CANADA

Debates of the Senate

2nd SESSION • 35th PARLIAMENT • VOLUME 136 • NUMBER 69

OFFICIAL REPORT
(HANSARD)

Tuesday, February 11, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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(Daily index of proceedings appears at back of this issue.)

Debates: Victoria Building, Room 407, Tel. 996-0397

Published by the Senate
Available from Canada Communication Group — Publishing, Public Works and Government Services Canada, Ottawa K1A 0S9, at $1.75 per copy or $158 per year.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, February 11 , 1997

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL SPECIAL OLYMPICS WORLD WINTER GAMES

FELICITATIONS ON SUCCESS OF GAMES

Hon. Wilfred P. Moore: Honourable senators, I should like to make a statement with respect to the World Special Olympics Winter Games which took place last week in the Toronto-Collingwood area. You may know that the Special Olympics drew 2,000 athletes and 3,000 volunteers from 72 countries throughout the world.

The Canadian team was made up of 82 athletes, young men and women. I am proud to say that two of those athletes were from Nova Scotia. One was a 22-year-old man from Shelburne, Martin Fudge, who worked and trained very hard. He practised last winter, when we did not have snow in Nova Scotia, by attaching foam rubber to the bottom of his snow shoes and working out on the country roads. He got his fighting weight down by 60 pounds and was successful in that he won three silver medals and one bronze.

Honourable senators, keep in mind that these athletes are mentally challenged, but they are very keen and disciplined, and they show great courage.

I now wish to tell you about Bonnie Conrad, 32, from Lunenburg. Bonnie is a speed skater. Until this past September, she was working out and using men's skates. Then she received a pair of speed skates, and has been practising on them since then. She competed in three events in the Special Olympics. She won two silver medals. Her final event was a 333-meter event. She came from behind to win the gold. She won the gold for Canada, and she won the gold for herself. We are extremely proud of Bonnie and of her long-time coaches, Alice Bent from Bridgewater and Jane Ritcey from Lunenburg.

I am sure that all senators will join me in expressing our congratulations to the officials and the legion of volunteers who put on this world-class event and, more particularly, the athletes from Canada, who brought much goodwill and great honour to our beloved country.

PRECINCTS OF PARLIAMENT

INCIDENT INVOLVING USE OF A TRUCK ON PARLIAMENT HILL

Hon. William M. Kelly: Honourable senators, a few days ago, we were treated to the sight of a vehicle travelling up the broad pedestrian way toward the Centre Block, going up two flights of stairs and coming to rest against the door at the Centre Block.

It is difficult for me to know where to start in commenting on that situation. Honourable senators who have been here for a while will be aware of my long-standing interest and concern on the question of international terrorism and the extent to which this country is in a position to protect itself against such incidents. We carried out a study in the late 1980s and presented a report in 1987 which showed many weaknesses. I am pleased to report that many of those weaknesses were remedied as a result of the report. The committee did an excellent job. We revisited the issue in 1989 and, again, we saw some change.

I developed my interest in this subject as a result of having actively worked in Western Europe and the Middle East through the sixties and the early seventies and seeing the development of terrorism go from something that was sporadic and highly focused to an industry where bombers could be hired out. Today, a well-financed organization or member of the industry can be hired to do almost anything, any place.

• (1410)

My interest in what was happening in Canada was first sparked when the American Embassy on Wellington Street erected heavy pylons. That was done in response to a situation — similar to the one that occurred here last week — where a truck, loaded with high explosives, was rammed up against the door of an embassy in another country at that time — although I do not remember which country. The explosives blew up and a number of people were killed. That could have happened here last week.

At that time, some eight or ten years ago, Canadians watched the Americans concern themselves with such an incident, but we maintained the same view we have always had: "It can't happen here."

Last week, when that truck arrived at its resting place against the Centre Block, everything that happened should not have happened: People were allowed to gather; the media talked to a caretaker who said, "Gee, it might have run over me"; a member of the other place said, "Good heavens, isn't it lucky a tourist was not hit or killed."

We have an RCMP vehicle stationed at the south end of Parliament Hill. Another is supposed to be stationed at the upper end. The officers must have observed the truck driving up, and assumed that a sightseer was saving himself a little walk. Do honourable senators realize that a minute amount of Semtex could have killed everyone who gathered to watch the action?

In a very short time I will be moving a motion dealing with such matters. I believe that we must continue to study this issue of terrorism. The objective of us all should be to get ahead of such events. Why do we deal with aeroplane safety only after 300 or 400 people crash to the ground? Why do we always institute safety measures in response to terrorist incidents? Must we wait until enough people are killed before we realize that it can happen?

CODE OF CONDUCT

RECORD OF LIBERAL GOVERNMENT

Hon. Gerry St. Germain: Honourable senators, on April 23 of last year, Senator Stanbury made an interesting and passionate speech in reply to the Speech from the Throne regarding the issues of honesty and integrity. In his speech, he praised the Liberal government for its record on honesty and integrity. To refresh your memory briefly, honourable senators, Senator Stanbury said:

> This government came into office with a clear plan. It had two central mandates: to restore public faith in the honesty and integrity of government and to get this country working again.

He went on to say:

> ...Canadians had been bruised by the parade of cabinet ministers in the Conservative government resigning over conflict of interest. Since then, revelations in books like *On the Take* by Stevie Cameron have shaken public confidence in the integrity of the political system, and these events have cast their shadows over us all.
>
> With this government, those days have came to an end. This Prime Minister introduced the most demanding screening process in Canadian history for his cabinet ministers. He has held himself and all the members of his government to the highest standards of honesty, integrity and ethical behaviour...
>
> You can disagree with our policies. But no one...can question the honesty and integrity of this government and its ministers. No one.

Honourable senators, in company with many other Canadians, I disagree with Senator Stanbury, and I question the government's record on honesty and integrity. Let us look at the government's record on this issue just in the last year. In 1996 alone, two cabinet ministers resigned: Ministers Collenette and Copps. The government is preparing to pay out millions of dollars in settlement with respect to the needless cancellation of the Pearson airport deal. The Chief of Staff of the military, appointed by this government, had to resign. Over the objection of the Commissioner, the official inquiry into the Somalia affair was cut short by this government in an attempt to curtail a full, truthful hearing. The PMO and Ministers Rock and Gray participated in a politically motivated attempt to tarnish the name and reputation of a former Prime Minister of this country. Due to the action of these two ministers, the Government of Canada was forced to issue an official apology for its actions and is liable to pay millions of dollars in legal and related fees. Finally, in the view of many, even the Prime Minister was caught distorting the truth on nation-wide television in regard to the GST.

Honourable senators, all of these incidents took place just over the last year. I should like to thank Senator Stanbury for the lesson in honesty and integrity, but perhaps in the future he should deliver them only at Liberal Party caucus meetings.

INTERNATIONAL SPECIAL OLYMPICS WORLD WINTER GAMES

ORIGIN OF GAMES

Hon. Janis Johnson: Honourable senators, on Saturday, February 7, the 1997 International Special Olympics World Winter Games came to a close in Toronto after a week of sporting competition that involved 2,000 mentally handicapped athletes from 72 countries. Like the opening ceremonies, the closing event was a memorable and heart-warming occasion, full of hope and expectation for the future.

The games were a remarkable undertaking, full of spirited competition mixed with fun-filled and sometimes tearful moments for the participants, their parents and coaches, and the thousands of volunteers who helped to make the games a reality. Many years of work went into bringing these winter games to Toronto and Collingwood. They were the largest Special Olympics' Games ever held in the world. Toronto and Collingwood are to be commended for the excellent organization and generous hospitality they afforded to all who participated and attended.

Special Olympics is a unique organization which offers mentally handicapped people a chance to learn and participate in sport and fitness programs that will benefit them throughout their lives. The games are the culmination of years of training by the athletes and offer them a chance to compete. The sense of achievement and improved well-being that this involvement brings has given mentally handicapped people a better life, and accounts for the tremendous growth in the program since the Joseph P. Kennedy Foundation and the Schriver family began the movement in 1968.

Canada's own Dr. Frank Hayden was also integral to the development of Special Olympics. It was Dr. Hayden's research into the benefits of physical fitness for people with mental disabilities that helped the Joseph P. Kennedy Foundation develop the Special Olympics model. The combination has given mentally handicapped people, from age 6 to 60, new opportunities and a better quality of life. I cannot say enough about the Kennedy family and their work in this area. Dr. Hayden continues to be our guide as well, and he served as the honorary head coach of Team Canada at the games.

The legendary Harry "Red" Foster brought Special Olympics to Canada and funded Canadian Special Olympics until it got on its feet. Floor hockey was the first sport to be played in Special Olympics competitions and remains their most popular program. It was also Harry's favourite.

Canada has had teams in every Special Olympics' games since they began, and Canadian Special Olympics is now nation-wide, and the best program of its kind in the world. In my own province of Manitoba, 5,000 people are involved in special Olympics, both athletes and volunteers.

I would like to add a personal note, honourable senators. It was Red Foster, our Canadian founder, and my brother Daniel Johnson who started the Manitoba Special Olympics and got me involved 17 years ago. I have served on the Manitoba Special Olympics Board and the Canadian Special Olympics Board, and been a volunteer in the field.

I attended the 1997 games in my capacity as a member of the newly-created Canadian Special Olympics Advisory Board, but I really went because I have a deep attachment to the kids, the program and the people who make it happen. We are like a family in Special Olympics, and it seems to be a lifetime involvement for most of us. As Eunice Kennedy Schriver said to me at my first international games in 1981, "Welcome to the club — it will steal your heart away." Little did I know what she meant. When I saw her last week, she did not seem surprised that I was still around.

Perhaps it is best said in the motto the athletes recite at the opening of the games, which embodies the spirit of the Special Olympics:

Let me win
But if I cannot win
Let me be brave in the attempt.

I hope you all had a chance to watch some of the games on TSN last week. If not, they will be rebroadcast in the weeks ahead. Viewing these games is truly worth your time.

• (1420)

NATIONAL TEACHER STAFF APPRECIATION WEEK

Hon. Ethel Cochrane: Honourable senators, for the tenth year, home and school associations and parent councils across the country are celebrating National Teacher Staff Appreciation Week. During this week, parents have organized community events in recognition of the personal and professional contributions of teachers and school staff.

National Teacher Staff Appreciation Week was begun in 1988 by the national parents' organization, The Canadian Home and School Federation. It is a way to give parents and others concerned with children and their education the opportunity to join in nation-wide demonstrations of support for Canada's schools and their teachers and staff.

Mabel Hubbard-Bell, wife of Alexander Graham Bell, was the founder of the first parents' association in Baddeck, Nova Scotia, 102 years ago. While the issues of the day were different then, parental concern for children's welfare has remained the same. The objective of the Canadian Home and School Federation has always been to promote the education, health, safety and welfare of children and youth in the home, the school and the community. Today, the Canadian Home and School Federation reaches over 1 million parents across the country who, daily, put their faith in the educators who work with our children.

In United Nations' studies, Canadians have received top rankings for our educational system, a system respected throughout the world. From it, the next generation of national leaders will come. Our society has invested a tremendous degree of responsibility and confidence in the ability of teachers to contribute positively to the well-being, as well as to the educational and social development of our children and youth. The hectic pace of our lives does not always allow us to properly indicate our appreciation for their superior training and commitment to the teaching profession. National Teacher Staff Appreciation Week offers a marvellous opportunity to stress our heartfelt gratitude to those who have chosen this vocation.

I am honoured to add my voice to those congratulating teachers for their outstanding work and dedication. I am hopeful that honourable senators will all join me in recognizing the teachers of this great country called Canada.

VISITORS IN THE GALLERY

The Hon the Speaker: Honourable senators, I should like to draw your attention to the presence of some distinguished visitors in the Speaker's Gallery. They are members of the Council of Europe, Mr. René van der Linden from the Netherlands and Mr. Ismail Cem from Turkey, accompanied by Mr. Kleijssen from their staff.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 5(1)(*h*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, February 12, 1997, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

POST-SECONDARY EDUCATION

NOTICE OF MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO EXTEND DATE FOR FINAL REPORT

Hon. Mabel M. DeWare: Honourable senators, I give notice that on Thursday next, February 13, 1997, I will move:

> That notwithstanding the Order of the Senate adopted on June 19, 1996, the Standing Senate Committee on Social Affairs, Science and Technology be authorized to present the final report of its study on the serious state of post-secondary education in Canada, no later than May 15, 1997.

CAPE BRETON DEVELOPMENT CORPORATION

SPECIAL SENATE COMMITTEE AUTHORIZED TO RECONSTITUTE TO EXAMINE FURTHER DOCUMENTATION

Hon. Bill Rompkey: Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(*d*), I move:

> That the Special Committee of the Senate on the Cape Breton Development Corporation be revived to examine and report upon the Annual Report, Corporate Plan and progress reports of the Cape Breton Development Corporation and related matters;
>
> That notwithstanding rule 85(1)(*b*), the Honourable Senators Anderson, Buchanan, De Bané, Ghitter, Gigantès, Landry, MacDonald (*Halifax*), Macdonald (*Cape Breton*), Moore, Murray, Rompkey and Stanbury act as members of the Special Committee, and that three members constitute a quorum;
>
> 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 papers and evidence received and taken on the subject and the work accomplished by the Special Committee of the Senate on the Cape Breton Development Corporation during this session of the Thirty-fifth Parliament be referred to the Committee; and
>
> That the Committee submit its final report no later than March 11, 1997, and that the Committee retain all powers necessary to disseminate and publicize its final report until March 15, 1997.

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

Hon. Marcel Prud'homme: Honourable senators —

The Hon. the Speaker: Are you objecting to leave, Senator Prud'homme?

Senator Prud'homme: I would like to make a comment.

The Hon. the Speaker: I am sorry, Honourable Senator Prud'homme, leave is either "yes" or "no."

Senator Prud'homme: There was no consultation. Thank God Senator Murray hinted something to me earlier about this matter, because I was totally unaware of it.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

ENGLISH HEALTH CARE SERVICES IN THE PROVINCE OF QUEBEC

NOTICE OF INQUIRY

Hon. Dalia Wood: Honourable senators, pursuant to rules 56(1) and 57(2), I give notice that two days hence I shall call the attention of the Senate to English health care services in the province of Quebec.

PRIVATE BILL

AN ACT TO INCORPORATE THE BISHOP OF THE ARCTIC OF THE CHURCH OF ENGLAND IN CANADA—BILL TO AMEND—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present a petition from the Bishop of the Arctic for the City of Yellowknife in the Northwest Territories, praying for the passage of an act to amend an act to incorporate the Bishop of the Arctic of the Church of England in Canada.

QUESTION PERIOD

INTERGOVERNMENTAL AFFAIRS

LABOUR MARKET DEVELOPMENT AGREEMENTS—EFFECT ON AVAILABILITY OF SERVICE TO FRANCOPHONES IN ALBERTA—REQUEST FOR ANSWER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, on December 16 last, I asked the Leader of the Government if she could assure this house that any Labour Market Development Agreement signed with Quebec would include a guarantee that programs and services presently provided by the federal government in both languages would not be transferred to the Quebec government unless the agreement with that province includes the same guarantees. Yesterday, during Question Period, the Prime Minister said that the government was hoping to sign such an agreement last month, indicating quite clearly that negotiations are far advanced. My question of December 16 is therefore even more pertinent and takes on greater urgency today. Is the minister now in a position to give it an answer?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am not in a position today to give my honourable friend a precise answer because the negotiations are still being carried on by the minister, Mr. Pettigrew.

The honourable senator is quite right to point out that it was hoped that this agreement would be signed earlier. It was not, and the negotiations continue.

• (1430)

I cannot respond to Senator Lynch-Staunton's question today. I will try to obtain something more precise from my colleague, although he may be hampered by those negotiations in releasing information. I will do my best.

LABOUR MARKET DEVELOPMENT AGREEMENTS— ALTERNATE MODELS AVAILABLE FOR USE IN QUEBEC— GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, yesterday, during that same Question Period, the Prime Minister said that agreements were reached quickly with Alberta and New Brunswick and that he cannot see why the same conditions could not be met in Quebec. The problem with an answer like that, as with so many of the Prime Minister's answers, is that it reveals an ignorance of the subject-matter of the question.

As regards linguistic rights, the obligations in the New Brunswick and the Alberta agreements are not the same. In Alberta, to put it in a common term, the agreement is on a "where numbers warrant" basis. Where there is significant demand, francophones — the minorities — will be provided with programs and services in their language. To determine significant demand in Alberta, the province will be guided by federal regulation. It will be done on a sort of *ad hoc*, voluntary basis but with no guarantee that the services will be provided.

In New Brunswick, the issue is a little clearer. The New Brunswick government has committed itself to providing benefits and services in both official languages without condition.

We have two different approaches to the minority language in two different provinces — one, New Brunswick's approach, guarantees services in both official languages, and the other, Alberta's, is more confused and less clear. There are no criteria or guidelines, and therefore no guarantee ensuring that the French minority in Alberta will be treated on the same footing with the majority, as it will be in New Brunswick. My question is: Will Quebec use the Alberta model or the New Brunswick model?

Hon. Joyce Fairbairn (Leader of the Government): I know it is the view of the minister that the agreements which have been signed with the two provinces, although different in terms of responding to the particular circumstances of each province, nonetheless fully meet the requirements of the Official Languages Act. It would be his conviction that any agreement with the Province of Quebec would do so as well. He is in the midst of negotiations with that province.

CHANGES TO SECTION 93 OF CONSTITUTION REQUESTED BY PROVINCE OF QUEBEC ACCOMPANIED BY HISTORIC LINGUISTIC GUARANTEES—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, do I detect from that answer that the Quebec anglophone minority will have the same provincial services as are being extended now under the federal government? That is what I read from the answer.

On a related matter, the Government of Quebec has indicated that it wishes to replace religious school boards with linguistic school boards. If a formal request does reach the Government of Canada, will it insist that it will not support any changes to the Constitution, in particular section 93, unless those changes include linguistic guarantees at least equivalent to the religious guarantees which have existed since 1867?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I understand fully the importance of the question, and I will obtain an answer for my honourable friend.

JUSTICE

INVESTIGATION INTO SALE OF AIRBUS AIRCRAFT TO AIR CANADA—POSSIBILITY OF PUBLIC INQUIRY— GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question to the Leader of the Government in the Senate relates to the Airbus scenario. An apology has been issued, an agreement to pay legal fees has been reached, but there are still no resignations by anyone of any prominence within the bureaucracy or the government. There is currently an inquiry of some fashion into the behaviour of some of the members of the RCMP.

As opposed to an inquiry by an individual — and I am not questioning the individual in this case — and in view of this costly, horrific error brought about by government ministers, does the Leader of the Government not agree that we should have a full public inquiry? Although the present inquiry could not possibly be as bad as the Nixon inquiry relating to Pearson, should we not have a full public inquiry into something that rocked the entire nation?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the inquiry in progress is a code of conduct inquiry by the RCMP. It is underway, and that is all I can comment.

My honourable friend has noted, as have other questioners in this chamber, that a settlement has been reached and an apology has been given by the government and ministers from the Prime Minister down. The investigation itself continues. I have no further comment to make on the question of my honourable friend.

Senator St. Germain: Honourable senators, how can we expect ordinary Canadians to have faith in our institutions knowing that even a former prime minister is not safe from such unjust treatment? It is not that there should be a difference, but that we should all be treated equally in this country. How can we ensure that the government today is not using Revenue Canada, the Justice Department, or the RCMP against those who oppose them or those they feel are political opponents or those who criticize them?

It has been written and, indeed, asked by Canadians right across the country, "If they can do something like this to a former prime minister, what stops them from conducting the same type of scenario using the strength that lies in organizations such as CSIS, the RCMP, and Revenue Canada against ordinary Canadians simply because they do not agree with the government?"

Senator Fairbairn: My honourable friend knows that, in the course of this situation, which evoked, and deservedly so, an apology, the letter in question should not have been worded the way it was written.

Senator Lynch-Staunton: Did you tell the Swiss that?

Senator Fairbairn: The Minister of Justice indicated in some detail a week or so ago that he moved swiftly to change the procedures and process surrounding that particular method of seeking information so that these kinds of mistakes would not happen again. He also, a few weeks ago, engaged a former judge of the appeal court in Ontario, Mr. Alan Goodman, to further examine the changes that the department has made, on the encouragement of the minister, to determine whether they are sufficient. In this situation, the minister and the government are doing everything possible to ensure that such a thing will not happen again in this manner to any other citizen in Canada.

• (1440)

Senator St. Germain: Honourable senators, I stood in this place, like many others, and brought forward by way of questions and statements the fact that we were receiving letters of this nature. We could not believe that a letter could be written in such a manner. It was a clear indictment of an individual.

The Honourable Leader of the Government in the Senate and Minister Rock defended the position, and the letter. They said that this was procedure and process, and they defended it with all the vigour that they possessed, never indicating for a moment that this was wrong. Suddenly, now that it has been disclosed that these claims were groundless, we have a complete reversal.

Honourable senators, all of us, no matter on which side of the house we sit or where we reside, have an obligation to institute some form of public inquiry into this matter. By suggesting that, I do not mean to question the merit of the good judge who has been appointed to inquire into this affair.

As the minister has pointed out so adeptly in her answer to me, it is of grave importance that such a thing should never happen again. In a democratic society, this sort of action is unheard of. That is why I urge that a public inquiry be held and not just an individual hearing. We need a tribunal before which people can appear, and where evidence can be given in an orderly manner and assessed by a group of people, instead of by one individual. I repeat, I am not questioning the merit of the good judge.

Does the Leader of the Government in the Senate not agree that we should have such an inquiry as soon as possible?

Senator Fairbairn: Honourable senators, I have described the action that Minister Rock and the Department of Justice took very quickly, following the release of the contents of that letter. Over a period of several months, my answers to questions on this matter were that the existence of such a letter was not known in advance by members of the government.

The procedures I previously described have now been put in place. They will be strengthened, if necessary, following the examination by Mr. Goodman. I can only pass on my friend's personal comments to my colleagues. However, it is not my understanding that there is a plan to hold such a public inquiry.

ATOMIC ENERGY OF CANADA

SALE OF CANDU REACTORS TO CHINA—SUBJECT OF FURTHER NEGOTIATIONS BETWEEN PARTIES—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, recently we were led to understand that the final contract between Atomic Energy Canada and the China National Nuclear Corporation for the sale of two Candu reactors was based on a memorandum of understanding with the CNNC and officials of China dating back to 1994 and a project award agreement of last July. This agreement set out the price, the scope of supply, the fees and financing, and conditions of a final sale. Last March, Parliament passed an appropriations bill authorizing the Minister of Finance to guarantee a loan of $1.5 billion to enable that sale to proceed.

I am now informed that the authority granted to the Minister of Finance has not been exercised. As of last week, no money had moved. The reason, I am told, is that the parties involved are still negotiating. Meanwhile, four ministers of the Crown have been named in an application for judicial review on an entirely different aspect of this sale — the government's failure to uphold Canada's environmental assessment law in its eagerness to export Candu reactors.

My question is this: What is the substance behind the photo opportunity of last November when the Prime Minister witnessed the signing of the contract? What precisely are the parties still negotiating? What are the financial arrangements being pursued by this government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I thank my honourable friend for that question. It is one of some detail, and I will pursue the answers for her.

Senator Spivak: Can the Leader of the Government in the Senate tell us whether this is a done deal or not?

Senator Fairbairn: Honourable senators, this agreement exists between the two countries. My colleagues have been involved, personally and individually, in the negotiation of it. However, I would be much more comfortable obtaining the answer from them rather than giving one off the top of my head today. I will pursue that issue for my honourable friend.

THE ECONOMY

LEVEL OF UNEMPLOYMENT—STATUS OF JOB CREATION PROGRAM—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, last Friday, Statistics Canada released job figures showing that the national unemployment rate was stuck at 9.7 per cent in January. It was also reported that almost no new jobs were created in January. For a government which ran its last election campaign on promises of "Jobs, Jobs, Jobs" for Canadians, the Liberal government's performance in this area has been appalling.

Can the Leader of the Government in the Senate please explain to us the reason why so few jobs have been created during this government's current term?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would agree with my honourable friend on one point: The statistics to which he refers are far too high. The number of jobs that have been created within Canada should be higher. The number of unemployed Canadians is a cause for great national concern, and it is certainly a concern within this government.

However, I will also remind my honourable friend that, over the course of this mandate, over 700,000 jobs have been created. The majority of those were full-time jobs. In 1993, the government placed — and still places in 1997 — utmost priority on the question of jobs in Canada. That is why it has been engaged with the provinces, and with the private sector, in trying to increase the numbers in what really has been a jobless recovery, in the parlance of the economists.

Last Friday in Edmonton, Alberta, the federal government signed with the Government of Alberta the first federal-provincial agreement to extend the infrastructure program for another year. The intent of that program is primarily to address traditional infrastructure needs, particularly in the view of the people in the municipalities where it counts. On the other side of that coin, the program provides jobs and activity in the construction sector, and all of the spin-offs that go with that activity.

Another concern of the government, to which it has been addressing itself through a variety of measures including partnerships with the private sector, especially in the area of technology, is the ability to create jobs in that sector in Canada and to keep them here, rather than exporting them elsewhere. Yesterday, I was in Calgary visiting a company which is well known there as well as here in Ottawa — Computing Devices Canada. That company is in partnership with us on defence conversion projects that will create jobs for Canadians. A great many of such companies are doing that across Canada.

The priority of this government is to create jobs for Canadians. In order to do that, it has expended a tremendous amount of effort and focus in getting our economy into a state of good health. It has done so over the last three years, and that will be confirmed next week when Mr. Martin brings down his budget. Economic stability is fundamental to creating jobs. Senator Di Nino said that we need more jobs, and I agree with him entirely. That will be this government's priority through this budget and beyond.

• (1450)

Senator Di Nino: Honourable senators, we have just heard an election promise that is a continuation from the last campaign. I am sure that young Canadians, of whom some 25 per cent are unemployed, will be happy with the calming words of the Leader of the Government in the Senate.

Honourable senators, as a supplementary question, this past weekend *The Globe and Mail* reported that unemployment has hovered over 9 per cent for 76 consecutive months, the worst stretch since the depression of the 1930s. Nearly four years of Liberal government in Ottawa has produced one of the worst records in the area of job creation. My question for the Leader of the Government in the Senate is this: Does she not agree with us that this government, through its job creation program, has failed on its number one election promise of 1993 of jobs, jobs, jobs?

Senator Fairbairn: Honourable senators, I do not agree with my honourable friend. I shall not repeat the entirety of what I said a few minutes ago, but, yes, of course, any national party in this country would be irresponsible if jobs were not the primary issue with them. I am sure my honourable friend would agree. I will not refer to a former administration to compare economic growth during that time with the situation of the last three years.

Senator Lynch-Staunton: Why not? Please do.

Senator Fairbairn: However, I simply ask the honourable senator to consider the occasions in recent history when there has been a reduction in the deficit of our country. It has been only in the last three years. Systematically, we have tried to get our economy into a position where jobs will be created at a far greater pace in the years ahead, as lower interest rates, lower inflation, and the youth measures that will be announced tomorrow by my colleague, Pierre Pettigrew, kick in. There will be an improvement in Canada.

It is a tough slog, and every one of us should be supporting the measures that are being put forward. I can tell my honourable friend that any innovative thoughts he may have would be greatly appreciated and received. Please let me know and I will pass them on.

Hon. J. Michael Forrestall: Honourable senators, perhaps the Leader of the Government in the Senate would care to take some time to go to Nova Scotia and talk to the 9,000 people who have lost their jobs in the last year, not to mention the 2,000 or 3,000 in the construction industry who will lose their jobs this spring with the implementation of the wretched HST.

HEALTH

CONTINUED EXISTENCE OF TAR PONDS IN CAPE BRETON—FUNDING CUTS TO CANCER TRACKING STUDY AT DALHOUSIE UNIVERSITY—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question for the Leader of the Government in the Senate is this: What is the strategy of the Minister of the Environment relating to the Sydney Tar Ponds, given the announcement of the allocation of another $1.6 million for studies of the seriously contaminated ponds? I wonder about a government which insists on a strategy of further study when it is obvious that the problem is cleaning up the tar ponds, especially so close to the calling of the next federal election.

One of the most serious concerns related to the tar ponds is the high rate of cancer that is to be found in industrial Cape Breton. In fact, the cancer rate in that area is almost twice the national average. The recent announcement of the $1.6 million for further studies of the tar ponds will no doubt touch upon that issue, I hope, in some depth.

Could the Leader of the Government in the Senate also make inquiries to explain why Minister Dingwall's department announced in November of 1996 the cutting of the funding for the special tracking study being done for Dalhousie University at a cost equal to that $1.6 million? What is the government transferring? What kind of games is it playing with the dollars available?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am sure that the seriousness of this situation is shared by my honourable friend. The comments he has made are clearly cause for great concern, both for the Minister of the Environment and for the Minister of Health.

Obviously, the study is being carried out to be of assistance. I will take my honourable friend's question to both of my colleagues and see if I can obtain an answer. However, I do wish to underline, along with him, that the incidence of cancer in that area is deeply disturbing and certainly worthy of very serious consideration by all governments concerned.

Senator Forrestall: Honourable senators, is the minister giving us an assurance that this $1.6 million found in the national revenues for this work is not at the expense of the study which has been ongoing for six years and is far from completed? Such a move would have a great impact with respect to the efficacy of the study itself, let alone the causes and concerns associated with it. Is the minister giving us assurances that that is not where this $1.6 million came from?

Senator Fairbairn: Honourable senators, I am giving my honourable friend the assurance that I will find out from my colleagues the answers to his questions.

Senator Forrestall: Will the leader raise hell with them if that is the case?

Senator Fairbairn: I will raise something with them, senator.

HERITAGE

PARAMETERS OF PROPOSED PARLIAMENTARY COMMITTEE ON CULTURAL POLICY—GOVERNMENT POSITION

Hon. Janis Johnson: Honourable senators, as you are aware, yesterday Minister Copps ended her two days of meetings with representatives and executives from the cultural community. Having read the articles in the newspapers today and realizing that it has only been one day, I did not, however, find any information on a plan of action with regard to reviewing and updating Canadian cultural policy. The minister has spoken with a great deal of rhetoric but has put forward no new concepts, ideas or measures to protect Canadian culture.

When, if at all, can we expect these concrete proposals? Is there a plan of action at all yet, particularly regarding a parliamentary committee? I also want to echo my colleague's comments last week in his question on the establishment of such a committee, if in fact the government intends to set it up, to the effect that the Senate be included.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as my honourable friend probably knows, a suggestion will be forthcoming and I will be discussing it with my colleagues. I think everyone in this house is aware of Senator Johnson's particular concern, which concern is based on a very strong commitment and expertise in this area. I have certainly drawn this matter to the attention of Minister Copps and I will pursue the notion of committee work.

The Minister of Canadian Heritage had a productive meeting on the weekend with that group of people who came together, and, of course, there was very strong support for Canadian culture in all of its aspects. Some concrete and positive suggestions were made by the participants.

• (1500)

The minister is clearly following up with some enthusiasm, having had the benefit of their input. She, in what is perhaps a related announcement today, has indicated that additional annual funding will be provided for both English-language and French-language CBC radio services starting in April. That will be seen as a positive statement by people across this country.

Generally speaking, the Minister of Canadian Heritage is an extremely committed public voice on this issue. She will not remain silent. She will arm herself with the support and the suggestions she received at the summit and, I have no doubt, will make an imprint on government decisions.

Senator Johnson: Will the minister be revealing any further details of the content of the discussions than those that were in the paper today? There was little content in terms of what was discussed.

Senator Fairbairn: I cannot answer that question, honourable senators, but I will find out.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised on April 23, 1996, by the Honourable Senator St. Germain, regarding GST harmonization with provincial sales taxes, publication of effects.

I have a response to a question raised on October 30, 1996, by the Honourable Senator Forrestall, regarding GST harmonization with provincial sales tax, location of resulting jobs.

I have a response to questions raised on December 17, 1996, by the Honourable Senator Johnson and the Honourable Senator Nolin, regarding the Canadian Broadcasting Corporation, budget cuts and future plans.

I have a response to a question raised on December 18, 1996, by the Honourable Senator Doyle, regarding the inquiry on the safety of the blood supply.

GOODS AND SERVICES TAX

HARMONIZATION WITH PROVINCIAL SALES TAXES—PUBLICATION OF EFFECTS—GOVERNMENT POSITION

(Response to question raised by Hon. Gerry St. Germain on April 23, 1996)

The federal government, more specifically the Department of Finance, monitors changes to the Canadian tax system on an ongoing basis to ensure that measures taken work effectively and have the intended impact. The federal government will release these studies as they become available.

Since these measures are being undertaken jointly, the governments of Nova Scotia, New Brunswick and Newfoundland and Labrador will also monitor the impacts of sales tax harmonization in their respective provinces.

HARMONIZATION WITH PROVINCIAL SALES TAX—LOCATION OF RESULTING JOBS—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on October 30, 1996)

It is incorrect that there was a decision to establish a new headquarters for the collection of the HST in New Brunswick. In assuming administration of the harmonised sales tax, Revenue Canada will employ up to 70 individuals from each of the three provincial sales tax administrations. No decisions have been made to relocate these or any other positions associated with the harmonized sales tax to New Brunswick.

HERITAGE

BUDGET CUTS TO CANADIAN BROADCASTING CORPORATION—ADVERSE EFFECT ON CULTURAL INSTITUTIONS—GOVERNMENT POSITION

(Response to questions raised by Hon. Janis Johnson and Hon. Pierre Claude Nolin on December 17, 1996)

The federal government is committed to operating within a fiscally responsible framework and to reducing the deficit. Program Reviews I and II required all federal institutions and agencies, including cultural institutions such as the CBC, to contribute to the deficit reduction exercise. Although the Corporation must achieve operational efficiencies, the Government remains strongly committed to the CBC and will still be providing over $800 million in 1998-99.

It is the government's responsibility to set public policy objectives — these are outlined in the *Broadcasting Act* — and to set fiscal targets for the CBC. With respect to specific decisions taken by the CBC to manage its operations, the *Broadcasting Act* guarantees the autonomy of the CBC. As an independent Crown agency, the CBC is guaranteed journalistic, creative and programming independence under the *Broadcasting Act* and Parliament must respect and uphold that relationship. It is the Corporation's responsibility to determine the specific measures necessary to fulfil its public mandate within its resource allocation.

The CBC is required, pursuant to section 55 of the *Broadcasting Act*, to table annually a Corporate Plan summary in Parliament which explains the decisions taken with respect to the Corporation's operations and outlines strategic measures and initiatives for the future.

In announcing its budget reduction strategy last September, the CBC outlined broad strategic measures that will refocus the Corporation as a clearly and distinctively Canadian public alternative — "The Canadian Public Service Broadcaster" — within the Canadian broadcast system. First and foremost, the CBC will be mandate-driven; program decisions will be based on Canadian content, not on commercial revenue potential. In addition:

– U.S. programming will be eliminated completely from the English television network; all core media services will be 'Canadianized' by 1998-99.

– With increased audience fragmentation, CBC's aim is to attract and hold audiences by providing high quality Canadian content. CBC is the single largest producer of Canadian programming and has the highest level of Canadian content on both radio and television.

– In partnership with independent producers, CBC may access up to 50% of the $200 million Canada Television and Cable Production Fund to produce quality Canadian television programming.

– Regional reflection of Canada's cultural and linguistic diversity is fundamental to CBC's mandate; support to regional and local community level will remain an important part of CBC's future role.

– CBC benefits the commercial private sector in terms of fostering technology development and risk-taking; it will aggressively pursue new media to foster innovations in content and distribution (digital radio and TV, multimedia, Internet) to serve Canadians better in the future.

HEALTH

INQUIRY ON SAFETY OF BLOOD SUPPLY—POSITION OF MINISTERS OF HEALTH ON PROTECTION OF BLOOD SYSTEM

(Response to question raised by Hon. Richard J. Doyle on December 18, 1996)

On February 15, 1995, the Krever Commission submitted an Interim Report, which advised Canadians that Canada's blood supply is not less safe than that of other developed nations. But that interim report also underlined the findings of a Safety Audit Committee, which reported to Justice Krever that there was a need for the blood system to be restructured to eliminate conflicts among the participants and to define clearly responsibilities for the safety of the blood supply.

On March 11, 1996, the Minister of Health called on all partners in Canada's blood system to begin discussions on how to redefine and renew the national system, in order that they be prepared for the final recommendations of the Commission of Inquiry on the Blood System in Canada.

In September of last year Canada's Health Ministers met and deliberated on the complex issue of blood system reform. They agreed to take a decisive action to address the matter. On September 10 they announced they had agreed to put in place a new national authority to operate Canada's blood system.

For its part, the Province of Quebec did not support the creation of a new national entity, taking the view that its blood program must be incorporated into its own health and social services system. But Quebec did agree that collaboration could be explored in the future.

The announcement by Canada's Health Ministers was soundly endorsed by national consumer groups and the media. It was supported publicly by the major consumer group involved, the Canadian Hemophilia Society.

In essence, Canada's Health Ministers agreed that a new national authority is required to operate Canada's blood system, and that it will be based on four principles:

- Safety of blood is paramount;
- A fully-integrated approach is essential;
- Accountabilities must be clear;
- The system must be transparent.

These four principles will guide governments throughout the period of planning and transition, and will be fundamental to the new blood authority.

The initiative of Canada's Health Ministers will not pre-empt or subordinate Justice Krever or the work of his Commission. Rather, it is intended to prepare the necessary groundwork for governments to make a timely and appropriate response to his final recommendations.

The final report of the Krever Commission is due April 30, 1997. His report is anticipated to have much sound advice for governments as they plan the new system.

The initiative of Canada's governments to reform the national blood system marks an important mutual commitment to achieve a common goal — ensuring the safety of the Canadian blood supply.

ORDERS OF THE DAY

PRISONS AND REFORMATORIES ACT

BILL TO AMEND—SECOND READING

Hon. Lorna Milne moved second reading of Bill C-53, to amend the Prisons and Reformatories Act.

She said: Honourable senators, I am pleased to move second reading of Bill C-53. This bill proposes amendments to the Prisons and Reformatories Act that will strengthen and modernize the statutory framework that governs temporary absence programs for offenders in provincial and territorial custody.

These changes will affect only inmates of institutions run by the provinces — that is to say persons sentenced to up to two years less a day in custody. The vast majority of this population, roughly 83 per cent, have actually been sentenced to less than six months in custody. In theory, an inmate sentenced to six months would be eligible for parole after serving only two months of his or her sentence. However, because the length of the sentence is so short, the parole board is not obliged to hear the request for parole. In these cases, temporary absences become an important tool for rehabilitation and reintegration into the community.

Passage of this bill will benefit the provinces and territories by responding to their growing concerns that the existing temporary-absence legal framework for offenders in provincial and territorial custody is too limited and outdated. In fact, it is still a mishmash of legislation dating, in part, back to the 1800s. These amendments will provide a more flexible legislative framework to meet the diverse circumstances of the individual jurisdictions across Canada.

Indeed, these amendments were developed in collaboration with all provincial and territorial governments. They were endorsed by all the ministers responsible for justice in all these jurisdictions in May, 1996, and again in June of last year. They are an excellent illustration of federal-provincial-territorial cooperation on a matter of mutual interest.

It should be noted, honourable senators, that many of the same issues that this bill addresses, such as the expansion of the types of temporary absence and their duration, were addressed for the penitentiary population, that is for federal prisoners and inmates, when the new Corrections and Conditional Release Act was enacted in 1992. Provinces and territories realize that similar changes are required for inmates in their custody.

As honourable senators know, the Prisons and Reformatories Act is a federal statute which governs how sentences under acts of Parliament will be administered in provincial and territorial correctional facilities. This stems from the federal responsibility for criminal law. However, the provinces and territories are responsible for the implementation of this legislation. It is therefore essential that the legislation provide them with sufficient flexibility to address their unique circumstances as they see fit. A federal-provincial-territorial task force was struck before the last federal election and was given the mandate to develop these proposals. The amendments we have before us today are the result of that process.

The bill will modernize and strengthen the statutory framework that governs provincial and territorial temporary absence programs in the following ways: First, there is the addition of a statement of purpose and principles for temporary absence programs. This new element is modelled on the statement of purpose and principles which was introduced in 1992 as part of the Corrections and Conditional Release Act, and which applies to parole and penitentiary temporary absences. From our federal experience, we know they have been extremely useful by adding both real and perceived consistency and integrity to conditional release programs. In federal corrections, such statements provide valuable guidance to those who make release decisions and add consistency to temporary absence and conditional release programs. The statements are particularly useful in this day of heightened scrutiny and accountability.

Second, the amendments will authorize provinces and territories to increase the length of temporary absences from 15 days to a maximum of 60 days. This change to the legislation is intended to eliminate the current practice of granting what are called "back-to-back" temporary absences, and to give the correctional authorities the necessary flexibility to manage their inmate populations. However, I would emphasize that any renewal of temporary absences under this new program will require a tighter control, and it is this: Where a temporary absence is to be renewed, there must be a reassessment of the case prior to any renewal.

Third, the bill will set out explicit authority for individual jurisdictions to create additional types of temporary absences beyond those for the basic medical, humanitarian and rehabilitative reasons, so long as they are consistent with the overall purposes and principles of temporary absence programs as stated in the bill. This will give each jurisdiction the flexibility to adapt temporary absence programs to their own unique circumstances but within parameters that will provide national consistency.

Fourth, the reforms will authorize individual jurisdictions to limit concurrent eligibility for some types of temporary absences and parole. This authority is intended to prevent conditional release "shopping" where apparently, I have been informed, some offenders play the game of weighing parole off against temporary absence programs and vice versa to their own benefit. This amendment will enable provinces and territories to reduce opportunities for the offenders to manipulate the system in this way.

Last, the bill will add other important safeguards that will enhance public protection. There was considerable debate about the importance of the principle of protection of society during the second reading debate on this bill in the other place and during its study there by the Standing Committee on Justice and Legal Affairs.

• (1510)

Honourable senators, it is important to emphasize that, throughout the development of these reforms, all jurisdictions agreed that the protection of society and rehabilitation of prisoners could not be separated and that they are not contradictory or competing objectives. Indeed, all provinces and territories share the view that the two principles are highly compatible, because rehabilitation of an offender is the best way of protecting society in the long term.

However, the fact remains that the fundamental importance of the protection of society anchors Bill C-53. This notion underlines the purpose clause of Bill C-53 which reads:

> The purpose of a temporary absence program is to contribute to the maintenance of a just, peaceful and safe society...

As well, in clause 7.5, the bill contains several provisions that give the provinces clear authority and specific grounds to suspend, cancel, or revoke a temporary absence. Clauses 7.6(1) and (2) allow for the issuance of a warrant of apprehension and the execution and electronic transmission thereof anywhere in Canada to authorize a police officer to arrest a person without warrant where the officer believes, on reasonable grounds, that a warrant is outstanding against the person, and to hold that person for up to 48 hours until a warrant is forwarded and executed.

These amendments would ensure that there is no doubt about the authority to return offenders to custody when necessary. It is important to emphasize that the legislative improvement of the temporary absence program which would be brought about by this bill should not be perceived as minimizing the importance of parole. Both parole and temporary absence are important tools for assisting in the reintegration of offenders, and jurisdictions rely on each when appropriate. The reforms would permit each jurisdiction to decide where the balance between these two forms of conditional release lies.

It is important to point out that the parole process can sometimes be time-consuming. Therefore, as I said before, parole is generally more appropriate for offenders serving sentences of six months or more. Temporary absences are appropriate for the management of short sentences — terms of less than six months. Temporary absences are particularly appropriate in those jurisdictions without parole boards. Hence, it is crucial that these jurisdictions have the authority to establish a strong and credible program. This bill will allow the provinces and territories to establish such programs.

Some have criticized the amendments, saying that they will result in the system being more lenient at a time when the public is calling for greater restrictions. The reforms provide stricter parameters and tighter controls for the temporary absence program. As I have said, the amendments set out clear criteria for ending a release and returning the offender to custody. They also impose the reassessment of the case as a precondition to any renewal of a temporary absence. Temporary absence will no longer be a rubber stamp affair.

It cannot be emphasized enough that the protection of the public is one of the prime objectives on which these changes are grounded. The reforms are an effort to modernize the legislation and bring it into line with current practices. They will provide a more coherent system in that certain important elements, such as the statement of purpose and principles of temporary absence programs, and the power to end a release and return an offender to custody will, for the first time, be specified in statute.

In closing, honourable senators, I would like to reiterate that the proposed reforms are an effective response to the concerns of all jurisdictions. They were developed in full consultation with all jurisdictions and enjoy the unanimous support of all jurisdictions. This initiative is an excellent illustration of federal-provincial-territorial cooperation on a matter of mutual interest. It is a sound and balanced set of reforms which will allow each province and territory to tailor its temporary absence programs to meet the needs of its offender population while ensuring a minimum degree of national consistency.

The Senate has an interest in ensuring that the concerns of Canadians are addressed in the most efficient and effective manner. This is so, particularly for matters concerning the protection of public safety. This is precisely what Bill C-53 will do.

Honourable senators, this is a non-partisan measure which was initiated under a previous administration. I urge you to support Bill C-53.

Hon. William M. Kelly: Honourable senators, I am pleased to have this opportunity to speak briefly on Bill C-53. I was most impressed by Senator Milne's non-partisan, detailed remarks. I do not think Senator Milne has been here long enough to become partisan. I hope she manages to retain her objectivity. If she does, it may be the beginning of a Senate renewal, indeed.

However, I do have certain concerns. Senator Milne covered the obvious weaknesses in the system, such as the possibility of roll-over temporary absences. It would be quite possible for someone, for example, to be convicted and sentenced to six months and never serve a day in a penal institution.

The honourable senator also covered the safeguards, albeit theoretical, which have been built in. If they are followed, part of my concern will be met.

What worries me about the direction we are taking is that the perception of crime and punishment in our society seems to be a bit out of balance. "Paying his debt to society" was the old-fashioned way of describing someone who was sent to prison, served time and was released quite honourably.

It is my hope that the authorities will use their discretionary powers under this bill wisely. The powers do exist. Several years from now, I would not want to find that the temporary absence provisions have been used with excessive liberality and have returned to the street people who should have remained incarcerated, or that they have become a way of de facto shortening the sentences prescribed by courts. I believe the sponsor of the bill agrees with that.

Honourable senators, I see no reason why the chamber should not pass this bill without delay.

I would express the hope, as I have before, that with bills such as this, which have the agreement of all interested parties, which are not complex and which are clearly set out, we could depart from our ritual of sending every bill to committee.

My ex-associate Senator Frith and I used to debate this issue. He argued that that is the process and that we should follow it regardless. I believe that the work done by Senatre committees is very important to this chamber; however, I think they should reserve their efforts for complex issues with multiple facets. This is not one of those.

I hope this bill can be read a second and third time now.

Senator Milne: Honourable senators —

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Milne speaks now, her speech will have the effect of closing debate on the second reading of this bill.

Senator Milne: Honourable senators, I was pleased to hear Senator Kelly's support of this bill. I am tempted to move directly to third reading but, in the interests of what may be considered to be ritual, I believe that the Standing Senate Committee on Legal and Constitutional Affairs should hold at least one meeting to study this bill.

I wish to respond briefly to Senator Kelly's concerns about the back-to-back granting of temporary absences. I would assure the honourable senator that this matter has been thoroughly studied and, as I said before, it will not be a rubber-stamp affair. Each temporary absence application will be carefully considered.

• (1520)

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

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 Milne, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BANKRUPTCY AND INSOLVENCY ACT COMPANIES' CREDITORS ARRANGEMENT ACT INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce (Bill C-5, to amend the Bankruptcy Act, the Companies' Creditors Arrangement Act and the Income Tax Act, with amendments), presented in the Senate on February 4, 1997.

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, moved the adoption of the report.

He said: Honourable senators, I rise today to say a few words about the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce, which is the committee's report on Bill C-5, to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and the Income Tax Act.

Bankruptcy is a highly technical subject. It deals with a fundamental tenet of working market economy: namely, that parties to a transaction will honour the commitments they have made in business transactions. When those commitments cannot be honoured because of financial difficulty, there must be set rules on how to settle claims, otherwise the financial system breaks down.

The task of public policy in bankruptcy is to strike a balance between making bankruptcy the right solution versus making bankruptcy the easy solution. If a law makes it easy to declare bankruptcy and discharge financial obligations, then individuals may choose bankruptcy as soon as they run into financial difficulty. The result is to the detriment of those who extend credit.

On the other hand, if bankruptcy laws make it too difficult to discharge debts, the results will be easier credit. Credit granters would be confident that bankruptcy laws will serve as effective bill collectors. Neither result is desirable public policy. The first means that the cost of credit rises; the second means that businesses which could benefit from reorganization under bankruptcy protection go under instead. A balance must be struck between these two goals.

The hearings conducted by the Standing Senate Committee on Banking, Trade and Commerce on Bill C-5 sought to find that balance. The general view of the committee, as reflected in its written report, is that, while further improvements remain to be done in this area, Bill C-5 makes substantial progress with respect to the bankruptcy of business firms.

In the area of consumer bankruptcy, however, the committee had a number of concerns. The committee heard cogent arguments on both sides of this difficult issue. The committee, however, could come to no firm conclusions because of the lack of an adequate database in this area on which to base sound public policy. Thus, the report makes no recommendations with respect to consumer bankruptcy. The report does, however, seek a commitment from the Minister of Industry to work toward developing a comprehensive consumer bankruptcy policy that will fully meet the needs of bankrupt individuals.

I am pleased to report, honourable senators, that at the request of the committee, Industry Canada will conduct a study that will profile consumer debtors who have gone through the process of insolvency. It is extremely important in this significant area of public policy that an adequate database be assembled upon which public policy can be made. This Industry Canada study will be an important first step in this area, and the committee intends to revisit this issue once the study is completed.

Another area that troubled committee members was the proposal contained in Bill C-5 to place a threshold test of $10 million worth of debt before a company could use the Companies' Creditors Arrangements Act, the CCAA, for reorganization. The CCAA is a statute under which large companies reorganize when they face financial difficulties. The advantage of the CCAA is that it provides more flexibility to reorganize than is given the companies governed by the Bankruptcy and Insolvency Act.

Witnesses before the committee, including those from the Canadian Bar Association, testified that a threshold of $10 million would necessarily mean that most companies would need to reorganize under the Bankruptcy and Insolvency Act, instead of under the Companies' Creditors Arrangement Act. This would mean less flexibility for many businesses, and more bankruptcies would therefore result. Particularly troubling to the committee was the fact that almost all businesses in the Atlantic region and the prairie region would have been precluded from using the CCAA if the entry threshold had been left at $10 million.

For these reasons, this report makes a substantive amendment to Bill C-5. The committee proposes the amendment of Bill C-5 to set the threshold for invoking the CCAA at $5 million. This threshold will apply to a group of affiliated companies as well as to an individual company. This is one substantive amendment to Bill C-5 that this report makes.

In total, this report makes 10 amendments to the bill, eight of which are highly technical in nature. The other area where this report makes a substantive amendment is to the clause of Bill C-5 which deals with the burden of proof when a firm applies for an extension of a stay order under the CCAA. Bill C-5 proposes that a debtor who is applying for an extension of the initial stay order granted by the courts, which is a 30-day stay order under the act, must prove, among other things, that "no creditor would be materially prejudiced if the order being applied for were made."

The committee received a large number of submissions about this clause. The overwhelming view of witnesses before the committee was that the requirement that "no creditor be materially prejudiced" had the potential to allow certain creditors to delay and, indeed, thwart reorganization proceedings. Accordingly, the committee, in its report, recommends the amendment of Bill C-5 so that this provision is dropped. The committee is of the opinion that this matter of the criteria which ought to apply in relation to an extension under the CCAA ought to be thoroughly examined during the next review of the act.

Honourable senators, before I go on to say just a couple of words about the technical amendments that were made to Bill C-5 by the committee, I wish to comment on two or three areas about which there was considerable discussion before the committee. As I understand it, members of this chamber have been lobbied by organizations seeking amendments to the bill that the committee, in its unanimous report, decided not to make. One of those areas concerned corporate directors and their liability. In the area of the liability of corporate directors, as honourable senators will recall from a previous report of the Banking, Trade and Commerce Committee, directors of corporations are subject to myriad liabilities under federal, provincial and territorial statutes. Many of those obligations arise when a company becomes insolvent.

It is, however, when a company is facing insolvency, as we saw recently in the case of Canadian Airlines, that the role of an experienced director is critical. Under current law, a director of a company which gets into financial difficulty is faced with two options: One is to stay on the board to provide advice and guidance; however, in so doing, he or she will face serious personal financial liabilities if that company fails. Second, as we saw in the recent case of Canadian Airlines, the director can resign before insolvency, thereby avoiding the liabilities that a director of a bankrupt company faces under various federal, provincial and territorial statutes.

Given that companies undergoing financial difficulty need guidance from experienced directors, Bill C-5 allows the reorganization proposal to include provisions for settling claims against directors that result from statutory obligations imposed on those directors. While supporting the measures that the government has taken to encourage directors to stay with a troubled company, in its report the committee very strongly expresses its opinion that these measures do not go nearly far enough.

•(1530)

Unfortunately, however, the overlap of provincial and federal jurisdiction in this area meant that the committee could not propose a specific, workable amendment in this case at this time. I emphasize "at this time," honourable senators, because, as the department has been told, and as is very clear in the report, the committee intends to make this a major focus of its study of amendments to the Canada Business Corporations Act when they come before Parliament next year.

Another area which generated considerable debate before the committee was the proposal in Bill C-5 to deal with wage assignments. A number of senators may well have received representations on this subject. Indeed, representative of the Credit Union Central of Ontario appeared before the committee to make a strong case for changing the law.

Historically, the credit union movement in Ontario had a priority claim in bankruptcy on a future income stream, a claim recognized in law at the provincial level but not at the federal level. Prior to 1992, bankruptcy law allowed wage assignments. A worker applying for a loan could pledge, as security against that loan, a future stream of income. That security stayed in place after bankruptcy, thereby giving Ontario credit unions a priority claim on the wages of a bankrupt individual. In 1992, however, changes to the Bankruptcy and Insolvency Act removed this priority. As a result of that change, Ontario credit unions were relegated to the status of an unsecured creditor.

According to the Credit Union Central of Ontario, this demotion in their status from secured creditor for wage assignments has encouraged credit union members to assign themselves into bankruptcy to defeat and eliminate the wage assignment they had agreed to put up as security for a loan. The appeal of the Credit Union Central to the committee was to remove this section of the Bankruptcy and Insolvency Act and thereby give back the credit unions' preferred creditor status which they had prior to 1992.

The committee notes in its report that, while credit unions in Ontario have experienced increased loan write-offs since 1992, in part as a result of this change in the law, they have also learned to adjust to the 1992 changes and live with them and, indeed, to prosper in spite of the change. That was the evidence put before the committee by the credit union movement itself.

The committee also notes in its report that credit unions in Ontario are unique in that credit unions in other provinces have not been permitted by provincial law to take wages as security against loans to members. Ontario is the only province which allows a worker to pledge a future stream of income as security against a loan. Moreover, credit unions in other provinces have not suffered from their inability to take and enforce wage assignments as security.

For these reasons, the committee rejected the pleas of the Credit Union Central of Ontario and did not recommend any change in this area with respect to the Bankruptcy and Insolvency Act and, instead, recommended that the change made in 1992 be retained.

The second area upon which I believe members of this chamber have been lobbied extensively relates to the request of the Association of Workers Compensation Boards, which appeared before the committee to make their case against the provision in Bill C-5 that drops Workmen's Compensation Boards' claims in bankruptcy to the status of ordinary claims.

The legislative history in this particular area is telling. Prior to 1992, the last set of amendments to the Bankruptcy and Insolvency Act, WCB claims ranked as preferred claims. At the same time, provincial workers' compensation legislation gave WCB claims secured creditor status. Secured creditors are paid first. Preferred creditors rank just behind secured creditors and ahead of ordinary creditors. Until 1985, WCB claims were treated as secure claims in bankruptcy.

A 1995 Supreme Court of Canada decision, however, ended that treatment when it ruled that WCB claims had only preferred creditor status. That case ruled that provincial legislation to protect claims by the WCB in bankruptcy were inoperative. Hence, after that decision, WCB claims could only be considered preferred claims in bankruptcy under federal law.

In 1992, changed to the Bankruptcy and Insolvency Act and the sections giving WCB claims preferred status was repealed. WCB claims were reduced to the status of ordinary claims. Sections were added to the Bankruptcy and Insolvency Act to recognize Crown statutory securities if they were registered.

Then an interesting thing happened. Since 1992, some WCBs have argued before the courts that, because the Bankruptcy and Insolvency Act no longer specifies that WCB claims have preferred status, their claims can be secured under provincial legislation.

Further, case law has confirmed that not all WCBs are agents of the Crown and, as such, their securities are not deemed to be subject to the registration requirements and limitations established by the 1992 amendments to the Bankruptcy and Insolvency Act. In other words, the 1992 amendments have resulted in differing treatment for different WCB claims, depending on whether a particular WCB is regarded as a Crown agent or not.

What Bill C-5 does is implement the will of Parliament that was expressed in 1992 but frustrated by the courts. It reduces all WCB claims to the status of ordinary creditors and gives those claims an option to be registered and thereby rank in priority according to the date of registration and the amounts owed at that date.

The committee was lobbied heavily to consider WCB claims to be in the same category as income tax, Canada Pension, and Employment Insurance withholdings. It was argued by the WCB that, back in 1915 when Workmen's Compensation came into being in this country, workers gave up their right to sue employers in exchange for Workmen's Compensation schemes. As a result, the WCB claimed that moneys paid into Workmen's Compensation should be rightfully treated as property of the employees in the same way as income tax, CPP and EI withholdings are treated in bankruptcy as employee funds.

On the other hand, however, the argument was made before the committee, and it is the argument that the committee accepted, that because moneys for WCB claims are not deducted from employee salaries, as are CPP, employment insurance and income tax withholdings, but in fact moneys for WCB claims are paid out of employer revenues, as are payments for GST for example, such money should be accessible to all creditors and not just the WCB. Accordingly, the committee supports the provision contained in Bill C-5 and rejects the provision as posed by the WCB.

Another comment I wish to make has to do with RRSPs. It was brought to the attention of the committee that some RRSPs associated with life insurance policies are exempt from seizure and bankruptcy because they are issued by a life insurance company, while other types of RRSPs are not exempt and can be divided among creditors. This exemption for RRSPs issued by insurance companies stems from the provisions of the insurance acts in various provinces.

During its hearings on Bill C-5, the committee heard no justification for the varied treatment of insurance product RRSPs versus any other RRSP in a bankruptcy. Further, the committee very seriously questions whether RRSPs should be subject to seizure in bankruptcy at all, while other forms of retirement savings such as pension plans are not. The committee favours exempt status for all pension funds, whether they be in RRSPs or pension plans, and wants a change to this effect made in the next set of amendments to the Bankruptcy and Insolvency Act.

Finally, in the area of unpaid suppliers, the issue before the committee was whether some debtors might be using the reorganization provisions of the Bankruptcy and Insolvency Act to prevent suppliers from repossessing goods that have been supplied but not paid for. In its report, the committee urges Industry Canada to monitor reorganization proceedings for such abuses, and, if abuses are found to have taken place, to develop measures to protect unpaid suppliers.

Finally, honourable senators, this report makes eight technical amendments in addition to the two substantive ones I have already discussed at the outset of my remarks. These eight amendments include an amendment dealing with the date and time of bankruptcy; an amendment allowing for the settlement of statutory liabilities against deemed directors as part of a corporate reorganization under the BIA and the CCAA; an amendment providing that a securities firm's investments in its subsidiaries will be included in the customer pool fund which is established when a securities firm goes bankrupt; an amendment providing that where a monitor acts in good faith and takes reasonable care in preparing a report, the monitor will not be liable for loss or damage resulting from reliance on the report; and finally, four amendments allowing an administrator in bankruptcy to consult with a consumer debtor before reporting a change in the debtor's circumstances.

• (1540)

In tabling this report, in urging its adoption by the Senate and in making these amendments, no member of the Standing Senate Committee on Banking, Trade and Commerce expects that the process of fine-tuning bankruptcy laws is at an end. This process has been ongoing for a number of years now, and it would be a mistake to assume that, by these amendments, members of the committee now consider Bill C-5 to be perfect. In fact, the committee expresses in its report that significant work still needs to be done in a number of important areas in bankruptcy law. The committee looks forward to continuing its work with Industry Canada in all aspects of bankruptcy law, particularly, as I said earlier, in the area of consumer bankruptcy.

Finally, I will comment on the process that led to these amendments because I think it is a very good indication of the value of the work that can be done in this chamber.

As a result of its hearings, the committee developed a draft set of amendments, some 14 in number. The committee decided to try to reach a consensus with the government on which of those amendments were acceptable, thus allowing the amendments to be supported unanimously by the committee. Accordingly, the committee delegated to its steering committee — which consists of Senator Angus and myself — the responsibility of reviewing with the department the proposed amendments in an effort to reach a consensus on which amendments could be made and which would be impossible to implement.

Through a process which took a considerable amount of negotiation and a not inconsiderable degree of movement on both sides, most particularly on the side of the government, we have arrived at a set of 10 amendments which have the unanimous support of the committee and which are acceptable to the government. It is my clear understanding that if this bill with these proposed amendments is passed by this chamber and the message is sent to the other side, the amended bill will be acceptable to the government and to the department responsible.

Honourable senators, I thought it was important to indicate, on the record, how the input of this committee, particularly on these highly technical, very business-oriented bills, has historically been and continues to be valued by the business community. The liaison and work that took place between the steering committee, represented by Senator Angus and myself, and the department was very helpful in ultimately developing a package that was acceptable to the committee and, with some negotiation, to the government. This is a good example of the kind of work Senate committees have done, can do and should continue to do.

On motion of Senator Angus, debate adjourned.

CRIMINAL CODE
DEPARTMENT OF HEALTH ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Sharon Carstairs moved the second reading of Bill S-14, to amend the Criminal Code and the Department of Health Act (security of the child).

She said: Honourable senators, section 43 of the Criminal Code of Canada reads as follows:

> Every schoolteacher, parent or person standing in place of a parent is justified in using force by way of correction toward a pupil or a child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

Honourable senators, at face value, this section may not seem all that disturbing. Section 43 is a Criminal Code offence for the corporal punishment of children. It seems to set a limit — force which is reasonable under the circumstances — and therefore does not appear, at face value, to protect those who abuse their children. Certainly it does not prevent any parent from choosing not to use physical punishment for the discipline of their child if that parent should choose not to. However, with regret, I must tell the Senate that a study of the cases where section 43 was used as a defence yields a shocking result. Let me sketch some of those cases for you.

A Manitoba stepfather kicked a child down the stairs and pulled a clump of hair out of his head. The argument was about sunflower seeds and whether or not the child should be allowed to have them. In 1993, in hearing an appeal of the conviction of the stepfather, the appeal court judge ruled the father not guilty under section 43, stating that he was not guilty because he had taken off his shoe before he began to kick his child down the flight of stairs. The appeal court judge also went on to say that punishment in this case had been mild compared to what he had received in his home.

In another case, a British Columbia stepfather grabbed a young girl by the hair and pushed her head into a cupboard door during a disagreement. The stepfather was acquitted of assault in 1992 because the judge found that, although the child was not insolent, her stepfather had an "honest belief" that she was.

In a case in Quebec, a school teacher grabbed a 15-year-old boy by the hair and pushed his head on to the desk because he was talking in class. The teacher was acquitted of assault in 1993 and the judge ruled that, although the teacher's action may be disgraceful, it was not excessive under section 43.

In another British Columbia case, a father grabbed and wrestled a 15-year-old boy to the ground, punched him in the neck and grabbed him by the hair, because he was annoying the father with intentional noise. The boy suffered pain for some days and had a bruise on his forehead. In this 1995 case, the judge acquitted the father and stated that a hard body blow was necessary for a submissive response and to correct the boy.

A Prince Edward Island mother chained her teenage daughter to prevent her from leaving the home. According to the CBC radio report, the police declined to lay charges because they felt the mother's conduct would be considered reasonable under section 43.

A British Columbia school teacher hit a 13-year-old boy on the head with a hammer. The teacher was acquitted of assault in 1993 on the basis of section 43.

It is because of this jurisprudence, honourable senators, that it is my pleasure to move second reading of Bill S-14, an act to amend the Criminal Code and the Department of Health Act (security of the child).

I thank Senator Cohen for her ongoing support. I thank Michelle MacDonald, who is my legislative and research assistant, who has been constant in her support for this endeavour.

The bill is comprised of two clauses. Clause 1 of the bill would repeal section 43 of the Criminal Code of Canada. Clause 2 would clarify the Minister of Health's responsibility to establish guidelines with respect to the protection of children.

Honourable senators, you might well ask why it is necessary to repeal section 43 and not simply amend it in order to address what I consider shocking misuses of the section. I did consider that option. However, further research led me to believe that complete repeal was the only valid approach for a number of reasons.

• (1550)

Honourable senators, the Canadian Charter of Rights and Freedoms adopted in 1982 guarantees the right to the security of the person in section 7 and equal protection of the law without discrimination on the basis of age in section 15.

According to section 1 of the Charter, limitations on these rights can only be allowed if they can be demonstrably justified in a free and democratic society. The question we must ask ourselves is: Is section 43 justified?

Research has shown that corporal punishment of children is harmful in numerous ways. Studies in the United States in 1980 and 1986 by Murray Straus and his colleagues found a positive linear relationship between the frequency with which the parents reported spanking their children and the frequency of aggressive acts their children directed against the parents.

Furthermore, a 1991 study also by Murray Straus found that juveniles who received physical punishment as children were more than three times as likely to assault non-family members as did those who did not receive this form of discipline.

Children, unfortunately, act out the behaviour perpetrated against them. That same study found that theft rates were also higher among juveniles who had been physically punished than among those who had not been disciplined in this manner.

Some may argue that corporal punishment does not contribute to child aggression but is a response to it. However, studies by G.R. Patterson and associates, published in the *American Psychologist* in 1986 and 1989 have examined the causal relationship between parental practices and children's antisocial behaviour. This research has provided evidence that parental behaviour contributes substantially to children's aggression.

A study by M.S. Forgatch in 1988 found that reductions in harsh discipline is accompanied by significant reductions in child aggression. These findings argue that, while corporal punishment is frequently administered in response to child aggression, it is also a contributor to it.

According to the Institute for the Prevention of Child Abuse, more than 225,000 Canadian children experience some form of abuse each year, a rate of 21 per 1,000. All too often this abuse begins with a mild form of corporal punishment that unfortunately gets out of control.

According to Manitoba Family Services, the mortality rate in physical abuse cases is 3 to 6 per cent. Physical abuse is second only to sudden infant death syndrome as a cause of death among children between one and six months and it is the leading cause of death among children aged 6 to 12 months.

According to Statistics Canada, of persons charged with violent crimes against children under 12 years of age, more than 40 per cent were parents or family members. More than 66 per cent of the children murdered in Canada during the 1990s were killed by a parent.

Honourable senators, corporal punishment leads to the injury and death of children. It contributes to the level of violence and aggression in society. It contributes to juvenile delinquency and it normalizes violence as a way of resolving conflict. Furthermore, research has shown that it places children at risk of bodily harm and in some cases death. Therefore, a limitation of children's rights such as section 43 cannot, in my view, be justified.

In 1989, Canada became a signatory to the United Nations Convention on the Rights of the Child. Prior to the 1989 convention, a child under international law was considered an object to be given care and protection. The convention altered this perception by recognizing the child's right as an individual person, the right to freedom of expression for that child, the right to association, the right to assembly, the right to religion and the right to privacy.

Canada has come under international criticism since 1989 for failing to repeal section 43 of the code which is in conflict with section 19 of the United Nations convention.

In 1995, the UN committee on the rights of the child recommended that corporal punishment in the home and elsewhere be prohibited and requested that Canada reconsider section 43 in the light of this recommendation.

Other countries which are signatories to the UN Convention on the Rights of the Child, such as Sweden, Finland, Denmark, Norway, Austria and Cyprus, have banned the physical punishment of children.

In 1979, Sweden was the first country in the world to prohibit all corporal punishment of children when a provision was added to their parents' code which now reads:

> Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.

The Swedish Ministry of Justice led a large-scale education campaign. A pamphlet distributed to every household with children emphasized that the law now forbids all form of physical punishment of children, including smacking, although it goes without saying that you can still snatch a child away from a hot stove or open window if there is risk of the child injuring himself or herself.

The legal provision forms a part of Sweden's family law. Its purpose is to emphasize that the Criminal Code on assault covers physical punishment, although trivial offences remain unpunished, just as trivial assaults between adults are not prosecutable.

Finland, Denmark, Norway and Austria have also amended their family law to make it clear that physical punishment of children is no longer acceptable. Other countries such as Germany, Switzerland, Poland, Spain and Croatia have had government-sponsored commissions or committees recommend constitutional reform to uphold the child's right to physical integrity, and measures have been introduced or are currently being drafted to recognize this right.

Honourable senators I am not suggesting that we go as far as Sweden, Norway or Finland. Quite frankly, I do not believe there is the political will in Canada to take such an action. Spanking will not be banned under Bill S-14. However, it will no longer be condoned or sanctioned under the Criminal Code.

Under section 43, we as a society indicate that corporal punishment is an acceptable means of disciplining our children by including it in the Criminal Code. What message do we send as a society by sanctioning the use of physical force for the discipline of our children in our Criminal Code?

In contrast, honourable senators, and it is an interesting contrast, I decided to look at the Criminal Code with respect to its provision to protect against cruelty to animals through various provisions. I learned that it is indicative of the seriousness of such offences that Parliament saw fit to include them in the code itself. Section 444 deals with injuring or endangering cattle. It is an indictable offence punishable by a maximum imprisonment of five years.

Section 445 covers injuring or endangering animals other than cattle. This is a summary conviction offence. Under section 787(1) of the Code, the offender is liable to a fine not exceeding $2,000, or to imprisonment for six months, or to both.

• (1600)

Section 446 deals with the summary conviction offence of causing unnecessary suffering to animals. This involves cruelty to animals or to birds. Subsection (1) describes the types of activities which will attract criminal liability under the section, for example, wilfully causing unnecessary pain, suffering or injury, abandonment or wilful neglect or failure to provide adequate food, water, shelter and care.

Subsection 446(5) provides that a judge may prohibit the accused from owning an animal or bird for a maximum of two years, in addition to any other sentence imposed upon conviction under subsection (1). The default provision of the Code again applies: The offender is liable to a fine of not more than $2,000 or to imprisonment for six months or both. Is it not strange that these sections with respect to animals are prohibitive and yet section 43, in application to children, is permissive?

Furthermore, other defences for assault currently exist in the Criminal Code which parents could use, if necessary: the defence of property, the defence of protection of self, the defence of protection of others, the defence of necessity. If section 43 was repealed, no parent, in my opinion, who slapped a child's hand away from a hot stove would be found guilty because of these other defences. A parent who slapped a child to prevent that child from hurting himself or herself or another could use these defences. Even if parents used physical punishment simply because they could not think of anything else to do, the defence of necessity would be available to them. There is also the common law defence of reasonable chastisement.

Honourable senators, research has shown that many parents would prefer not to use corporal punishment in the discipline of their children. A 1992 study in Toronto and Winnipeg found that 81 per cent of respondents felt guilty at least some of the time after physically disciplining their child. The same 1992 study found that less than one-third of respondents supported a no-spanking law. However, when they were asked if they would support a no-spanking law if it could be proven to reduce physical injuries to children, two-thirds of the respondents agreed with the no-spanking law.

Honourable senators, the Criminal Code generally is prohibitive. It sets out prohibited acts and punishments associated with them. Section 43 is permissive. It sanctions the use of physical force for the correction of children. In light of the Charter of Rights and Freedoms and the UN Convention on the Rights of the Child, how can we condone the existence of permission for the use of corporal punishment of children in our Criminal Code?

Therefore, honourable senators, I find myself unable to support any other position but repeal.

However, I am not proposing that we criminalize parents for trying to discipline their child. I do not wish to diminish the duty on parents to provide discipline and guidance for their child. Discipline is an essential act of parenting. As a parent and a teacher, I taught discipline on a daily basis: the discipline of acting responsibly, the discipline of accepting responsibility for one's action, the discipline of appropriate behaviour. Discipline, as parents and teachers well know, takes time and effort. In my opinion, it rarely, if ever, requires physical force.

In my teaching career I have taught over 1,800 students. I did not feel that physical force was necessary to discipline them. However, if you spoke with any one of those students, they would say that Mrs. Carstairs — or Mrs. C, as they sometimes referred to me — exercised discipline. In fact, one of my fondest memories of my last year of teaching came while listening to a group of children going by my room. I was teaching in the senior high school but my class was actually a group of junior high students in ninth grade. As they came down the hall on the way to the gymnasium, they were making a great deal of noise and I heard one child say, "Shh, be quiet, that's Mrs. Carstair's room."

Senator Gigantès: You terrified them.

Senator Carstairs: I did believe in discipline and I was willing to stay after school and give detentions if they were necessary. I was willing to pick them up on Saturdays and bring them to school to finish term papers if that was necessary, because I believe discipline is necessary.

However, I also recognize that the repeal of section 43 is likely to meet with initial opposition from parents who fear they will now be unable to discipline their child effectively. Indeed, my daughter, Jennifer, was talking to her friend Darrell just a week ago. The friend has a young child, and she announced that if Jennifer's mother insisted on passing this bill, she was going to send me the child. Jennifer's reaction to that was, "Darrell, my mother will not have any problems with your child."

That is why I feel strongly, honourable senators, that we cannot repeal section 43 in isolation. With its repeal, we need to develop alternatives to criminalization and accompany them with supports to parents, so that they are not only acquainted with the law but they are acquainted with alternative forms of discipline. We must also protect parents against unwarranted and nuisance prosecutions. That is the purpose behind clause 2 of the bill, which seeks to amend the Department of Health Act. It is the responsibility of the Minister of Health to promote and protect the health of all Canadians, including children, and to establish guidelines, in coordination with the provinces, for the health and the protection of Canadians. Bill S-14 would clarify the minister's role in this regard.

Paragraph 4(2) of the Department of Health Act sets out a list of powers, duties and functions of the Minister of Health. Clause 2(1) of Bill S-14 would amend paragraph 4(2)(*a.*1) of the Department of Health Act by clarifying the minister's responsibility for the promotion and preservation of the physical, mental and social well-being of the people of Canada, to explicitly include with respect to the children of Canada the education of Canadians about the health and social risks associated with the corporal punishment of children and the alternatives to its use.

Clause 2(2) of Bill S-14 would amend paragraph 4(2)(*i*) of the Department of Health Act by clarifying the minister's responsibility to cooperate with provincial authorities in the coordination of efforts to preserve and improve public health, by explicitly including the coordination of efforts to establish guidelines with respect to the protection of, and law enforcement services for, children.

With the repeal of section 43, law enforcement guidelines should be set to control the policing and nuisance prosecution of those persons who reasonably relied on the existence of the defence in the past and who continue to use corporal punishment. The intention of this bill is to prevent the criminalization of parents. In order to ensure a period of leniency, law enforcement guidelines should ensure that the policing of child assault is appropriate and does not unduly disturb families or result in widespread criminalization of parents, teachers and primary caregivers.

As criminal law and child protection are provincial matters, and as it is highly desirable that guidelines be consistent across provincial boundaries, a federal mechanism for consultation and development of guidelines is needed. An amendment to the Department of Health Act would also accomplish this. This would benefit parents, as currently under section 43 there are no uniformly applicable standards. It is left to the court to decide in each instance whether or not the force used was reasonable under the circumstances.

Honourable senators, since 1953, when the sanction for masters to use physical punishment to correct their apprentices was removed, section 43 has remained relatively unchanged. However, this section has not escaped notice. Numerous government-sponsored reports have called for either review of the section or outright repeal.

In 1976, the report of the House of Commons Standing Committee on Health, Welfare and Social Affairs, entitled "Child Abuse and Neglect," recommended review of section 43. In 1977, the report of the Ontario Human Rights Commission, entitled "Life together: A Report on Human Rights in Ontario," recommended that the Ontario Attorney General initiate discussions with the federal government to revise section 43 with a view to eliminating such discriminatory provisions from the Criminal Code.

• (1610)

In 1980, the report of the Standing Senate Committee on Health, Welfare and Science, entitled "Child at Risk," recommended review of section 43. The 1981 report of the House of Commons Standing Committee on Health, Welfare and Social Affairs, entitled "For Canada's Children—National Agenda for Action," recommended immediate repeal of section 43.

In 1984, the authors of the Law Reform Commission of Canada working paper, entitled "Assault," and a minority of the commissioners recommended that section 43 should be abolished.

In 1987, a minority of commissioners in the report of the Law Reform Commission of Canada entitled "Recodifying the Criminal Law Report #31," Volume 1, recommended the repeal of section 43.

Honourable senators, I urge you to support Bill S-14 and repeal section 43. Treat our children as individuals, not possessions, and help the parents of our children become knowledgeable about the dangers of corporal punishment.

Hon. Erminie J. Cohen: Honourable senators, it is with great pleasure that I rise today to speak in support of second reading of Bill S-14 on the security of the child. I commend the Honourable Senator Carstairs for bringing to the attention of this chamber last June the widespread problem which Bill S-14 seeks to address, the corporal punishment of children, and for her thought-provoking address today.

I addressed the problem in October after studying the extensive and eye-opening research that has been done on behalf of Canadian children. I sincerely believe that this bill deserves the support of each and every one of us in this chamber.

I will begin by pointing out that corporal punishment is one of the many methods available to adults of disciplining children in their care. Like other methods of discipline, its use is designed primarily to discourage children from engaging in behaviours considered undesirable by adults. However, corporal punishment differs from other methods in that it involves the use of physical force and violence against children.

In a nutshell, corporal punishment works something like this: When a child does something wrong, he or she is assaulted, both as punishment for the misdeed and in the belief that this assault will deter the child from repeating that kind of behaviour. According to the conventional wisdom espoused by supporters of corporal punishment, the matter ends there. The child suffers no lasting ill effects from the assault and never even thinks about repeating the misdeed as he or she grows up to be a perfect adult.

Honourable senators, if that were indeed so, we would not now be involved in this debate. In fact, there would have been no need for Senator Carstairs to introduce Bill S-14. Unfortunately, however, this is not the case. The issue of corporal punishment is neither simple nor benign. As you will recall from my previous speech, corporal punishment is often not without lasting effect. In fact, its effects can be harmful and wide ranging, with serious consequences not only for individual children but for Canadian society as a whole. These consequences have been documented in study after study.

A matter of primary concern regarding the harmful effects of corporal punishment on individual children is the potential for it to escalate into abuse. Professor Joan Durrant of the University of Manitoba, a noted expert in the field, reports that most abuse cases studied have resulted from disciplining that got out of control.

Anne McGillivray, another expert on corporal punishment found:

> In almost every case of severe injury or death, the assault has some basis in discipline or correction.

Honourable senators, the potentially harmful effects of corporal punishment do not stop there. They can exact enormous social costs as well. I direct you in particular to a March 1995 document called "Corporal Punishment — Research Review and Policy Recommendations." In that document, Professor Durrant summarizes a host of research findings. She cites studies which show that corporal punishment can increase aggressive behaviour in children, make them more likely to become violent and otherwise delinquent as teenagers, and raise the chances that they will assault their spouses and/or children when they reach adulthood. In short, corporal punishment can feed a cycle of aggression and violence.

Meanwhile, honourable senators, there is not one shred of evidence to support the argument that corporal punishment is at all effective in making children change undesirable behaviours. Quite to the contrary, in fact; it has been shown to actually increase the types of behaviours that it was intended to prevent. Corporal punishment simply does not work as a method of disciplining children. This factor also compounds the risk of abuse in homes where corporal punishment is used by increasing the frustration of the parents.

However, despite the overwhelming evidence of its harmful effects and of its ineffectiveness as a method of discipline, corporal punishment of our children continues to be sanctioned by Canadian law, a situation which Bill S-14 seeks to correct. Specifically, section 43 of the Criminal Code of Canada gives parents and school teachers a licence to use force and violence against children. It states:

> Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or a child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

Thus, honourable senators, section 43 contains a specific exemption from the application of the Criminal Code provisions governing assault. While it is considered criminal for adults to assault other adults, section 43 allows parents and teachers to assault children with impunity, in the name of correction, only instead of "assault" we call it "corporal punishment."

By giving parents and teachers the legal and moral authority to strike children in their care, section 43 clearly contravenes the human rights of children in Canada. As a result, they do not enjoy the Charter guarantee of security of the person which covers every other segment of Canadian society. In short, they are not treated as full and equal citizens of this great country.

The repeal of section 43 of the Criminal Code is one of two main elements of Bill S-14 on the security of the child. When section 43 is repealed, honourable senators, assaults on children by their parents and teachers will be treated in the same manner as other assaults. We should keep in mind that repealing section 43 will not specifically criminalize parents and teachers for using force on children. It will, however, extend to children the same human rights already rightfully enjoyed by other Canadians. Bill S-14 will revoke the legal and moral licence of parents and teachers to assault children in their care, and it will help protect both individual children and society as a whole from the harmful effects and resulting social costs of corporal punishment.

The provisions in section 43 have been part of the Criminal Code since it was enacted. Although its repeal has been recommended time and again, including by parliamentary committees, governments have seen fit to retain it for over 100 years. There has been a political reluctance to address the question that has been raised repeatedly in the context of this ongoing debate. If section 43 is repealed, what then? Concerns have been raised that parents would be dragged into court every time they slap their child's fingers away from a hot stove, that law enforcement would discriminate against families marginalized by poverty or culture, and that parents would devise even more cruel disciplinary methods because they could no longer use corporal punishment.

Honourable senators, I too might have shared some of those concerns if section 43 were to be repealed in a legislative vacuum, leaving parents bewildered, without support, and feeling as if they had no other options. Let us face it: Many of those who choose corporal punishment as a method of discipline do so because they were subjected to it themselves as children and do not know what other course to take.

However, you can be assured that Bill S-14 is primarily a constructive piece of legislation. Its second element, which involves amending the Department of Health Act, will ensure that parents are provided with the necessary supports to adopt alternatives to the use of corporal punishment and, further, that parents are not needlessly criminalized as a result of the repeal of section 43.

• (1620)

In the first instance, Bill S-14 clarifies the responsibility of the Minister of Health for the promotion and preservation of the physical, mental and social well-being of the people of Canada. It explicitly includes in that responsibility the education of Canadians about the health and social risks associated with the corporal punishment of children and the alternatives to its use, as well as the social benefits ensuring the right to security of all children. This paves the way for the kind of public education programs that have been so successful in Sweden in changing parents' attitudes toward corporal punishment and their choice of disciplinary methods.

This approach, honourable senators, is based on a spirit of cooperation rather than confrontation. It will make it possible for Canadians and governments to work together toward a common goal, to improve the quality of life of our children and grandchildren and make Canada an even better place in which to live.

Parents who are now using corporal punishment to discipline their children will receive the information, support and encouragement they need to adopt another method of discipline instead. A new or expecting parent who might otherwise have opted for corporal punishment will learn about the non-violent, more effective options that are available to them.

In this way, Bill S-14 addresses the historical concern that parents who use corporal punishment on their children might be ill-equipped to change their method of discipline on their own. However, it also addresses the equally important concerns that with the repeal of section 43, parents would be criminalized for trivialities or subjected to nuisance prosecutions. It clarifies the situation by further amending the Department of Health Act under which the Minister of Health is given the responsibility to establish guidelines for the health and protection of Canadians. Bill S-14 makes this responsibility explicitly include the establishment of guidelines, in cooperation with provincial authorities, relating to the protection of children and law enforcement services for these children. As an example, such guidelines would make it possible to ensure that law enforcement officers are properly trained, allow for warnings to be given instead of charges laid in some circumstances, and make mandatory education and support programs available to repeat offenders.

Honourable senators, this clause makes clear the intent of Bill S-14 to treat with sensitivity rather than condemnation parents who still use corporal punishment following its enactment. It reflects the constructive nature of the bill and the spirit of cooperation on which it is based.

Colleagues, I am certain you will agree that there are compelling reasons indeed for supporting Bill S-14, and I will summarize these briefly for your benefit. Bill S-14 will repeal section 43 of the Criminal Code, which sanctions the corporal punishment of children by their parents and teachers. Because corporal punishment can have harmful and wide-ranging effects both on individual children and on Canadian society, this legislation will ensure that parents and teachers are no longer exempted from the assault provisions of the Criminal Code when they assault children in their care. Bill S-14 also distinguishes itself as a constructive piece of legislation by providing for public education about corporal punishment and alternate methods of discipline, as well as for guidelines governing the protection of children and law enforcement services for them.

Honourable senators, I hope that both Senator Carstairs and I have convinced you of the need to support Bill S-14. However, if any of you remain unconvinced, I would be happy to share with you my research file on the subject of corporal punishment, as I am sure would Senator Carstairs.

In conclusion, I would like to thank Senator Carstairs for drafting a much needed and constructive piece of legislation the enactment of which will benefit Canadian children and indeed all of us for generations to come.

Hon. Finlay MacDonald: Honourable senators, without meaning to be mischievous, my three darling children are 42 to 52 years old, and so the question we are considering does not arise in my case.

I totally support this bill and the very excellent remarks made by the Honourable Senator Cohen. However, would anyone wholeheartedly supporting this bill be automatically opposed to capital punishment, or would you see a fine distinction?

The Hon. the Speaker: Honourable senators, the rules state that you may ask questions only of the last speaker.

Senator MacDonald: Perhaps you could field my question, Senator Cohen.

Senator Cohen: Could the honourable senator repeat the last part of his question?

Senator MacDonald: If anyone wholeheartedly and completely supports Bill S-14, would that not automatically cause them to be, as I am, an opponent of capital punishment? Deterrence has not been proven in the case of capital punishment.

Senator Cohen: That is an interesting question, honourable senators. Perhaps Senator Carstairs would like to answer that question.

Senator Carstairs: Honourable senators, I am not sure whether, according to the rules, I can answer the question.

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

Hon. Senators: Agreed.

Senator Carstairs: I think there is perhaps some correlation between those who would oppose corporal punishment of children because they feel it is not a deterrent for further violent acts and those who do not believe that capital punishment is a deterrent.

• (1630)

I also believe that among those who genuinely believe that capital punishment should be used for only the most heinous of murders, you would find some who do not believe that that kind of corporal punishment should be used against a child. Many years ago we abolished the whipping of prisoners because we considered it inhumane. However, we still seem to think it is alright to whip children.

On motion of Senator Spivak, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTEENTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Forest, for the adoption of the fifteenth report of the Standing Committee on Internal Economy, Budgets and Administration (*Senate Estimates 1997-98*), presented in the Senate on February 4, 1997.—(*Honourable Senator Doyle*).

Hon. Richard J. Doyle: Honourable senators, I am anxious at the outset of this intervention to make it clear that I have great respect for our colleagues who serve in budget preparations as members of the Internal Economy Committee. They have taken on a Herculean task which may never be properly appreciated.

If I have a criticism or two, and I do have criticisms, they must be prefaced by acknowledgement of the compliment that the chairman and members of the committee have paid to their fellow members of the Senate on both sides of the chamber. The compliment is this: After months of work, committee members obviously believe that the rest of us can read, digest, and assess their total effort — their budget for the year ahead — in a few days with, perhaps, a weekend thrown in — a sort of Winterlude dividend.

I realize, and will be reminded, honourable senators, that deadlines are ever with us and that, in fairness, budgets are, after all, only compilations drawn from decisions already taken and approved over a year's time, with full transparency of potential impact on spending. Alas, I am one of those weak vessels, full of holes and fissures when it comes to understanding the propositions that emerge in our budget papers.

For example, I find under Highlights and Challenges that, with the help of Senator De Bané, we have a "complete" review of our informatics infrastructure. Our old one has been "adjusted" and, with the introduction of new software, the "initial investment could be utilized effectively."

All of that is reassuring until we hit the next paragraph and learn that "the 1997-98 budget for computer services includes an increase of $100,000 to continue implementation of the strategic plan." What do we get for our money? I cannot find a handy figure for what we spent in the expiring Senate year or in the year before that. I am told that the new spending of what we used to call "a hundred grand" will buy: one, electronic retrieval information system for senators; two, a senators' automated travel-tracking system; and, three, some electronic administrative forms.

I reach for my trusty Oxford dictionary to help me over the hurdles of exotic English usage. "Informatics" is not listed yet, although I note that "infralapsarians" can be used to describe certain 17th century Calvinists with peculiar ideas on everlasting life. I do not get any help on how to frame questions in such a manner that constituents in Toronto who have been suffering from federal government budget cuts will understand.

This is what I need to know: How much money did we spend last year or the year before to take Senator De Bané's advice to buy whatever stuff will produce these salutary services or systems for senators and their staffs?

As a supplementary, what labour will be saved? What will we get by way of retrieving, automating and electrifying administrative forms that would justify spending another $100,000, and maybe more, this coming year?

Hon. Colin Kenny: Honourable senators, I appreciate my honourable colleagues and friends —

The Hon. the Speaker: I must draw the attention of the Senate to the fact that if Senator Kenny speaks now, his speech will have the effect of closing debate on this motion. Does any other senator wish to speak?

Hon. Noël A. Kinsella: Senator Kenny is asking a question of the last speaker.

The Hon. the Speaker: No, the last speaker asked a question of him, did he not?

Senator Kenny: He asked me a question.

The Hon. the Speaker: Senator Kenny is responding to a question asked by Senator Doyle.

Senator Kinsella: Honourable senators, in that case I will have to move the adjournment of the debate, because I do not want the debate to conclude now. Perhaps Senator Kenny can take note of the questions raised by Senator Doyle and respond to them at another time. However, for our side, we would be happy to grant leave, notwithstanding the rules, to have the honourable senator answer the question.

The Hon. the Speaker: Honourable senators, is it your wish that we hear the Honourable Senator Kenny now, with leave?

Hon. Senators: Agreed.

The Hon. the Speaker: If it is the wish of the honourable senator to speak now, he may, and he may also reserve his response until the conclusion of the debate. It is a matter of choice.

Senator Kenny: With your permission, honourable senators, I will give a two-part answer — one part now and one part later.

I am pleased to try to be of assistance to my honourable friend Senator Doyle. I will have to dig out the figures for previous years, which I do not have with me today.

In a general sense, the automatic and electronic filing of reports and documents is an effort to reduce the paper burden in this institution. It is designed so that people can file reports electronically instead of sending around endless pieces of paper, and reducing paperwork is one of our objectives. Once we complete the network, it should reduce the amount of paper that moves back and forth, with a corresponding reduction of messengers, and should simplify, for example, the communications between senators' offices, and Finance and Personnel, with regard to the filing of travel reports or leave reports on staff. That is the general intent and objective of that section.

If the honourable senator wishes me to elaborate further on other pieces of equipment that are included in the budget, I would be pleased to do that.

On motion of Senator Kinsella, debate adjourned.

• (1640)

HUMAN RIGHTS

RACIAL DISCRIMINATION—SETTLEMENT OF UNITED STATES LAWSUIT AGAINST TEXACO—INQUIRY

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Oliver, calling the attention of the Senate to the matter of the Texaco racial discrimination lawsuit that was settled in November of last year, to the facts of the settlement, the issues surrounding the case, lessons the Texaco case teaches about corporate culture, and what insight the Texaco case provides us about Canadian corporate culture.—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, the other day, Senator Oliver performed a great service by reminding us of the injustice that is discrimination for reason of race. All forms of discrimination are abominable, but this is a particularly horrendous one because, most often, it is something which produces the results desired by those who want to discriminate. They assume they want someone to be inferior, and they take all possible means to make that person inferior.

We are talking now of people whose skin is different from the skin of north-west Europeans. In the fifth century B.C., Herodotus, a widely travelled Greek historian, said that the most impressive civilization he had met was that of the great spirited Ethiopians. He said that their institutions worked better than any he had seen, that the people were freer, more agreeable to visitors, generous, and that they managed to live prosperously and in peace.

In the third century B.C., Niarchos, the admiral of Alexander the Great, circumnavigated Africa. He reported a strange event on the east coast of Africa where he saw a local tribe count its cattle. One man would stand with both his hands raised as closed fists. As the cattle were counted, he would raise one finger. When the 10 fingers were raised, he would close his fists and another man in front of him raised one finger; that man counted tens. Then there was another man who counted hundreds and another man who counted thousands. They had the decimal system even before the Hindus had the decimal system.

Toussaint Louverture, a black general in Haiti, absolutely bamboozled the French forces that were sent to defeat him until the numbers they sent against him were so overwhelming that he was finally crushed. Before then, he had shown greater generalship, greater skills, than the professional French army of Napoleon.

The achievements of people of colour are remarkable. We forget that Alexander Dumas, the great novelist, had a black father. Pushkin, the great Russian poet, had a black father. That is something that has much disturbed the lower psychic and intellectual rungs of the whites.

There is the splendid horror of the two young British subalterns who entered the first-class railway compartment in a train in India and saw Motilal Nehru, the father of Jawaharlal Nehru. Motilal Nehru was a brilliant British legal scholar. He was visiting home when these two young subalterns saw him and said, "Let's throw the nigger out." They threw him out of the compartment while the train was moving. When he recovered, he laid the foundations for India's independence movement.

In Washington, in the late 1950s and early 1960s, in high schools in black neighbourhoods where I used to go to lecture, I found kids with incredible skills. I remember saying to one of them who had done a beautiful piece of cabinet-making, "Your future is assured." He said, "The unions will never let me work, sir. All I will be able to do is carry suitcases at the railway station."

The National Cathedral School in Washington is a high school for white kids to which I sent my own because the children in the public schools were so disadvantaged that they were four years behind in reading. Their homes were too poor. Their parents were uneducated. The National Cathedral School's parents committee really displayed heroic efforts to find the best little black children to bring to the school so that we would have our token blacks. One of my daughter's classmates was one such child, a young girl, absolutely brilliant, the best of the lot. One day she decided she no longer wanted to come to the school and utilize her scholarship. When asked why, she said, "I cannot bear to leave heaven every day and go back to hell."

It is so absurd for us to spend money on these citizens, toward whom we show discrimination, and then deny them the chance to rise to their capacity. It is the worst form of bad budgeting. Then we wonder why they might rebel, why they will not feel themselves part of the society and why they are not willing to work for the good of the society.

In Morocco, in 1953, the Governor General, General Guillaume, told me the reason there were no Moroccans in the public service above the rank of messenger and floor sweeper was that they simply were not good enough when it came to French or mathematics. I discovered there was a piece of legislation which forbade the Arab schools to teach French and mathematics.

In other words, you keep them down, and then you treat them with contempt for being down. It is unspeakable, it is stupid, it is counter-productive, and we should feel ashamed of it. The fact that that attitude has long been prevalent not only by north-west Europeans but in India as well does not excuse it. In India, the word for your fate and social position under the caste system is the same as the word for colour. In any part of India, the untouchables are darker than those of the upper castes. They are kept down even though, strangely, some untouchables eat better because they are willing to eat meat. They manage to sneak through the dreadful system that is the caste system in India and succeed. This is recognized in the marriage advertisements which still appear in newspapers like the *Hindustan Times*:

> Young Brahmin, clerk in the public service, permanent position, pension to follow. Wishes to marry young woman of the same caste. If light of skin, caste does not matter.

What that means is a recognition, as Indian sociologists explain it, that those light-of-skin women seem to have good genes to bring to the intellectual development of the children who might follow such a union.

• (1650)

It is difficult to understand why humanity does this sort of thing to itself. Why do executives of Texaco bring in the best and brightest among the young blacks, and then treat them with contempt, break their spirit and lose money and talent?

I repeat my thanks to Senator Oliver for bringing to our attention this dreadful mistake that is perpetrated not only by us but everywhere in the world. The Japanese are guilty of it towards the inhabitants of Haiku and towards Koreans. Indians are guilty of it toward people in lower castes. Wherever one goes this dreadful malady of racism deprives the people who practise it of the talent, friendship, comfort and support of those against whom they discriminate.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until Wednesday, February 12, 1997, at 1:30 p.m.

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Tuesday, February 11, 1997

ORDERS OF THE DAY