Prime Minister, then the Leader of the Opposition, had already advised the government, the public and the participants to the deal that if the Liberals were elected, that deal, that arrangement, would be cancelled, so it was no surprise to anyone.

The government of the day did not have the moral authority to sign that deal, and it should not have signed it.

Senator Lynch-Staunton's remarks are what have spurred me to make these few comments. He says that someone else is at fault. There is no one else at fault except the government and the Prime Minister of the day, who signed the deal nine or ten days in advance of the election, when they really did not have the moral authority to do so.

The Hon. the Acting Speaker: If no other senator wishes to speak, this order is considered debated.

• (1300)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FORTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the forty-third report of the Standing Committee on Internal Economy, Budgets and Administration, presented in the Senate on February 1, 1996.

Hon. Colin Kenny moved the adoption of the report.

He said: Honourable senators, the report before you requests approval of a supplementary estimate for the present fiscal year 1995-96 totalling $3,265,000. The supplementary estimate is requested to fund unanticipated expenses for the current year. It will generate savings in future years or will result in increases in productivity.

The items for which the supplementary funds are required are as follows: first, the Early Departure Program which resulted in the elimination of 16 positions from the Senate; second, an upgrade to the Senate's very much outdated computer communications network; third, the requirements of the special joint and standing committees whose expenditures were not foreseen at the time that the Senate set its budget for the fiscal year; fourth, the implementation of in-house printing which will result in annual savings of $600,000 in printing costs.

I should note that in 1994-95 your committee asked for and received a supplementary estimate of $1,873,000 for the purchase of computers and a new sound system. However, much of this money lapsed as there was insufficient time to complete these projects. This year, we do have the necessary time and we are confident that all our projects will be completed before the end of the fiscal year.

I should like to provide honourable senators with a little more detail on why your committee is requesting these funds. I will begin with the Early Departure Program. During 1995-96, the departure payments made to employees whose positions were eliminated amounted to $875,000. This was partially offset by salary savings of $418,000, leaving $457,000 currently unfunded. The funding of departure payments for government departments is usually approved by Treasury Board provided that the payback period is reasonable, that is, no more than two or three years.

While it is obvious to senators that the Senate is not a government department, your committee has nevertheless applied standards which are as high or higher than those applied by Treasury Board. The Senate's payback period is 16 months, which is significantly better than the Treasury Board guidelines.

I should like now to talk about the upgrade to the Senate's computer communication network. As many senators know, our present system is outdated. It has limited capacity and is subject to frequent breakdowns. It is quite apparent that there is a need to communicate electronically with the House of Commons and the Library of Parliament.

Just last year, the other place upgraded its computer communication network and funded it through supplementary estimates worth $3,800,000. In order for us to be technically compatible, the Senate must also upgrade, which will cost a total of $1.408 million.

I will now discuss our proposal to upgrade the Senate's sound system. Funds have been set aside to establish an adequate system for sound distribution inside and outside the Senate chamber for requirements of simultaneous interpretation. The Internal Economy Committee has been putting off this problem for many years. Our sound system is so inadequate that staff has been informed that no amount of repair will provide us with the reliability we require. If we do not replace it now, we will continue to experience forced adjournments because the system is not functioning. This disrupts our sittings and delays the passage of legislation and other work of the Senate. As well, an improved, updated system will result in much better quality in the translation and interpretation of our proceedings.

It has been an established practice to fund special and joint committees from supplementary estimates as these costs cannot be anticipated during the budget process. The total amount we are requesting this year is $515,000 which breaks out as follows: Pearson airport committee, $298,000; joint scrutiny of regulations committee, $151,381; the special joint committee on code of conduct, $31,942; the special committee on euthanasia, $26,300; the official languages joint committee, $4,300; the Library of Parliament joint committee, $3,000.

Finally, I would like to discuss in-house printing. A few months ago, the internal economy committee, under my predecessor the Honourable Senator Hastings, asked Senator Cohen to review the findings of a staff committee on official Senate documents. Her recommendation was that the Senate establish an in-house printing capability. This proposal was accepted by our committee at its meeting last month. While requiring a capital investment of $885,000, this proposal will result in projected cost savings of $600,000 each year or $50,000 per month.

This figure has been confirmed by an outside, independent auditor's projection, Progestics Consultants of Ottawa, a firm specializing in technical audits. Our payback period for this capital investment will be less than 18 months. It is in our interests to proceed with this project as soon as possible.

The printing of official documents is currently being done by the government printing office formerly known as the Queen's Printer. That office is now disbanded. The option of having Senate documents printed by private companies was considered but rejected on the grounds that it would be less expensive to do the printing in-house. The only printing planned to be done outside the Senate is for specialized materials, such as embossed printing, invitations for the opening of Parliament and the binding of Senate journals and the *Debates of the Senate*.

In conclusion, I would like to thank a number of senators for their special assistance with this supplementary estimate. I wish to thank Senator Nolin for moving the motion to adopt these estimates in committee; Senator Cohen for her work in reviewing the findings and the recommendations of the staff committee on official Senate documents; Senators Nolin, Carstairs, Milne and Comeau for their preliminary work respecting the proposals for the Senate's new computer program; and to the leadership of both sides of the house for their cooperation which made this process more simple. I also want to thank the Senate staff for all their work, particularly on such short notice.

Honourable senators, I ask your support for this report. It is a report which requests funds for the Early Departure Program to reduce person-years with a pay-back period of 16 months. It requests funds to upgrade our computer system so the Senate is not left behind in this area of technology, and so that we will be able to electronically communicate with other branches on Parliament Hill. It includes a proposal to improve the chamber sound system which is intolerable. It includes a proposal for in-house printing which will generate savings of $50,000 a month.

As a result of these supplementary estimates, the total annual future savings generated from both the in-house printing program and the Early Departure Program will be $1.262 million. These are important steps forward in the administration of the Senate and, I believe, worthy of your approval.

Motion agreed to and report adopted.

The Senate proceeded to consideration of the forty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration, presented in the Senate on February 1, 1996.

Hon. Colin Kenny moved the adoption of the report.

He said: Honourable senators, before getting into the details of this report, I should like to thank senators from both sides of the house for the work they did on the Estimates. In particular, I want to thank our former chairman, Senator Hastings, for his contribution to and leadership of the committee. I also wish to thank Senator Di Nino, our deputy chairman who filled in for our former chairman when he was away. I also want to thank Senator Bosa, who chaired the very busy and difficult subcommittee on budgets and personnel.

• (1310)

I wish to thank Senator LeBreton for moving and adopting these Main Estimates in our committee and for her support of them. Finally, I wish to thank all members and other senators who attended for their comments and advice.

Honourable senators, this report before you today seeks approval for expenditures totalling $40,712,500 for the operating and capital expenditures of the Senate for the fiscal year 1996-97.

These estimates show a budget reduction of 3.1 per cent, which reflects a cumulative reduction of 9 per cent over the last five fiscal years. In 1991-92, the Senate's budget was $44 million. For next year, our committee is asking for estimates of $40.7 million. Under the leadership of Senator Lavoie-Roux, the Internal Economy Committee decided some time ago that the Senate's budget must be reduced through a combination of hard work and tough decisions, and it has implemented significant budget reductions.

Senator Lavoie-Roux and her committee, through different administrative initiatives, implemented a variety of reductions which resulted in greater efficiencies in operation. The number of person years were reduced, as were the overall salary costs. Your committee and, indeed, the entire Senate owe Senator Lavoie-Roux a debt of gratitude for her efforts in controlling and reducing the costs of running our legislature.

In 1994-95, the Senate budget was set at $42 million; the following year, there was no change. On April 4, 1995, the Senate approved a reduction of 4.2 per cent in the expenses of the Senate, a target not yet reached. Since that time, 16 person years have been eliminated: two in the Legislative Services Directorate, four in the service of the Black Rod's office, and 10 in the Services Directorate.

Although the total salary savings in 1995-96 caused by the elimination of these positions amount to $418,000, the total annual future savings will be $662,000. Additional savings have also been achieved in other areas of the budget. For example, reductions in staff replacement in senators offices, printing of brochures, the elimination of Senate tour guides, reducing expenditures on furniture, fixtures and books for the Senate reading room.

Since the present fiscal year is not completed, it is unclear how close to the target of 4.2 per cent expenditure reduction we will come. However, the results thus far are very positive, given the fact that these reductions only took effect part-way through the year.

I will now discuss some of the highlights of this budget and bring to your attention some of your committee's concerns.

First, senators' research and office expenses: The budget for senators' research and office expenses is still not fully funded. Even with an increase in the 1996-97 budget, a major discrepancy exists in this portion of the Senate estimates. There remains a shortfall of 20 per cent. As you know, unlike the House of Commons, senators have only one secretary on their permanent staff and must rely totally on their research and general office budget to provide them with research and support assistance to carry out their duties. While recognizing that members of the House of Commons have different responsibilities and must maintain constituency offices, nevertheless they have operating budgets in excess of $170,000. Some have geographical and electoral supplements in excess of $16,000 and $32,000 respectively, over and above their $170,000 operating budget. As well, the administration of the House of Commons funds a wide range of office equipment in addition to the members' operating budgets, and all of these items are fully funded in the House of Commons estimates.

I should like to turn now to in-house printing. Contingent upon the approval of the supplementary estimates, the budget for outside printing services has decreased significantly. In the next fiscal year, the Senate will begin printing its official documents in-house. These documents are committee proceedings, *Hansard*, the Senate minutes, and Senate bills. This program calls for an increase of 1.5 person years as well as additional equipment and maintenance costs. However, we estimate that even with these additional expenditures, the net savings for the Senate will be $600,000 annually, or $50,000 per month. Your committee has agreed that it will conduct a review of this program and other items in six months to ensure that our cost saving measures are on target.

With regard to staff reductions, as I mentioned earlier, a number of positions were eliminated as part of the budgetary restraint measures implemented in 1995-96. These staffing cuts, combined with the elimination of the tour guide program and other miscellaneous reductions, have resulted in the salary budget being reduced by $971,000.

I must confess, honourable senators, that this is one of the most difficult areas of our expenditure plan with which to deal. These are not just numbers but real people with families and careers who must face major readjustments in their lives. It is not an easy task to watch them just walk out the door. The Internal Economy Committee was determined to see that they

were treated fairly. Many of our employees were disheartened to learn that what they perceived to be a long-term career with the Senate would not happen and that, unexpectedly, they would be faced with major decisions affecting their families. They have had to reorient themselves, and have been assisted by the Senate in this regard through counselling services and retraining programs.

For many, such changes have not been easy. Some are returning to a school environment after having been away for several years, and have had to learn new skills. The Internal Economy Committee's decision to eliminate these positions has touched the lives of our employees in a real way. We did not proceed in this direction without serious reflection and consideration.

I must remind honourable senators that your committee still has concerns regarding the budget. For example, last year's budget for furniture and fixtures restricted purchases relating to health and safety issues and very basic office equipment. If this funding is to be maintained at the current level, the Senate will soon see a significant deterioration of its furniture and equipment. You cannot cut indefinitely both the budget for the purchase of new furniture as well as the budget for making repairs to existing furniture. You should cut one or the other, but not both of these items.

In the long run, the Senate must make a major expense to rectify accumulated problems. Moreover, needs arising from new activities and increased usage of technology will not be addressed with the current level of resources available. For example, many of the desks and chairs which have been purchased over the years are not adapted for computers; even our computer work stations will have to be adjusted to accommodate the new Windows environment which we are moving towards. Building and maintenance alterations have also been reduced in the last year and cover health and safety problems only. With this level of resources, it is impossible to adapt to the evolving needs of the workplace. It is also difficult to keep up the basic maintenance of buildings. As an example, there have been occasions when projects performed by Public Works on pipes or electrical wires have remained unfinished because of the Senate's incapacity to proceed with this part of the work.

Honourable senators, our budget estimates for 1996-97 leave very little flexibility to deal with ongoing operations in future years. Furthermore, the Senate's ability to adapt to a changing environment may be seriously hampered. Senate managers have cut their budgets to the bone, and our committee has no room in these estimates to deal with unexpected problems. This is not a desirable situation for those charged with the administration of an organization to be in. Many of the reductions do not represent permanent cost savings and are merely a deferral of expenditures. We believe that these expenses will have to be incurred at some time in the future, but at a higher cost to the Senate. This will mean increases in future budgets which will make it difficult to reach 100 per cent funding for senators' research and office expenses.

• (1320)

Honourable senators, I ask for your support for the adoption of this report. We started the process of cutting the budget of the Senate some years ago. Our 3.1 per cent reduction for 1996-97 continues the same expenditure reduction trend. As an institution, we have been very responsible and successful in controlling our expenditures in this era of fiscal restraint. If we compare the Senate with the other place, our record is very positive.

Over the past five years, Senate expenditures have been reduced by 7.2 per cent. During this same period, the actual expenditures of the House of Commons have increased by 7.4 per cent. There exists in favour of the Senate a difference of 14.6 per cent with regard to actual expenditures.

In terms of budget estimates, in the last five years the budget of the Senate has decreased by 9 per cent. Over the same period of time, the estimates of the House of Commons have decreased by only 5.3 per cent. Again, there is a difference in favour of the Senate in the amount of 3.7 per cent with respect to the budget estimates.

I believe the Senate has performed very well in demonstrating expenditure restraint. We must also remember that the base we start from is lower than that of the other place. We are still 20 per cent short in funding fully for senators' research and office expenses. We are concerned that this budget leaves us with limited flexibility to handle unexpected problems, and your committee will certainly be challenged in the year ahead.

I thank many of the senators and staff who worked in the preparation of these estimates and ask that you give favourable consideration to this report.

The Hon. the Acting Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

FORTY-FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the forty-fifth report of the Standing Committee on Internal Economy, Budgets and Administration, presented in the Senate on February 1, 1996.

Hon. Colin Kenny: Honourable senators, I move the adoption of the report.

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

Motion agreed to and report adopted.

FISHERIES

REPORT OF COMMITTEE ON ANNUAL REPORT OF DEPARTMENT OF FISHERIES AND OCEANS ON THE ATLANTIC GROUNDFISH FISHERY ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Fisheries entitled: "The Atlantic Groundfish Fishery: Its Future", tabled in the Senate on December 6 , 1995. — (*Honourable Senator Rossiter*)

Hon. Eileen Rossiter: Honourable senators, I move the adoption of this report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I should like to comment with respect to the other items on the Order Paper today. There have been discussions, of course, with the leadership on the other side with respect to this matter. There is only one item on the Order Paper which an individual senator wishes to address today. I refer to Item No. 75 standing in the name of Senator Cools.

We are mindful that the bells will begin to ring at 1:30 p.m. for the vote to be taken at 2:00 p.m. and that the proceedings will be interrupted at that time. I leave it to Senator Cools either to begin now and resume after the vote at 2:00 p.m., or to deal with her item after the vote at 2:00 p.m. That is entirely in the hands of Senator Cools, knowing that she would have to be interrupted at 1:30 p.m.

Hon. Anne C. Cools: Honourable senators, I should like to make my speech today. I am quite prepared to use the few minutes prior to the ringing of the bells for the vote on Bill C-110, if that is acceptable.

Senator Graham: Honourable senators, I suggest that all other Orders, Motions, Inquiries and Reports, stand with the exception of Item No. 75.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

JUSTICE

DAMAGE TO PARLIAMENTARY PROCESS—DEBATE SUSPENDED

Hon. Anne C. Cools rose pursuant to notice of December 12, 1995:

> That she will call the attention of the Senate to the frequent reports in the national and international media, including varied allegations naming the former Prime Minister, the Rt. Honourable Brian Mulroney; the Minister of Justice, the Honourable Allan Rock; Justice lawyer Kimberly Prost; former Premier the Honourable Frank Moores; the Royal Canadian Mounted Police; Airbus Industrie SA; Georgio Pelossi; diplomats and others, being matters that have become an aggressive and shameful public spectacle; and to the handling of these matters; and to the erosion of parliamentary process, and to the damage caused to parliamentary government, to the Prime Minister's Office, to the principle of ministerial responsibility, to Parliament, and to senators, including herself, who voted on Bill C-129, the bill to privatize Air Canada, on August 4, 1988, in the Standing Senate Committee on Banking, Trade and Commerce; and to the belief that Parliament, in the interest of public confidence, should take cognizance of these matters and not leave them to conjecture, speculation and the media, but instead take these matters into Parliament's consideration.

She said: Honourable senators, in rising to speak to this inquiry my intention is to place into formal debate in the Senate the question of certain allegations by the Minister of Justice against former prime minister Brian Mulroney regarding alleged wrongdoing on his part in Air Canada's billion-dollar purchase of aircraft from Airbus Industrie of Europe. I shall trace the passage into law in 1988 of Bill C-129, which bill privatized Air Canada. I shall show Parliament's interests, rights and obligations in this alleged Airbus matter. Finally, I shall address Parliament's role in these allegations.

For the record, I should like to state that I am neither a defender nor accuser of Mr. Mulroney. I have no assumptions or prejudgments about his guilt. As a matter of fact, consonant with the common law principle and the rule of law, I assume that he is innocent. My position is that as a member of Parliament I simply need to know the grounds supporting the Minister of Justice's allegations, as accusations of such enormity are not to be undertaken casually.

Since November 1995, I have been disquieted that these Airbus allegations have become an aggressive and shameful public spectacle, a situation of unlimited speculation and unbridled conjecture. Further, no one in Parliament, save a few senators appointed by Mr. Mulroney, such as the courageous Senator LeBreton, dare breathe a word in Mr. Mulroney's defence, lest they, too, be savaged in this current atmosphere. The sound of Parliament's silence in this matter is deafening. This scandal of unprecedented proportions goes to the heart of ministerial responsibility and undermines ministerial confidence and responsible government. It compels Parliament's interposition to assure public confidence.

Canada is a parliamentary and responsible government. Parliament is the Supreme authority of Canada, legislatively, judicially and administratively. The doctrine of ministerial government states that ministers are responsible to Parliament and must maintain its confidence. All government departments and agencies, as well as tribunals and courts, operate under this notion of responsibility. Similarly, all office-holders, ministers, deputy ministers, judges and police chiefs operate under the same doctrine. A minister answers to Parliament for every department of Canadian life. Parliament has a duty to hold its ministers responsible, and is constituted to maintain the responsibility of the ministry. No minister may abdicate responsibility.

Honourable senators, I have never been a supporter of Brian Mulroney. I recall that I invoked considerable wrath from senators on both sides for my rather brutal remarks about him in this chamber on January 19, 1994 during the Throne Speech debate. Among other descriptions, I said that he was:

> A sorcerer's apprentice...

and

> Deception was their hallmark.

Many senators on both sides thought that I was hard on him; consequently, they were hard on me. However, when I spoke at that time, I had no thought that Mr. Mulroney was or could be involved in any crime. Today, as a senator, I firmly believe that the government has a duty to proceed fairly, judiciously, non-capriciously, and to rise above the turbulence and tyranny of passion.

On August 17, 1988, the Senate passed Bill C-129, to provide for the continuance of Air Canada under the Canada Business Corporations Act, and for the issuance and sale of shares thereof to the public.

Honourable senators, I shall continue my speech after the vote on Bill C-110.

The Hon. the Acting Speaker: I regret to interrupt the honourable senator; however, it is now 1:30.

Pursuant to the order of this house, I now order that the bells be rung for half an hour.

Debate suspended.

• (1400)

CONSTITUTIONAL AMENDMENTS BILL

REPORT OF COMMITTEE—
MOTION FOR ADOPTION NEGATIVED ON DIVISION

On the Order:

> Resuming the debate on the motion of the Honourable Senator Kinsella for the adoption of the Report of the Special Committee on Bill C-110, respecting constitutional amendments, with amendments.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Kinsella, seconded by the Honourable senator Doyle, that this report be now adopted.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Keon
Andreychuk	Kinsella
Atkins	Lavoie-Roux
Beaudoin	Lynch-Staunton
Berntson	Meighen
Carney	Murray
Cohen	Nolin
Comeau	Oliver
DeWare	Phillips
Di Nino	Rivest
Doody	Roberge
Doyle	Robertson
Eyton	Rossiter
Forrestall	Spivak
Ghitter	St. Germain
Gustafson	Stratton
Kelleher	Tkachuk
Kelly	Watt—36.

NAYS

THE HONOURABLE SENATORS

Anderson	Lewis
Austin	Losier-Cool
Bacon	MacEachen
Bonnell	Maheu
Bosa	Marchand
Bryden	Milne
Carstairs	Olson
Cools	Pearson
Corbin	Perrault
Davey	Petten
De Bané	Pitfield
Fairbairn	Poulin
Gauthier	Prud'homme
Gigantès	Riel
Grafstein	Rizzuto
Graham	Robichaud
Haidasz	Rompkey
Hays	Roux
Hébert	Stanbury
Hervieux-Payette	Stewart
Kenny	Stollery
Kirby	Thériault
Kolber	Thompson
Lawson	Wood—48.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

THIRD READING

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

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 59(1)(*b*), I move that this bill be read the third time now.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Graham, seconded by the Honourable Senator Thériault, that this bill be read the third time now.

It is your pleasure, honourable senators, to adopt the motion?

An Hon. Senator: No.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

An Hon. Senator: On division.

Bill read third time and passed, on division.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker pro tempore informed the Senate that the following communication had been received:

RIDEAU HALL

2 February 1996

Sir,

I have the honour to inform you that The Right Honourable Antonio Lamer, Chief Justice of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 2nd day of February 1996, at 3:00 p.m., for the purpose of giving Royal Assent to a Bill.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

JUSTICE

DAMAGE TO PARLIAMENTARY PROCESS—
DEBATE ADJOURNED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Cools:

That she will call the attention of the Senate to the frequent reports in the national and international media, including varied allegations naming the former Prime Minister, the Rt. Honourable Brian Mulroney; the Minister of Justice, the Honourable Allan Rock; Justice lawyer Kimberly Prost; former Premier the Honourable Frank Moores; the Royal Canadian Mounted Police; Airbus Industrie SA; Georgio Pelossi; diplomats and others, being matters that have become an aggressive and shameful public spectacle; and to the handling of these matters; and to the erosion of parliamentary process, and to the damage caused to parliamentary government, to the Prime Minister's Office, to the principle of ministerial responsibility, to Parliament, and to senators, including herself, who voted on Bill C-129, the bill to privatize Air Canada, on August 4, 1988, in the Standing Senate Committee on Banking, Trade and Commerce; and to the belief that Parliament, in the interest of public confidence, should take cognizance of these matters and not leave them to conjecture, speculation and the media, but instead take these matters into Parliament's consideration.

Hon. Anne C. Cools: I thank honourable senators for their indulgence.

Honourable senators, I am pleased to resume my speech on this order on the Airbus allegations. I had been saying that Bill C-129, the Air Canada bill, passed in this chamber in August of 1988. On August 18, 1988, it received Royal Assent.

Bill C-129 was examined by the Senate Banking, Trade and Commerce Committee, chaired by a Liberal senator, Senator Ian Sinclair. I was a member of that committee, and I voted to pass that bill unamended, both in committee and in this chamber. The Mulroney cabinet proposed that a sound reason for privatizing Air Canada was the airline's need for fleet replacement conjoined with its need for capital, and proposed that such capital be raised by selling equity in the airline. My Liberal side, then in opposition and the majority in the Senate, accepted these proposals. We passed Bill C-129 without amendment. Government Senator William Kelly, moving second reading of Bill C-129 on July 21, 1988, said:

> ... Air Canada requires capital: capital to modernize its fleet and equity capital to regear its leverage... Over the next five years the airline will require $2.5 billion or more for fleet replacement...

On August 4, 1988, Deputy Prime Minister Don Mazankowski told our Senate Banking Committee that:

> As a corporation, Air Canada will have access to new, cheaper equity capital... For employees, it will afford the opportunity to purchase shares...

Honourable senators, in March 1985, three years prior to the passage of Bill C-129, Prime Minister Brian Mulroney and Minister of Transport Don Mazankowski dismissed the board of directors of Air Canada and appointed a new board in its stead — that is, 13 new directors.

In this chamber on March 19, 1985, Senator Ian Sinclair questioned government leader Senator Duff Roblin on the government's extraordinary action:

> My question has nothing to do with patronage; my question has to do with a proper conduct of business organizations.
>
> Is it not good business practice to have some continuity in boards of directors?

Honourable senators, while voting on Bill C-129, it never entered my mind that there was a connection between these 1985 appointments and the 1988 passage of Air Canada legislation, as is now alleged.

On August 2, 1988, Pierre Jeanniot, chief executive officer of Air Canada, told our Senate committee:

> It seems particularly appropriate to mention briefly a question of fleet renewal, since we have just announced the purchase of 34 new Airbus A320 aircraft, which will eventually replace our Boeing 727 fleet.

Air Canada had announced the same a few days prior, on July 20, 1988.

Honourable senators, I never contemplated any connection between this aircraft purchase, passage of this bill, and wrongdoing on the part of the cabinet or the Prime Minister.

Parliament is a judicial body whose members are vested with legislative and judicial powers corporately and institutionally held, enabling them to fulfil the functions of representative and responsible government. The Parliament of Canada is the supreme authority of the land, the "Grand Inquest" of the nation, and the highest court in this land.

Honourable senators, the Fathers of Confederation constituted and composed the Senate very deliberately. These wise men said that this Senate would last as long as this country, Canada, would last. They constituted this Upper House to embody the federal principle of Canada. It is the house traditionally empowered to investigate misconduct of persons in high office.

The Senate must take this matter into its cognizance and exercise the full range of its inquisitorial, judicial, penal and legislative powers to examine, to judge, and finally to exonerate or prosecute Mr. Mulroney by order or statute.

This Airbus scandal originates in a Ministry of Justice dispatch to the Government of Switzerland, which was leaked. This government-to-government dispatch carried the full force and weight of the Government of Canada and the Minister of Justice. This extraordinary document was executed by Kimberley Prost, senior counsel to the International Assistance Group of the ministry. *The Toronto Star*, on November 19, 1995, quoted this dispatch which claimed that Mr. Mulroney

> ...was involved in a criminal conspiracy to accept payments for influencing Air Canada's decision to buy airplanes from Airbus.

and that the conspiracy

> ...defrauded the Canadian government in the amount of millions of dollars.

The Globe and Mail, on January 8, 1996, in an article by former minister of Justice John Crosbie, also quoted this dispatch as follows:

> ...the investigation is of special importance to the Canadian government, as it deals with criminal activities of a former prime minister.

Extraordinary! The underlying implications are that Mr. Mulroney corrupted parliamentary proceedings by persuading members, commoners and senators, in government and in opposition, to pass Bill C-129 so that he could derive pecuniary advantage and enrichment; that is, that he degraded, corrupted and perverted voting and proceedings in Parliament.

Ms Prost's words and actions, speaking as the Ministry of Justice, thus impeach a government, a cabinet, and a Parliament itself. She impeaches proceedings in Parliament and the passage of Bill C-129, in which I participated as a legislator, as a parliamentarian, and as a senator.

Ms Prost has initiated actions reflecting on the highest level of ministerial responsibility, risking contempt of Parliament, and seems not to comprehend the fact that the substance of her dispatch is the substance of fallen governments, ministries, and ministers. Conversely. Mr. Mulroney's counsel, Roger Tassé, former deputy minister of Justice, certainly comprehends these matters. Ms Prost has risked a high breach of her position and of Parliament.

The Minister of Justice is no ordinary minister, and the Ministry of Justice is no ordinary ministry. They possess a distinct judicial character. The Minister of Justice is the Attorney General, the chief law officer of the Crown, the chief legal adviser to the government, and the chief legal adviser to Her Majesty. The Attorney General, as an office and minister, is deemed to embody the principles of justice and is, by convention and tradition, expected to uphold the judicial character and pre-eminence of Parliament.

The ministry's actions have politicized the Royal Canadian Mounted Police, effecting a divide between its police work and its political interests. The RCMP has been compelled to engage in politics. It must now protect its own position, its own interests and credibility, by engaging in preservationist and defensive activity. To date, the RCMP has laid no charges against Mr. Mulroney. It may now be compelled to do so, with or without evidence, whether the charges may be founded or unfounded. That a police agency is in this position is a grave matter, and is of grievous consequence to the citizens of Canada, to Parliament, and to Her Majesty. That a police agency's actions in investigating and laying charges have become suspect is an intolerable state of affairs in a parliamentary government.

The politicization of the mounted police is revealed even in news reports. *The Toronto Star* of December 23, 1995, cites an anonymous RCMP source as saying:

> We figure we must have hit a nerve there,

and:

> We're covered on this... We did our job. Based on the information we had, we're pursuing it.

Honourable senators, what is covered? Who is covered? We should bring these anonymous sources to the Senate bar.

This matter of alleged misconduct of a former prime minister involves more issues than allegations of ordinary crime. The Airbus allegations and the handling thereof have been deeply political, but the political activity has not been by politicians or Members of Parliament. Had a crime been committed, the matter may now be so obscured and confounded as to be justice denied. Further, the ministry's actions are also politicizing the judiciary and the courts. This is revealed as the media engages the judiciary, and is made evident in press stories on the judiciary's rulings, bearing such titles as "Customized Justice for Mulroney," "Mulroney Granted Fast-track Justice in Airbus Libel Suit." The *Gazette* editorial, "Customized Justice for Mulroney," from December 14, 1995, stated:

> By according special treatment, Justice Poitras has perhaps made Mr. Mulroney's lawsuit less costly for him.

The editorial continued:

> ...If Justice Poitras's ruling is not favoritism, it at least gives the impresssion of it.

• (1420)

Uncharacteristically and improperly, the judiciary is responding. About Mr. Justice Rochon, the judge assigned by Chief Justice Poitras to hear the Mulroney libel suit in its entirety, *The Toronto Star*, December 18, 1995, reports that he:

> ...promised in an interview last week that the case will proceed in a transparent manner and that the media will be able to stay on top of the proceedings as it winds its way to trial.

The Toronto Star quoted Justice Rochon saying:

> ...I will take the necessary steps to ensure that everyone will be able to keep track of the case, reporters and everyone else.

I suppose "everyone else" includes all of us senators.

The courts, like the RCMP, have been placed in a novel and unlikely position. It would appear that both these organs of state are forgetful of Parliament's role in parliamentary governance. Parliament should remind them.

This story has been a bonanza for the media. The shareholders of press and broadcasting conglomerates involved in the commerce of reporting news rejoice in this windfall. Their primary objective is profit; not justice and fair play. The market value of publicity to certain persons, such as Mr. Georgio Pelossi, the author of these allegations, is profound. He is undoubtedly measuring his substantial benefits. News reports nevertheless admit that Mr. Pelossi's personal credibility is in serious question since he is facing several serious criminal charges in Europe.

The Department of Justice and the Government of Canada allege that former prime minister Mulroney and former Premier Frank Moores were involved in criminal activity. It is now very questionable that Mr. Mulroney may ever be charged with a criminal offence. The instrument of criminal prosecution in Canada is the Criminal Code. The relevant sections are in Part IV entitled "Offences Against Law and Justice." I would assume that the sections concerning influence peddling and breach of trust by a public officer would be the contemplated charges against Mr. Mulroney.

Even if charges were laid, a conviction by the courts would be unlikely. The courts and their proceedings are bound by the rules of evidence, the burden of proof, and by judicial prohibitions on politics and political activity. In addition, it is fundamental to a successful criminal prosecution that each and every element of the offence be proven beyond a reasonable doubt.

The consideration and adjudication of those discreet elements necessary to be proven so as to form a conviction are beyond the court's competence and jurisdiction. Votes and proceedings in Parliament, cabinet decisions and documents and prime ministerial appointments are not subject to the court's jurisdiction.

Mr. Mulroney's issues are different from Mr. Moores' because Mr. Mulroney was in office as Prime Minister at the time of the alleged offences. The Criminal Code has general application in Canada for all citizens. However, when office-holders commit offences while in high office of Parliament, the plenary importance of the office subjects them to additional laws, authorities and courts. An offending prime minister is also subject to the law of Parliament, the *lex et consuetudo parliamenti*, to the high court of Parliament and the pleasure of Her Majesty. The misconduct of a prime minister while in office is the just business of the high court of Parliament, the "Grand Inquest" of the nation. Such misconduct activates and engages the judicial pre-eminence of the high court and Parliament.

The allegations are that Mr. Mulroney used the high offices of Prime Minister, the cabinet, the House of Commons and the Senate to traffic in appointments, influence, offices, proceedings and votes in Parliament and legislation. They allege that Mr. Mulroney was unfaithful to his office and to his country.

Honourable senators, these issues, so deeply clouded in suspicion, have not been properly put before the Canadian public, and have not been put before the Senate at all. Corruption and breach of high political office for pecuniary enrichment are more than crime. Such breach is a malversation. A malversation is the highest offence of office and is defined as corrupt behaviour committed in the exercise of an office or commission for economic gain. It is a grievous misconduct. No police agency, no court of justice may process a prime minister's malversation without Parliament's cognizance and direction. The only tribunal that is competent, qualified or constitutionally able to investigate and judge this matter is the Parliament of Canada. Further, Parliament's examination into this matter would not be inhibited or obstructed by any libel suit proceeding in the courts.

Mr. Georgio Pelossi's and Justice lawyer Kimberley Prost's accusations against Mr. Mulroney accuse me and every other senator in this chamber. It is odious to me that as a senator I stand accused in this alleged Mulroney malversation by virtue of my voting on Bill C-129, the enabling legislation. It is my right as a member of Parliament to know the truth. I wish to exercise that right. No court in this land but this court, Parliament, can examine and adjudicate the questions of prime ministerial activities, ministerial appointments, cabinet activities, political relationships, voting and proceedings in Parliament and wrongdoing therein.

Honourable senators, I ask Parliament to take cognizance of this matter and to engage the full range of its inquisitorial, judicial and legislative powers. Parliament must vigorously repudiate these allegations as a wanton, reckless and malicious attack on former prime minister Mulroney or, in the alternative, Parliament must give them credence and pursue him to destruction by issuing articles of impeachment; but Parliament must act decisively.

On motion of Senator Berntson, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

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

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, February 6, 1996, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned during pleasure.

[*Translation*]

ROYAL ASSENT

The Right Honourable Antonio Lamer, Chief Justice of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Right Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

> An Act respecting constitutional amendments (*Bill C-110, Chapter 1, 1996*)

The House of Commons withdrew.

The Right Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, February 6, 1966, at 2 p.m.

The Thirty-fifth Parliament was prorogued by Proclamation on Friday, February 2, 1996

ABBREVIATIONS

1r, 2r, 3r	=	first, second, third reading
amdt (s)	=	amendment (s)
com	=	committee
div	=	division
inq	=	inquiry
m	=	motion
neg	=	negatived
qu	=	question
(r)	=	response (to a question)
ref	=	referred
rep	=	report
r.a.	=	Royal Assent
st	=	statement

Acts passed during the Session

PUBLIC ACTS

Chapter *Bill No.*

Assented to February 8, 1994

1 West Coast Ports Operations, 1994 ..... C-10

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THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 35th Parliament)
Friday, February 2, 1996

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to amend the Department of National Revenue Act and to amend certain other Acts in consequence thereof	94/04/21	94/04/27	Banking, Trade & Commerce	94/05/11	none	94/05/12	94/05/12	13/94
C-3	An Act to amend the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act	94/03/15	94/03/17	National Finance	94/03/22	none	94/03/23	94/03/24	2/94
C-4	An Act to amend the Crown Liability and Proceedings Act	94/04/26	94/04/28	Foreign Affairs	94/05/12	none	94/05/12	94/05/12	11/94
C-5	An Act to amend the Customs Tariff	94/03/15	94/03/17	Banking, Trade & Commerce	94/03/24	none	94/03/24	94/03/24	3/94
C-6	An Act to amend the Canada Oil and Gas Operations Act, the Canada Petroleum Resources Act and the National Energy Board Act and to make consequential amendments to other Acts	94/04/26	94/04/27	Energy, Environment & Natural Resources	94/05/10	none	94/05/11	94/05/12	10/94
C-7	An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof	95/10/31	95/11/07	Legal & Constitutional Affairs					
C-8	An Act to amend the Criminal Code and the Coastal Fisheries Protection Act (force)	94/04/21	94/04/26	Legal & Constitutional Affairs	94/05/12	none	94/05/12	94/05/12	12/94
C-9	An Act to amend the Income Tax Act	94/04/19	94/04/20	Banking, Trade & Commerce	94/04/21	none	94/04/26	94/05/12	8/94
C-10	An Act to provide for the maintenance of west coast ports operations	94/02/08	94/02/08	Whole	94/02/08	none	94/02/08	94/02/08	1/94
C-11	An Act to amend the Excise Act, the Customs Act and the Tobacco Sales to Young Persons Act	94/06/14	94/06/16	Banking, Trade & Commerce	94/10/27	none	94/11/15	94/11/24	37/94
C-12	An Act to amend the Canada Business Corporations Act and to make consequential amendments to other Acts	94/06/14	94/06/16	Banking, Trade & Commerce	94/06/21	none	94/06/22	94/06/23	24/94
C-13	An Act to amend the Excise Tax Act and a related Act	94/04/21	94/04/26	Banking, Trade & Commerce	94/04/28	none	94/05/10	94/05/12	13/94
C-14	An Act to provide borrowing authority for the fiscal year beginning April 1, 1994	94/03/24	94/03/24	Whole	94/03/24	none	94/03/24	94/03/24	4/94

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-15	An Act to revise certain income tax law amendments in terms of the revised Income Tax Act and Income Tax Application Rules	94/04/21	94/04/27	Banking, Trade & Commerce	94/04/28	none	94/05/10	94/05/12	7/94
C-16	An Act to approve, give effect to and declare valid an agreement between Her Majesty the Queen in right of Canada and the Dene of Colville Lake, Déline, Fort Good Hope and Fort Norman and the Metis of Fort Good Hope, Fort Norman and Norman Wells, as represented by the Sahtu Tribal Council, and to make related amendments to another Act	94/06/14	94/06/16	Aboriginal Peoples	94/06/23	none	94/06/23	94/06/23	27/94
C-17	An Act to amend certain statutes to implement certain provisions of the budget tabled in Parliament on February 22, 1994	94/05/31	94/06/02	National Finance	94/06/09	none	94/06/14	94/06/15	18/94
C-18	An Act to suspend the operation of the Electoral Boundaries Readjustment Act	94/04/19	94/04/21	Legal & Constitutional Affairs	94/05/10	three	94/05/25	94/06/15	19/94
C-19	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1994	94/03/23	94/03/23	—	—	—	94/03/24	94/03/24	5/94
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1995	94/03/23	94/03/23	—	—	—	94/03/24	94/03/24	6/94
C-21	An Act to amend the Railway Safety Act	94/05/10	94/05/11	Whole	94/05/12	none	94/05/12	94/05/12	15/94
C-22	An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport	94/06/16	94/06/23	Legal & Constitutional Affairs	94/07/07	six	94/07/07		
C-23	An Act to implement a Convention for the protection of migratory birds in Canada and the United States	94/06/14	94/06/21	Energy, Environment & Natural Resources	94/06/22	none	94/06/22	94/06/23	22/94
C-24	An Act to amend the Canada Wildlife Act and to make a consequential amendment to another Act	94/06/14	94/06/21	Energy, Environment & Natural Resources	94/06/22	none	94/06/22	94/06/23	23/94
C-25	An Act to amend the Canada Petroleum Resources Act	94/10/04	94/10/04	Energy, Environment & Natural Resources	94/10/25	none	94/10/25	94/11/24	36/94
C-26	An Act to amend the National Library Act	94/05/31	94/06/01	National Finance	94/06/15	none	94/06/15	94/06/15	20/94
C-27	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Canada Pension Plan, the Canada Business Corporation Act, the Excise Tax Act, the Unemployment Insurance Act and certain related Acts	94/05/31	94/06/02	Banking, Trade & Commerce	94/06/14	none	94/06/15	94/06/15	21/94

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-28	An Act respecting the making of loans and the provision of other forms of financial assistance to students, to amend and provide for the repeal of the Canada Student Loans Act, and to amend one other Act in consequence thereof	94/06/21	94/06/21	National Finance	94/06/22	none	94/06/23	94/06/23	28/94
C-29	An Act to amend the Coastal Fisheries Protection Act	94/05/12	94/05/12	Whole	94/05/12	none	94/05/12	94/05/12	14/94
C-30	An Act to amend the Department of Labour Act	94/06/21	94/06/21	Social Affairs, Science & Technology	94/06/23	none	94/06/23	94/06/23	30/94
C-31	An Act to amend the Canadian Film Development Corporation Act	94/06/14	94/06/15	Social Affairs, Science & Technology	94/06/21	none	94/06/22	94/06/23	25/94
C-32	An Act to amend the Excise Tax Act, the Excise Act and the Income Tax Act	94/06/23	94/06/23	Whole	94/06/23	none	94/06/23	94/06/23	29/94
C-33	An Act to approve, give effect to and declare valid land claims agreements entered into between Her Majesty the Queen in right of Canada, the Government of the Yukon Territory and certain first nations in the Yukon Territory, to provide for approving, giving effect to and declaring valid other land claims agreements entered into after this Act comes into force, and to make consequential amendments to other Acts	94/06/23	94/06/23	Aboriginal Peoples	94/07/06	none	94/07/06	94/07/07	34/94
C-34	An Act respecting self-government for first nations in the Yukon Territory	94/06/23	94/06/23	Aboriginal Peoples	94/07/06	none	94/07/06	94/07/07	35/94
C-35	An Act to establish the Department of Citizenship and Immigration and to make consequential amendments to other Acts	94/06/23	94/06/23	Whole	94/06/23	none	94/06/23	94/06/23	31/94
C-36	An Act respecting the Split Lake Cree First Nation and the settlement of matters arising from an agreement relating to the flooding of land	94/11/15	94/11/17	Aboriginal Peoples	94/12/01	none	94/12/06	94/12/15	42/94
C-37	An Act to amend the Young Offenders Act and the Criminal Code	95/03/01	95/03/21	Legal & Constitutional Affairs	95/06/20	none	95/06/21	95/06/22	19/95
C-38	An Act to provide for the security of marine transportation	94/11/15	94/11/16	Transport & Communications	94/11/24	none	94/11/29	94/12/15	40/94
C-39	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1995	94/06/09	94/06/22	—	—	—	94/06/22	94/06/23	33/94

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-40	An Act to correct certain anomalies, inconsistencies and errors in the Statutes of Canada, to deal with other matters of a non-controversial and uncomplicated nature in those Statutes and to repeal certain provisions of those Statutes that have expired, lapsed or otherwise ceased to have effect	94/06/21	94/06/21	—	—	—	94/06/22	94/06/23	26/94
C-41	An Act to amend the Criminal Code (sentencing) and other Acts in consequence thereof	95/06/19	95/06/21	Legal & Constitutional Affairs	95/06/27	none	95/06/27	95/07/13	22/95
C-42	An Act to amend the Criminal Code and other Acts (miscellaneous matters)	94/10/05	94/10/26	Legal & Constitutional Affairs	94/12/12	six	94/12/12	94/12/15	44/94
C-43	An Act to amend the Lobbyists Registration Act and to make related amendments to other Acts	95/05/09	95/05/23	National Finance	95/06/08	none	95/06/13	95/06/15	12/95
C-44	An Act to amend the Immigration Act and the Citizenship Act and to make a consequential amendment to the Customs Act	95/02/14	95/02/22	Social Affairs, Science & Technology	95/06/14	none	95/06/15	95/06/15	15/95
C-45	An Act to amend the Corrections and Conditional Release Act, the Criminal code, the Criminal Records Act, the Prisons and Reformatories Act and the Transfer of Offenders Act	95/10/03	95/10/18	Legal & Constitutional Affairs	95/12/07	none	95/12/12	95/12/15	42/95
C-46	An Act to establish the Department of Industry and to amend and repeal certain other Acts	94/12/12	94/12/13	Banking, Trading & Commerce	95/02/14	none	95/02/15	95/03/16	1/95
C-47	An Act to amend the Department of External Affairs Act and to make related amendments to other Acts	95/02/14	95/02/22	Foreign Affairs	95/03/22	none	95/03/23	95/03/26	5/95
C-48	An act to establish the Department of Natural Resources and to amend related Acts	94/11/24	94/11/29	Energy, Environment & Natural Resources	94/11/30	none	94/11/30	94/12/15	41/94
C-49	An Act to amend the Department of Agriculture Act and to amend or repeal certain other Acts	94/10/25	94/10/27	Agriculture & Forestry	94/11/17	none	94/11/17	94/11/24	38/94
C-50	An Act to amend the Canadian Wheat Board Act	94/11/15	94/11/17	Agriculture & Forestry	94/11/24	none	94/11/24	94/11/24	39/94
C-51	An Act to amend the Canada Grain Act and respecting certain regulations made pursuant to that Act	94/12/14	94/12/14	Agriculture & Forestry	94/12/15	none	94/12/15	94/12/15	45/94
C-53	An Act to establish the Department of Canadian Heritage and to amend and repeal certain other Acts	95/02/14	95/02/21	Social Affairs, Science & Technology	95/04/06	none	95/04/06	95/06/15	11/95
C-54	An Act to amend the Old Age Security Act, the Canada Pension Plan, the Children's Special Allowances Act and the Unemployment Insurance Act	95/06/22	95/06/27	Social Affairs, Science & Technology	95/07/11	none	95/07/12	95/07/13	33/95

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-55	An Act to establish a board having jurisdiction concerning disputes respecting surface rights in respect of land in the Yukon Territory and to amend other Acts in relation thereto	94/11/29	94/12/01	Aboriginal Peoples	94/12/12	none	94/12/12	94/12/15	43/94
C-56	An Act to amend the Canadian Environmental Assessment Act	94/12/14	94/12/14	Energy, Environment & Natural Resources	94/12/15	none	94/12/15	94/12/15	46/94
C-57	An Act to implement the Agreement Establishing the World Trade Organization	94/12/01	94/12/07	Foreign Affairs	94/12/15	none	94/12/15	94/12/15	47/94
C-59	An Act to amend the Income Tax Act and the Income Tax Application Rules	95/02/22	95/03/01	Banking, Trade & Commerce	95/03/21	none	95/03/22	95/03/26	3/95
C-60	An Act respecting an agreement between Her Majesty in right of Canada and the Pictou Landing Indian Band	95/02/21	95/02/28	Aboriginal Peoples	95/03/22	none	95/03/23	95/03/26	4/95
C-61	An Act to establish a system of administrative monetary penalties for the enforcement of the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act and the Seeds Act	95/11/02	95/11/07	Agriculture & Forestry	95/11/28	none	95/11/29	95/12/05	40/95
C-63	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1995	94/12/12	94/12/12	—	—	—	94/12/13	94/12/15	48/94
C-64	An Act respecting employment equity	95/10/18	95/10/31	Social Affairs, Science & Technology	95/11/22 95/11/30 sent back 95/12/12	nine none	95/12/13	95/12/15	44/95
C-65	An Act to reorganize and dissolve certain federal agencies	95/06/27	95/06/27	National Finance	95/07/11	none	95/07/12	95/07/13	29/95
C-67	An Act to establish the Veterans Review and Appeal Board, to amend the Pension Act, to make consequential amendments to other Acts and to repeal the Veterans Appeal Board Act	95/05/23	95/05/24	Social Affairs, Science & Technology	95/06/20	none	95/06/21	95/06/22	18/95
C-68	An Act respecting firearms and other weapons	95/06/14	95/06/22	Legal & Constitutional Affairs	95/11/20 95/11/22	fourteen defeated	95/11/22	95/12/05	39/95
C-69	An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries	95/05/02	95/05/02	Legal & Constitutional Affairs	95/06/08	seven	95/06/08		
C-70	An Act to amend the Income Tax Act, the Income Tax Application Rules and related Acts	95/06/20	95/06/21	Banking, Trade & Commerce	95/06/22	none	95/06/22	95/06/22	21/95

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-71	An Act to amend the Explosives Act	95/10/17	95/10/31	Energy, Environment & Natural Resources	95/11/02	none	95/11/06	95/11/08	35/95
C-72	An Act to amend the Criminal Code (self-induced intoxication)	95/06/27	95/06/27	Legal & Constitutional Affairs	95/07/11	none	95/07/12	95/07/13	32/95
C-73	An Act to provide borrowing authority for the fiscal year beginning on April 1, 1995	95/03/29	95/03/29	National Finance	95/03/30	none	95/03/30	95/03/30	8/95
C-74	An Act respecting the supervision of longshoring and related operations at west coast ports	95/03/16	95/03/16	Whole	95/03/16	none	95/03/16	95/03/16	2/95
C-75	An Act to amend the Farm Improvement and Marketing Cooperatives Loans Act	95/06/05	95/06/07	Agriculture & Forestry	95/06/13	none	95/06/14	95/06/15	13/95
C-76	An Act to implement certain provisions of the budget tabled in Parliament on February 27, 1995	95/06/07	95/06/14	National Finance	95/06/19	none	95/06/21	95/06/22	17/95
C-77	An Act to provide for the maintenance of railway operations and subsidiary services	95/03/26	95/03/26	Whole	95/03/26	none	95/03/26	95/03/26	6/95
C-79	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1995	95/03/26	95/03/29	—	—	—	95/03/30	95/03/30	9/95
C-80	An Act for granting to Her majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	95/03/26	95/03/29	—	—	—	95/03/30	95/03/30	10/95
C-81	An Act to amend An Act respecting the Buffalo and Fort Erie Public Bridge Company	95/06/05	95/06/07	Transport & Communications	95/06/15	none	95/06/15	95/06/15	14/95
C-82	An Act to amend the Royal Canadian Mint Act	95/06/22	95/06/27	National Finance	95/07/11	none	95/07/11	95/07/13	26/95
C-83	An Act to amend the Auditor General Act	95/11/29	95/12/06	Energy, Environment & Natural Resources	95/12/12	none	95/12/13	95/12/15	43/95
C-85	An Act to amend the Members of Parliament Retiring Allowances Act and to provide for the continuation of a certain provision	95/06/22	95/06/27	National Finance	95/07/11	none	95/07/12	95/07/13	30/95
C-86	An Act to amend the Canadian Dairy Commission Act	95/06/20	95/06/21	Agriculture & Forestry	95/06/27	none	95/06/27	95/07/13	23/95
C-87	An Act to implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction	95/06/20	95/06/21	Foreign Affairs	95/06/27	none	95/06/27	95/07/13	25/95
C-89	An Act to provide for the continuance of the Canadian National Railway Company under the Canada Business Corporations Act and for the issuance and sale of shares of the Company to the public	95/06/21	95/06/22	Transport & Communications	95/06/27	none	95/06/27	95/07/13	24/95

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-90	An Act to amend the Excise Tax Act and the Excise Act	95/10/18	95/10/19	Banking, Trade & Commerce	95/11/07	none	95/11/08	95/11/08	36/95
C-91	An Act to continue the Federal Business Development Bank under the name Business Development Bank of Canada	95/06/22	95/06/27	Banking, Trade & Commerce	95/07/11	none	95/07/11	95/07/13	28/95
C-92	An Act to amend the Canadian Wheat Board Act	95/06/27	95/06/27	Agriculture & Forestry	95/07/11	none	95/07/12	95/07/13	31/95
C-93	An Act to amend the Cultural Property Export and Import Act, the Income Tax Act and the Tax Court of Canada Act	95/10/31	95/11/02	Banking, Trade & Commerce	95/11/20	none	95/11/21	95/12/05	38/95
C-97	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	95/06/08	95/06/13	—	—	—	95/06/14	95/06/15	16/95
C-99	An Act to amend the Small Business Loans Act	95/12/13	95/12/14	Banking, Trade & Commerce	95/12/15	none	95/12/15	95/12/15	48/95
C-102	An Act to amend the Customs Act and the Customs Tariff and to make related and consequential amendments to other Acts	95/10/31	95/11/02	Banking, Trade & Commerce	95/11/29	none	95/11/30	95/12/05	41/95
C-103	An Act to amend the Excise Tax Act and the Income Tax Act	95/11/02	95/11/07	Banking, Trade & Commerce	95/12/05 95/12/13	one defeated	95/12/14	95/12/15	46/95
C-104	An Act to amend the Criminal Code and the Young Offenders Act (forensic DNA analysis)	95/06/27	95/06/27	Legal & Constitutional Affairs	95/07/11	none	95/07/11	95/07/13	27/95
C-105	An Act to implement a convention between Canada and the Republic of Latvia, a convention between Canada and the Republic of Estonia, a convention between Canada and the Republic of Trinidad and Tobago and a protocol between Canada and the Republic of Hungary, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	95/10/31	95/11/02	Banking, Trade & Commerce	95/11/07	none	95/11/08	95/11/08	37/95
C-107	An Act respecting the establishment of the British Columbia Treaty Commission	95/11/29	95/12/06	Aboriginal Peoples	95/12/13	none	95/12/14	95/12/15	45/95
C-108	An Act to amend the National Housing Act	95/12/14	95/12/14	National Finance	95/12/14	none	95/12/14	95/12/15	47/95
C-110	An Act respecting constitutional amendments	95/12/14	95/12/15	Special Committee on C-110	96/02/01 96/02/02	three defeated	96/02/02	96/02/02	1/96
C-116	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	95/12/12	95/12/12	—	—	—	95/12/13	95/12/15	49/95

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to implement a convention between Canada and the Republic of Hungary, an agreement between Canada and the Federal Republic of Nigeria, an agreement between Canada and the Republic of Zimbabwe, a convention between Canada and the Argentine Republic and a protocol between Canada and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to income taxes and to make related amendments to other Acts	94/02/08	94/02/10	Banking, Trade & Commerce	94/03/15	none	94/03/16	94/06/15	17/94
S-9	An Act to amend the Canada-United States Tax Convention Act, 1984	95/03/23	95/03/28	Banking, Trade & Commerce	95/05/02	none	95/05/03	95/11/08	34/95

COMMONS' PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-207	An Act to amend the Auditor General Act (reports)(Sen. Frith)	94/06/14	94/06/15	National Finance	94/06/22	none	94/06/22	94/06/23	32/94
C-212	An Act to recognize hockey and lacrosse as the national sports of Canada (Sen. Molgat)	94/04/28	94/05/11	Whole	94/05/12	none	94/05/12	94/05/12	16/94
C-216	An Act to amend the Unemployment Insurance Act (jury service)(Sen. Gigantès)	95/02/22	95/03/01	Social Affairs, Science & Technology	95/03/21	none	95/03/22	95/03/26	7/95

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-4	An Act to amend the Merchant Navy Veteran and Civilian War-related Benefits Act (Sen. Marshall)	94/02/10							
S-6	An Act to amend the Criminal Code (dangerous intoxication) (Sen. Gigantès)	94/11/16	94/12/01	Legal & Constitutional Affairs					
S-7	Bill S-7, An Act to accelerate the use of alternative fuels for motor vehicles (Sen. Kenny)	94/12/08	94/12/13	Energy, Environment & Natural Resources	95/04/05	six	95/04/06	95/06/22	20/95
S-10	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	95/03/30							
S-11	An Act concerning one Karla Homolka (Sen. Cools)	95/10/17							
S-13	An Act to amend the Criminal code (abuse of process) (Sen. Cools)	95/11/29							
S-14	An Act to restrict the manufacture, sale, importation and advertising of tobacco products (Sen. Haidasz, P.C.)	95/12/07	96/02/01	Social Affairs, Science & Technology					
S-15	An Act to amend the Criminal Code (plea bargaining) (Sen. Cools)	95/12/13							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to authorize General Security Insurance Company of Canada to be continued as a corporation under the laws of the Province of Quebec (Sen. Grimard)	94/02/09	94/02/24	Legal & Constitutional Affairs	94/05/25	none	94/05/31	94/06/23	50/94
S-5	An Act to incoporate the Canadian Association of Lutheran Congregations (Sen. Olson, P.C.)	94/03/23	94/04/28	Legal & Constitutional Affairs	94/06/02	three	94/06/08	94/06/15	49/94
S-8	An Act to amend the Act of incorporation of the Certified General Accountants' Association of Canada (Sen. Kirby)	95/02/16	95/03/01	Banking, Trade & Commerce					
S-12	An Act to amalgamate the Alberta corporation known as the Missionary Church with the Canada corporation known as the Evangelical Missionary Church, Canada West District (Sen. Gustafson)	95/11/22	95/11/30	Legal & Constitutional Affairs	95/12/07	one	95/12/07	95/12/15	50/95