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THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

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THE SENATE

Wednesday, February 12, 1997

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

Prayers.

SENATORS' STATEMENTS

CORINNE BOYER FUND FOR OVARIAN CANCER RESEARCH

Hon. Janis Johnson: Honourable senators, this morning on Parliament Hill a new initiative of the Genesis Research Foundation was launched, the Corinne Boyer Fund for Ovarian Cancer Research. In the gallery today are members of this distinguished group, and on your desk is a prospectus about the fund. I hope you will take time to review it.

This fund was established by Mr. Patrick Boyer, author, teacher, lawyer, former member of Parliament, and a friend to many. I am honoured to have been asked to sit as a member of the public policy board affiliated with this new and significant fund. The Corinne Boyer Fund will also elicit expertise in three other areas: the medical advisory committee, which will be global in nature, the education and media group, and finally the fund-raising committee. These four areas of expertise will operate to advance and support the mandate of the Corinne Boyer Fund.

Mr. Boyer's late wife, Corrine, died of ovarian cancer in September 1995 after battling this dreadful disease. Since then, Mr. Boyer, along with a team of dedicated friends and colleagues, has continued the work of his late wife and former Genesis board member through funding and promoting much-needed research and education about women's health.

The Corinne Boyer Fund is extremely important to the advancement of medical research in the area of ovarian cancer. I was amazed and yet not amazed, probably more saddened, to learn that ovarian cancer kills as many women today as it did 30 years ago. Despite that statistic, few strides in medical research are being made to improve this mortality rate. It has not been a priority, like many diseases unique to women. Clearly this is something that must change, and it can only change by putting research dollars into investigating this silent killer. We can play a role in government by making this disease a priority in our health issues.

In Canada, ovarian cancer kills 1,500 women each year. Among the various cancers generally, it is the fourth largest killer after breast cancer, prostate cancer and lung cancer.

Seventy per cent of ovarian cancers are fatal, with most women dying within four years. That is one of the highest cancer death ratios, and yet it is astonishing to find that less than 0.17 per cent, a mere \$250,000, of basic cancer research funds are directed to studies in this field. The Corinne Boyer Fund will play an important role in changing these figures.

Honourable senators, the new fund also aims to raise \$5 million over the next three years for awareness campaigns and medical research on ovarian cancer. The fund's goal is to achieve breakthroughs for prevention, early detection and more successful treatment of cancer of the ovary. The fund is global in scope, and I repeat "global." As a result, the Corinne Boyer fund will reinforce the efforts being made in all countries around the world, and duplication of research efforts will be avoided.

In addition, the Corinne Boyer Research Lab is expected to open this year at the Samuel Lunenfeld Research Institute of Mount Sinai Hospital in Toronto. This lab will be the very first in Canada dedicated to ovarian cancer research. It is a significant first step in improving research into this specific type of cancer.

Honourable senators, the establishment of the Corinne Boyer Fund for Ovarian Cancer Research will advance medical research in the area of ovarian cancer. Through the efforts of individuals like Mr. Patrick Boyer and the many other hard-working individuals associated with the fund, medical research in ovarian cancer will be advanced, and I hope that in time a cure will be found for this disease.

• (1340)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I should like to respond very briefly to the statement of Senator Johnson with regard to the Corinne Boyer Fund which has been set up to promote research and awareness of a disease which is attacking women across this country and around the world.

I am very grateful for the information which was presented to us today. I will certainly read it. This is one of the true silent killers in this country. It is an issue about which women do not know enough, and which they are not prepared to recognize.

Many people across this country have had a brush with this disease, as I have myself. I thank Senator Johnson and all who are supporting this fund for helping not only to research and create the science that will prevent the disease but, through the fund, to create a climate of awareness that will put women on their guard.

FOREIGN AFFAIRS

PREVIOUS VISIT OF CONSERVATIVE MINISTER TO CUBA

Hon. Marjory LeBreton: Honourable senators, I rise today for the purpose of setting the record straight and debunking another myth being perpetrated by Liberal spin doctors, this one to the effect that the Honourable Lloyd Axworthy's recent visit to Cuba was the first by a high-ranking Canadian cabinet minister in 20 years. I respectfully point out that the Honourable John Crosbie officially visited Cuba in April, 1992 when, in a meeting attended by Canadian and Cuban officials, many issues of mutual interest to Canada and Cuba were discussed, including the North Atlantic Fisheries Organization and the then-approaching world environmental conference in Rio de Janeiro.

During that official visit, Minister Crosbie also met with Cuban leader Fidel Castro, a meeting requested by Mr. Castro, at which they discussed issues of general interest between Canada and Cuba as well as current and future political issues in Cuba. Following that meeting, Mr. Castro hosted a dinner in honour of Mr. Crosbie and his spouse, Jane, which was attended by Canadian and Cuban officials.

Is it not enough that the Liberal government has embraced every significant policy of the Progressive Conservative government — free trade, NAFTA, privatization, deregulation, GST, deficit reduction, low inflation and low interest rates? It seems that they would now like to overlook nine highly successful years of the previous government on the international scene; a record of unprecedented achievement. The motto of the present government is: Hijack the policies of the PC government and others and claim them as your own, and if you cannot make a direct claim on these policies, activities and success stories, deny their existence. Repeat it often enough, and the myth becomes fact.

HEALTH

INCIDENCE OF DIABETES MELLITUS

Hon. Stanley Haidasz: Honourable senators, I wish to take this opportunity to draw your attention to a historic medical achievement at the University of Toronto 76 years ago: the discovery of insulin by Drs. Banting and Best, subsequently honoured with a Nobel prize for Medicine. It was for me a singular privilege to have been one of the many fortunate medical students who were given lectures in physiology by Dr. Best, and especially to hear his call for healthy lifestyle choices in the management of diabetes mellitus.

To date, over 100 million people are reported to have diabetes mellitus throughout the world — a tripling of the prevalence in only ten years. In Canada, 1.5 million are diagnosed with diabetes, only two-thirds of the number who are estimated to be afflicted.

In an aging population — that is, one which is not replenishing itself naturally, as is the case in Canada — that proportion will represent a massive fraction of health care demands, especially as diabetes mellitus is associated with so many serious complications affecting, for example, the kidneys and eyes, and which cause peripheral vascular diseases.

Today, diabetes mellitus of the genetic type, Type I, is the largest single cause of kidney failure in the western world. Type II, the more prevalent induced metabolic disorder, causes the largest number of non-traumatic amputations. In fact, 50 per cent of all amputations in Canada today are done because of diabetes at huge surgical, prosthetic and continued care costs, not to mention the vast loss of jobs and human productivity.

The Canadian Diabetes Association calculates that diabetes mellitus and its complications now represents the second largest health care expense for Medicare overall in Canada. There is no doubt that the indirect economic burdens of premature morbidity and lost productive months attributable to diabetes, or sugar intolerance, places actual costs near the peak, costing over \$12 billion dollars a year in Canada. With Canadian Medicare in a crisis, at an outlay of \$76 billion annually, the most effective measure is clearly to support more research and education for early detection and intervention, and to aggressively promote lifestyle changes related to diet, weight, exercise and smoking, especially for those afflicted already for whom the promised returns are most dramatic.

I mention smoking because, for persons with diabetes mellitus, vascular and cardiovascular health hold a very important place in the management of its complications. Dr. David Lau, an endocrinologist at the Ottawa Civic Hospital, recently stated that 100 per cent of persons with peripheral vascular disease, a cause of gangrene and amputations, are smokers.

As January 19 inaugurated national non-smoking week in Canada, I will have more to say on this subject in the near future. However, my main point today is that Canada can no longer afford to continue to direct health care dollars towards elective procedures while essentials remain unaddressed, such as insulin therapy, and new medicine and techniques. The cost of continuing to do so will result in the impaired careers and tattered pockets of many patients. We must invest more wisely in prevention.

Honourable senators, the indigenous populations of Canada are most severely afflicted by diabetes mellitus. Among some of their groups, the prevalence of diabetes mellitus is 10 times the national average. Few such groups — the Inuit, for instance — suffer less than double the national average. It is thought that the genetic basis of metabolism for indigenous groups here, and elsewhere in the world, is more adversely affected by irregular snacking or having a staple diet of fatty and high-carbohydrate fast foods.

There is much to be learned from our aboriginal brothers and sisters in countering the ill-effects of the marketed eating habits, conveniences and sedentary lifestyles which have prevailed since the 1950s.

Vital organizations, such as the Canadian Diabetes Association, depend upon us, honourable senators, who should be untroubled with the necessities of electioneering or partisan politics, to sound the call to good sense. It is high time that the management of Medicare, a fundamental policy and laudable ideal, became subject to good sense.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence of some distinguished visitors in the gallery. They are members and friends of the Genesis Research Foundation — Corinne Boyer Fund: Mr. Patrick Boyer, founder of the Corinne Boyer Fund, and Dr. Knox Ritchie, Genesis Research Foundation chairman.

I welcome you on behalf of all senators.

• (1350)

ROUTINE PROCEEDINGS

THE ESTIMATES, 1995-96

REPORT OF NATIONAL FINANCE COMMITTEE
ON BUDGET MATERIAL RECEIVED DURING
PREVIOUS PARLIAMENT TABLED

Hon. David Tkachuk: Honourable senators, I have the honour to table the seventh report of the Standing Senate Committee on National Finance concerning its examination of the Main Estimates, 1995-96, the Canada Health and Social Transfer.

I ask that the report be printed as an appendix to the *Journals of the Senate* of this day, and that it form part of the permanent record of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A" of the Journals of the Senate of this day.*)

EXCISE TAX ACT
FEDERAL-PROVINCIAL FISCAL
ARRANGEMENTS ACT
INCOME TAX ACT

DEBT SERVICING AND REDUCTION ACCOUNT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-70, to amend the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Act, the Debt Servicing and Reduction Account Act and related Acts.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Monday next, February 17, 1997.

FISHERIES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY PRIVATIZATION AND LICENSING
OF QUOTAS IN THE INDUSTRY

Hon. Gerald J. Comeau: Honourable senators, I give notice that on Thursday next, February 13, 1997, I will move:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the questions of privatization and quota licensing in Canada's fisheries, and;

That the Committee submit its final report to the Senate no later than March 31, 1998.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. John B. Stewart, Chairman of the Standing Senate Committee on Foreign Affairs, with leave of the Senate and notwithstanding rule 58(1)(a), moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:00 p.m. next Tuesday, February 18, 1997, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

POVERTY IN CANADA

NOTICE OF INQUIRY

Hon. Erminie J. Cohen: Honourable senators, I give notice that on Monday next, February 17, 1997, I will call the attention of the Senate to the report entitled, "Sounding the Alarm: Poverty in Canada."

QUESTION PERIOD

INTERGOVERNMENTAL AFFAIRS

CHANGES TO SECTION 93 OF CONSTITUTION REQUESTED BY
PROVINCE OF QUEBEC—ASSURANCE OF LINGUISTIC AND
EDUCATIONAL RIGHTS FOR ANGLOPHONE
MINORITY—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, yesterday, I asked the Leader of the Government if her government would formally entertain any requests from the Government of Quebec to substitute linguistic school boards for religious school boards, if guarantees found in section 93 of the Constitution were not applicable in the same manner to the proposed new system.

Today, we see in the *Montreal Gazette* the Quebec position, which is extremely clear as seen in the front-page headline entitled, "Bouchard says no to anglo guarantee." Therefore, Quebec's position is unequivocal. Will the minister assure this house that discussions with the Quebec government are no longer possible under such unacceptable conditions and have been put to an end by the federal government?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will speak to my colleague the Minister of Intergovernmental Affairs and get a clear and direct answer for Senator Lynch-Staunton. I must confess that I did not do that overnight because I have been preoccupied with other matters.

Senator Lynch-Staunton: Honourable senators, according to the same report, Premier Bouchard and the Quebec government are satisfied that section 23 of the Charter would give adequate protection to the English minority in that province.

I will refrain from making any comment about someone invoking a document which he refuses to recognize legally. However, I will quote the words of the Commissioner of Official Languages, Victor Goldbloom. I draw this to the attention of every one of my colleagues because we are not talking about an administrative decision of a government department; we are asking to find out what the policy of the Canadian government is on the issue of minority rights in the Province of Quebec.

According to the *Gazette*:

...Victor Goldbloom said any deal should include a protection for the anglophone minority along the lines of the current Section 93, because Section 23 of the charter is "not nearly as specific" in the protection it offers.

Does the Government of Canada endorse the position taken by Dr. Goldbloom?

Senator Fairbairn: Honourable senators, this federal government and previous federal governments have always stood for the strongest possible support for anglophone minorities in the Province of Quebec, as well as minority rights across the country.

I will obtain specific responses for my honourable friend because his questions are fundamentally important and they deserve a proper answer.

Senator Lynch-Staunton: Honourable senators, my anxiety is compounded not only by the extraordinary vagueness of the minister's answer on such a fundamental issue but by the fact that a precedent may have been set by her government having this chamber and the other place endorse Term 17 which, in effect, diminished minority rights without the consent of certain minorities in another province. Are we seeing history repeat itself?

CHANGES TO SECTION 93 OF CONSTITUTION REQUESTED BY PROVINCE OF QUEBEC—POSSIBILITY OF REFERRAL TO PARLIAMENTARY COMMITTEE—GOVERNMENT POSITION

Hon. Marcel Prud'homme: Honourable senators, we do not know the outcome of these deliberations between the federal government and the Government of Quebec. We do not know if the Government of Quebec will request an amendment to the Constitution. However, if they were to request an amendment, would the minister convey to Minister Dion my strong feeling, which I am sure is shared by many senators, that this time — contrary to the last time, when we dealt with Term 17 — there be a complete set of hearings in the House of Commons so that people who wish to make representations will not have to wait for the Senate?

• (1400)

From the beginning, some of us, including myself, wanted to have hearings. We got them but only in the very last days. I would hope that this time it will happen earlier on. It seems now that Mr. Dion has seen the light. He has even hinted that there will be complete hearings. I do not know how we can hold hearings unless he changes his mind.

Will the minister please convey to Mr. Dion my strong feeling to the effect that, if the Government of Quebec requests an amendment to the Constitution, while I will oppose it in every way, shape and form, I hope he will let the majority speak. I hope that this time we will have hearings in the House of Commons.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will certainly convey Senator Prud'homme's feelings to the minister.

NATIONAL DEFENCE

CURTAILMENT OF SOMALIA INQUIRY—IMPLICATIONS OF COMMENTS BY COMMISSIONER—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate, and it relates to the Somalia inquiry. Justice Létourneau was asked if the Prime Minister and the Minister of Defence were deliberately misleading the public with their arguments. He replied that he did not know, and went on to say something to the effect that perhaps they do not understand what we are up to here. Then he said in a reply to a journalist's question that, if the government had wanted the inquiry to investigate the allegations of cover-up, it would have allowed it to finish its work. In other words, the chair of the inquiry is accusing the government itself of a cover-up, indirectly.

This is an unheard-of accusation, honourable senators. These are respected and non-partisan people. That they should be driven to say such things is almost beyond belief. How does the government reply to these extraordinary charges?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I believe my friend is using rather strong language to interpret the comments that have been made. The government is not engaged in any way in a cover-up. It has extended the deadline of this inquiry three times. It has never interfered with the inquiry in terms of indicating which witnesses should be called or which subject should be examined. That is the responsibility of the commission of inquiry, and it would be improper for the government to tell it what to do.

The government is very interested and keen to receive a report from the Somalia inquiry by the end of June. It hopes that the commissioners will receive, in addition to their public hearings, other testimony in terms of written submissions. Those are welcome.

The commission of inquiry has sought and received extensions. This issue has been extremely difficult for the men and women of the military across this country and those who serve abroad. The government recognizes that there are significant problems within the system, and those problems must be addressed. The Minister of National Defence has sought, through this inquiry and through other investigations and opinions received from qualified persons and ordinary citizens, to bring it all together. He is striving for a forward movement on behalf of the forces of this country, which are doing an extraordinary job both at home and abroad. He wants to clear the air for them so that they will have certainty about how the Canadian Armed Forces operate and how we, as Canadian citizens, can best assist them in their operations.

There is no cover-up, Senator St. Germain. The commission of inquiry is important. Its report will help to set the course of the military for the future. Its opinion is not only being sought but viewed with anticipation by the government. The Minister of National Defence wants to get on with the job so that our Armed Forces can get on with their jobs.

Senator St. Germain: Honourable senators, Senator Rompkey said that the polls indicate 70 per cent support for the government. I think the government's role is to lead, not to mislead. Regardless of the polling data on any given issue, I do not think we should be governing by polls. I thought that was the position of the Reform Party, as opposed to the positions held by both parties in this place.

The minister speaks of the morale of the military. We should have thought about morale before we ventured into these waters in the manner used by the government. I believe, like many others, that they are trying to cover up something by cutting this whole process short. The longer this government remains in office, the longer the list of foul-ups. We have the EH-101 helicopters, GST, Airbus, and now the Somalia situation. It seems that the government is unable to separate partisanship from public policy.

Aspersions of doubt are cast upon the entire political system when a government or any political group interferes with a tribunal or a judicial body which has been established to carry

out an inquiry. Can honourable senators imagine, if the Conservatives had done something like that, the hue and cry from the other side?

I ask the minister to point out to the Prime Minister that he was once again wrong and persuade him to allow the Somalia inquiry to complete what it has started. I am cognizant of the morale issue and other issues. Let the inquiry continue and finish its job properly.

Senator Fairbairn: Honourable senators, as always, I will convey the point of view of the honourable senator. However, I repeat, the commission was originally set up with a completion date of December 1995. It was continued through 1996. It will now go mid-way into 1997. The government does take its responsibilities seriously in this circumstance. It has urged the inquiry to do its job as it sees fit in the months ahead to prepare its report. That will be a substantial report, and the government is anxious to receive it.

CURTAILMENT OF SOMALIA INQUIRY—INDEPENDENT STATUS OF COMMISSION—GOVERNMENT POSITION

Hon. Noël A. Kinsella: Honourable senators, on the same topic, unfortunately, the reality is that we have a shouting match taking place between the inquiry and the government. I take no position in terms of adjudicating the dispute, but it is somewhat unseemly.

Today, Justice Létourneau denounced, once again, the decision to muzzle the inquiry. He also disagrees with the arguments of the Minister of Defence and the Prime Minister to the effect that the inquiry is free to call anyone they wish. We have Mr. Justice Létourneau stating that that is quite misleading and unfair. That is a quote from the commissioner. What are Canadians to think?

Clearly, there is uncertainty among the public. Clearly, there is unhappiness with this situation. Clearly, there is discontent with the government's attempt to stop the inquiry from shedding light on cover-ups involving senior members of the Department of National Defence.

Further, and more shocking, the commissioners noted that the first minister and the defence minister seem to be making it look as if the inquiry, not the government, is involved in some kind of an attempt not to get to the bottom of the issue. In other words, the Canadian government is perceived as having accused the independent commission of inquiry of improper behaviour. Clearly, the actions of the government have gone beyond the pale. There is a perception amongst the public of a shouting match taking place between an independent commission on the one hand, and two of the government leader's cabinet colleagues on the other.

• (1410)

Will the minister agree to call upon both of her colleagues to apologize publicly to the commissioners, or will she at least exert influence on her colleagues in the cabinet to allow the commission to operate independently?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I would question the honourable senator's description of this as a shouting match, and also the notion that the federal government is in some way insinuating that the commission is not performing its task: Far from it. The government believes the commission has been fulfilling its role, and the government is not in a position — nor should it be — to tell the commission from whom it should hear, or how it should proceed. If that is the way such commissions are to be set up in the future, I think everyone would need to give very serious consideration to the directions they are given.

The government wishes to see the commission complete its task. I know there is a divergence of views on timing. The government is fully confident that the commission of inquiry will complete its task and will produce an effective report that will be of considerable help in framing solutions to some of the deep difficulties that have plagued the Armed Forces for some time, and continue to do so.

STATUS OF SEARCH AND RESCUE HELICOPTER REPLACEMENT PROGRAM—REQUEST FOR PARTICULARS

Hon. J. Michael Forrestall: Honourable senators, could the Leader of the Government in the Senate tell us if she has had her briefing book updated with respect to helicopters? It is now almost 11 years since the problem of ship-borne helicopters was first genuinely resolved — and then the program was cancelled. A further six and a half or seven years have now passed. We had a promise about a year ago that we would have new search and rescue equipment. We have recently had some indication that the government was ready to call, indeed may already have called, for proposals for ship-borne helicopters. The Canadian taxpayer has paid out some \$800 million in engineering costs and other fees towards the development of a replacement aircraft for search and rescue in this country, and for use on our war ships.

Is the minister now in a position to let us in on some of the secrets, and tell us where the program stands, both for search and rescue and for ship-borne helicopters? Can she tell us whether the appropriate government authorities took heed of the advice given to them that they should perhaps rethink the decision to go with a single piece of equipment, rather than two, and whether there is any truth to the scary rumours that the government has not been able to find a suitable and adequate replacement helicopter for ship-borne or search and rescue activities, other than the EH-101?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, as the honourable senator knows, requests for proposals have been sent out for search and rescue aircraft. I will check for him on the status of that process, but I can assure him that it is moving ahead. This aircraft is a significant piece of equipment for our Armed Forces, and the government will be making very careful decisions on it.

As to the new maritime helicopters that would replace the Sea Kings, that process is not at the same stage. I do not have a great

deal that is new to report to my honourable friend, other than to indicate that the replacement remains a component of the re-equipment program for the Armed Forces and will be proceeded with in due course. However, I cannot give my friend any new information today. I will try to obtain an update for the honourable senator on that situation, but at the moment that is where it stands.

Senator Forrestall: Information is what we are seeking. Could the minister find out whether there is any truth to the suggestion that, even though the minimum requirements have been lowered with respect to the replacement of the Labrador, the government has not been able to come up with a proposal on an alternate aircraft that could adequately meet and carry out the role of the ageing Labrador? If there is no truth to that suggestion, then we should know it.

I appreciate very much the minister's concern, and I ask her to request that the department give her a first class briefing note so that we might have a better appreciation of where the programs stand.

Senator Fairbairn: Honourable senators, I can certainly ease the honourable senator's mind on one point: The government is definitely not considering any replacement that is less capable than the Labrador. As I said before, search and rescue does represent a significant operational challenge for the Armed Forces. We will need an aircraft which can meet that challenge, and that is the aircraft we will buy.

Senator Forrestall: I am sorry. I hope you do get a good upgrading of your briefing notes, because the minister has already told Canadians — in fact, about a year ago — that the government would look for a lesser piece of equipment. Make sure your briefing notes are accurate before you cite them back to me, otherwise you will just incite my anger. Such an answer would also cause disappointment to all of those who must rely on search and rescue, such as fishermen on the three coasts of this country, and people lost in air crashes in remote areas. Please give us accurate information.

Senator Fairbairn: I am attempting to do just that. I will give the senator the best information I can get for him.

[Translation]

ABORIGINAL PEOPLES

RECOMMENDATIONS OF THE ROYAL COMMISSION— GOVERNMENT POSITION

Hon. Gérard-A. Beaudoin: Honourable senators, my question is for the Leader of the Government in the Senate. A conference was held at McGill University in early February on the subject of building a new relationship. It concerned the Dussault-Erasmus report on aboriginal peoples and lasted two and a half days. It brought together experts from across Canada.

I had the good fortune to take part in this conference. The conference speakers encouraged the Government of Canada to proceed with the Dussault-Erasmus report. Could the government leader tell us when or how the Government of Canada, and particularly the Prime Minister, intends to implement the report? Secondly, will the Prime Minister invite his counterparts and native leaders to act on this report?

[English]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I too understand that that was a very important and interesting conference held at McGill.

• (1420)

My honourable friend will know that the government recognizes the royal commission's report as a significant body of work. It is very detailed, as it should be given the time the royal commission had to study this issue. There has been some suggestion that this report will be put on a shelf somewhere. The government will not be putting that document on a shelf. It will be studying the document very carefully and, at the same time, continuing with all the other initiatives it is undertaking for aboriginal people in this country.

I cannot give my honourable friend today specific information on the process that lies ahead, but I can assure him that the document is being studied. Indeed, senators on this side of the house, particularly Senator Watt, are actively involved in not just the study of this report but advising on how we should proceed with it.

BUSINESS OF THE SENATE

BILL CONCERNING HARMONIZATION OF SALES TAXES— REFERRAL TO BANKING, TRADE AND COMMERCE COMMITTEE— GOVERNMENT POSITION

Hon. David Tkachuk: Honourable senators, it is my understanding that Bill C-70 will be referred to the Standing Senate Committee on Banking, Trade and Commerce rather than to the Standing Senate Committee on National Finance. Could the Leader of the Government in the Senate clarify why it would be going to the Banking Committee rather than to the Finance Committee?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I do not see anything particularly abnormal about sending that piece of legislation to the Standing Senate Committee on Banking, Trade and Commerce. It is a revenue bill. That is one of our keenly active committees, and the bill will get a heck of a good hearing there. The seat-mate of my honourable friend will make sure of that.

Senator Tkachuk: In other words, honourable senators, Bill C-70 is a revenue bill. Could the minister explain how a revenue bill on the GST fits with Paul Martin's comments in 1990 as reported in *De Novo*? He stated:

There is some possibility that when we take power in 1992, the provinces will have entrenched the GST in their

sales tax regimes. It would be extremely difficult to undo in that instance, but I would consider removing it nonetheless, and in all other scenarios I am committed to scrapping the GST and replacing it with an alternative.

Honourable senators, I do not understand why this is a revenue bill. Is this an increase in taxes for the federal government?

Senator Fairbairn: No, honourable senators, this is a bill. Indeed, Mr. Martin has been toiling far and wide in the last few years to change this bill and make it into a national harmonized tax.

The choice to place this bill before the Standing Senate Committee on Banking, Trade and Commerce is a perfectly logical one. It will receive a fine hearing from the senators who serve on that committee and the very capable chair and deputy chair of that committee who work extremely well together.

YOUTH EMPLOYMENT STRATEGY

PERCENTAGE OF NEW FUNDING IN TOTAL AMOUNT ANNOUNCED—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, the government has announced \$2 billion in new and existing funding for youth employment initiatives. My question for the Leader of the Government in the Senate is how much of that \$2 billion is new funding, and how many of the forecasted summer jobs will be created from that new funding?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, this is a detailed announcement. It was made this morning. I want to obtain a detailed answer for my honourable friend. As the honourable senator will know, the \$2 billion covers all of the programs for youth that the federal government offers. That includes student loans, as well as investment in education and measures for aboriginal young people.

The announcement in the last budget was for \$315 million spread over three years. We have been working since then and consulting widely across the country with young people and people in the private sector and elsewhere who can help them find jobs. We are beginning to use that new money in programs which will continue the addition to the summer jobs program of \$60 million. The new money will be used in the area of science and technology, aboriginal and international internships.

To get my honourable friend a more specific answer on numbers, I shall have to go to the documents.

CREATION OF FULL-TIME JOBS FOR RECENT GRADUATES— GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, we know that the government is investing a substantial amount of money to create those short-term summer jobs for students over the next two years. Where is the government's initiative to create long-term, full-time jobs for those recent graduates and for the future graduates of post-secondary institutions?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, indeed some of the internship programs are aimed precisely in the direction of young people who have considerable skills. There is a real movement within the government to assist young people who have no experience to put on a résumé. We want to engage them with job opportunities in the areas in which they have skills. Through internships and co-op arrangements within the private sector, they will be able to seek not just the part-time jobs, but the longer-term jobs for which their skills and education have prepared them.

DELAYED ANSWER TO ORAL QUESTION

Hon. B. Alasdair Graham: Honourable senators, I have a response to a question raised in the Senate on November 28, 1996, by the Honourable Senator Doyle regarding the Competition Act.

INTERGOVERNMENTAL AFFAIRS

EXEMPTION OF PROVINCIALLY-REGULATED PROFESSIONS AND ASSOCIATIONS FROM FEDERAL COMPETITION LAWS

(Response to question raised by Hon. Richard J. Doyle on November 28, 1996)

The *Competition Act* is a federal law governing business conduct in Canada. However, the courts have ruled that it does not apply to activity which a provincial legislature has specifically authorized. This is known as the regulated conduct defence. The defence is limited, but if a number of conditions are met, the defence does apply. An example is a 1996 case where an Ontario court ruled that the *Competition Act* does not apply to the legal requirement that lawyers must buy their negligence insurance from the Law Society of Upper Canada.

The drafting of provincial legislation making professions subject to the *Competition Act* is not within the purview of the federal government. Should provincial governments wish to have their professions governed by the *Competition Act*, then they need to draft their legislation accordingly. At the federal level this was achieved when the *Investment Canada Act* and the *Canada Transportation Act* were drafted to specify that nothing in their respective legislation prevents the application of the *Competition Act*.

NATIONAL FINANCE

FAILURE OF CONFEDERATION LIFE—ESTIMATE OF MAGNITUDE OF LOSS—GOVERNMENT POSITION—REQUEST FOR ANSWER

Hon. Finlay MacDonald: Honourable senators, I do not want to sound wistful, but this is the third time I have asked for an answer to my question of October 30 last year. If I cannot get an answer, I will have no alternative but to stop asking.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I am overcome with despair. However, I do want to assure my honourable friend that not a day goes by without my asking for an answer to that question, and I will continue to do so. Perhaps I will have it tomorrow.

ANSWERS TO ORDER PAPER QUESTIONS

REQUEST FOR ANSWERS

Hon. J. Michael Forrestall: Honourable senators, on the same point, I have placed a series of questions on the Order Paper relating to safety in the air. They have been on the Order Paper for an extended period of time. Does the Deputy Leader of the Government have any reason to believe that the department has no intention of answering those questions? Unlike my colleague from Halifax, I will pursue the matter somewhere else.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I am sure that the minister responsible and the government have every intention of responding. Again, I assure the honourable senator that I will pursue this matter with even greater diligence.

• (1430)

ORDERS OF THE DAY

BELL CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bosa, seconded by the Honourable Senator Moore, for the second reading of Bill C-57, to amend the Bell Canada Act.

Hon. Noël A. Kinsella: Honourable senators, Bill C-57 is not a long bill. Indeed, it is only a paragraph in length. The purpose and substance of the bill is that it will let Bell Canada compete with the cable television companies.

In his address to this chamber at the commencement of debate on second reading, Senator Bosa pointed out that the bill had universal support in the other place. Notwithstanding that, some amendments were made to Bill C-57 which would appear to have improved it.

Honourable senators are aware that Bell Canada is the largest phone company in the country, operating primarily in the provinces of Ontario and Quebec. In August 1996, the government released its policy statement dealing with the issue of convergence. This cleared the way for cable and telephone companies to compete in each other's traditional areas of business.

In 1968, a statute was passed which had the effect of barring Bell Canada from holding a broadcast licence. Our research indicates that Bell Canada is the only telephone company which faces this restriction. Government documents indicate that the original rationale for keeping Bell out of the broadcasting business is no longer valid. While I am not in a position to assess that, I would hope that the Standing Senate Committee on Transport and Communications would delve into that question, among others.

The ground rules under which competition will occur in this world of convergence is important. The ground rules that apply in this instance have yet to be announced. Again, the committee will want to delve into that dimension.

Honourable senators, we are probably at the point where the best thing for us to do with Bill C-57 is to refer it to the Standing Senate Committee on Transport and Communications, and have that committee examine the bill.

Hon. B. Alasdair Graham (Deputy Leader of the Government): There was discussion with Senator Berntson prior to the introduction of this bill, and there was general agreement that the bill would be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Accordingly, if there are no further speakers, I would move that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Hon. John Lynch-Staunton (Leader of the Opposition): This is a bill which naturally fits into the terms of reference of the Standing Senate Committee on Transport and Communication. With all due respect for the deputy leader's agreement with Senator Berntson — and I must admit that this is the first I have heard of it; if others on my side know of such an agreement, then I will certainly sit back — but why the Standing Senate Committee on Banking, Trade and Commerce?

Senator Graham: I had discussions with the chairman of the Banking Committee, and he agreed to take the bill. I also had discussions with the Table officers as to precedents for that referral, and it seems that previous bills similar to this one have been referred on some occasions to the Standing Senate Committee on Banking, Trade and Commerce, while others have been referred to the Standing Senate Committee on Transport and Communication. Therefore, it was determined at this time that the Banking Committee would receive the bill.

Senator Lynch-Staunton: Has anyone spoken to the chairman of the Transport Committee to find out whether she would call a committee meeting? Whether or not the chairman of the Banking Committee is agreeable to taking the bill, the point is that the terms of reference of each committee are set out in our rules, and this bill is an obvious referral to one committee in particular. The Banking Committee, of all committees, is the busiest committee, second only to the Legal and Constitutional Affairs Committee, especially right now, in that the GST bill will shortly be referred to it.

Senator Graham: I understand that there have been discussions, and while the chairman of the Banking Committee is not here, the deputy chairman is present. I understand that they have agreed to deal with this bill at next Tuesday's meeting of that committee.

Hon. J. Michael Forrestall: Might I ask the house leader whether there has been any discussions about this bill and its referral with the chair of the Standing Senate Committee on Transport and Communications?

Senator Graham: The chairman of the Standing Senate Committee on Transport and Communications has been made aware that this bill would be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Senator Forrestall: Honourable senators, perhaps I might have an answer to my question? Was there any discussion with the chair of the Standing Senate Committee on Transport and Communications about this matter, and did she agree to this arrangement?

Senator Graham: At the time the matter arose, the chairman was informed as to which committee the bill would be referred, because when the matter was being discussed the chairman of the Transport Committee was not in the city but was travelling with the Foreign Affairs Committee.

Senator Lynch-Staunton: I want to quote from the *Rules of the Senate* — we may need to have a ruling on this matter, but I wish to quote from rule 86 (1)(j):

(i) transport and communications by land, air, water, and space, whether by radio, telephone, telegraph, wire, cable...

Why, then, are we having such a discussion? This bill belongs for study before the Standing Senate Committee on Transport and Communications.

Hon. Lowell Murray: If I may, honourable senators, I have a couple of remarks to make on a related point that the Leader of the Opposition has raised.

If the bill properly belongs with the Standing Senate Committee on Transport and Communications, my contention would be that to send it to any other committee would require leave of the Senate, because it would be an exception to our rules.

Senator Graham: Honourable senators, we do not have any strong objections to sending this bill to the Transport Committee. I am quite prepared to do that. However, I had asked for guidance from the Table on precedents relating to legislation pertaining to Bell Canada, and I was informed that in 1987, that bill was referred to the Banking Committee. In 1991, the bill in that year was referred to the Transport Committee. In 1992, the bill was referred to the Legal and Constitutional Affairs Committee, and in 1993, the bill that year was referred again to the Transport Committee.

Honourable senators, I am quite happy to refer Bill C-57 to the Standing Senate Committee on Transport and Communications, and accordingly, I so move. However, honourable senators, I would obviously need to withdraw my previous motion.

Senator Murray: With leave.

Senator Graham: Yes, with leave.

The Hon. the Speaker: Since the motion was not yet before us, there will be no problem. We have not yet dealt with the motion for second reading.

Honourable senators, the motion before us is the motion that was moved by the Honourable Senator Bosa, seconded by the Honourable Senator Moore, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Senator Forrestall: No way.

The Hon. the Speaker: The motion is for second reading of the bill.

Senator Forrestall: Your Honour, I do not care if it is for the twenty-second reading of the bill. The government will work for this one. They should try taking people into their confidence.

The Hon. the Speaker: Is the motion carried on division?

Hon. Senators: Agreed.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

On motion of Senator Graham, bill referred to the Standing Senate Committee on Transport and Communications.

• (1440)

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

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Maheu, for the adoption 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, observations and recommendations), presented in the Senate on February 4, 1997.

Hon. W. David Angus: Honourable senators, I rise to add my comments to those of Senator Kirby on the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce relating to and amending Bill C-5. Generally I subscribe to the comments made yesterday by the committee chairman, but I should like to add a few comments of my own about the process underlying this legislation and on one or two other areas of substance.

First, I wish to support and reinforce Senator Kirby's comment at the end of his speech to the effect that the committee system functioned very well in dealing with this lengthy and complex piece of legislation. Unfortunately, committee members and most witnesses who appeared before the committee were less than enthusiastic about the legislation.

As I remarked on October 31 last at second reading on this bill, the PC government of Brian Mulroney enacted phase one amendments to Canada's bankruptcy and insolvency laws in 1992. The amendments at that time were long overdue and represented the first step of a major overhaul of Canadian bankruptcy and insolvency law in some 40 years. It was hoped and intended at that time that phase two would involve an extensive consultation process amongst a wide range of persons representing virtually all stakeholders of bankruptcy and insolvency law in Canada.

However, it rapidly became apparent to the Standing Senate Committee on Banking, Trade and Commerce, as well as to the industry committee in the other place, that, in fact, the consultation process that preceded and culminated in Bill C-5 was flawed and wanting. It was only that passing the bill represented the lesser of two evils that we came up with the report we did.

The consultation process under the Bankruptcy and Insolvency Act Committee, the BIAC, was evidently too narrow and basically restricted to various experts in the insolvency law and practice establishment. For example, our committee felt that there was insufficient discussion and study by the BIAC of the consumer aspects of this bill. We were impressed by the arguments that it might well be better to strip the bill of all the proposed changes affecting consumers and to maintain its provisions until there could be a comprehensive assessment of consumer bankruptcy in Canada.

Honourable senators, a compromise was worked out, and the committee has established a process whereby it will work and cooperate with Industry Canada to develop a comprehensive study of bankruptcy and insolvency as it affects consumers.

The report itself focuses on the need to overhaul the consumer bankruptcy provisions of the BIA, to provide more incentives for consumers to choose a proposal over bankruptcy, and to ensure that insolvent individuals who successfully carry out a proposal receive recognition for their efforts.

One amendment which the Banking Committee wished to include in its report, but eventually did not, related to the liability of corporate directors and stays of action against directors during reorganization proceedings. As stated in several of its recent reports, the Banking Committee recognizes that, under present law, the liabilities to which corporate directors are subject are such that they have an incentive to resign from the boards of the companies they serve at times of financial instability or impending insolvency. This is a time more than ever when their advice and other input is most needed.

The committee supports the provisions of Bill C-5 which would allow a reorganization proposal to include provisions for compromising claims against directors relating to obligations which are imposed on them by statute, but this provision is only a modest step forward and will not solve the very real difficulties posed by existing laws. The committee is of the view that, at the very least, a due diligence defence to statutory liability should be made available under the Bankruptcy and Insolvency Act and the CCAA.

Although an amendment incorporating such a due diligence defence was suggested by the committee, it was not the proper time for such an amendment. The committee reluctantly agreed to drop the proposed amendment following a promise from Industry Canada that the matter will be dealt with in the forthcoming amendments to the Canada Business Corporation Act and other related acts.

Finally, honourable senators, I would point out and re-emphasize that the duplication and overlap resulting from the coexistence of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act is inappropriate for such framework laws. Accordingly, honourable senators, the committee looks forward to the day when Canada's bankruptcy and insolvency laws are further simplified, clarified, consolidated under one statute, and modernized to meet present philosophies and economic conditions.

Honourable senators, I recommend support for the amendments as proposed in the committee's report.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTEENTH REPORT OF COMMITTEE ADOPTED

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 Kinsella*).

Hon. Noël A. Kinsella: Honourable senators, we have had a chance to fully consider the adoption of the fifteenth report dealing with the Estimates for the next fiscal year, and we will speak no further on it.

Hon. Colin Kenny: Honourable senators —

The Hon. the Speaker: Honourable senators, if the Honourable Senator Kenny speaks now, his speech will have the effect of closing debate on this item.

Senator Kenny: Honourable senators, I had the opportunity to only partially answer my colleague Senator Doyle yesterday when he raised questions regarding the Estimates. One of the things I managed to do in the intervening time was to check dictionaries for definitions of the word "informatics." I had the good fortune to check my 1989 Oxford dictionary wherein it defines "informatics" as "information science." The *Shorter Oxford Dictionary* refers to informatics as "information science and technology." The *Random House Dictionary of the English Language* gives the definition of the word as "the study of information processing and computer science." The *Nelson Canadian Dictionary of the English Language* refers to "informatics" as "information science."

• (1450)

Honourable senators, on a more serious note, Senator Doyle asked me how much we had spent in previous years on this matter. I am advised that in 1992-93, we spent \$638,000. In 1993-94, we spent \$632,000. In 1994-95, we spent \$650,000; and in 1995-96, the figure was \$1.575 million.

I believe that answers the questions which the honourable senator put to me.

With that, I move the adoption of this report.

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

Motion agreed to and report adopted.

FOURTEENTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Forest, for the adoption of the fourteenth report of the Standing Committee on Internal Economy, Budgets and Administration (*Senate Supplementary Estimate 1996-97*), presented in the Senate on February 4, 1997.—(*Honourable Senator Doyle*).

Hon. Noël A. Kinsella: Honourable senators, we have completed our study of this item as well.

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

Motion agreed to and report adopted.

HEALTH CARE IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Keon calling the attention of the Senate to issues concerning the *Canada Health Act* and other matters related to health care in Canada.—(*Honourable Senator Anderson*).

Hon. Doris M. Anderson: Honourable senators, I listened with much interest to the speech in this chamber by Senator Keon on December 11, 1996, on strengthening the federal leadership role in health care in Canada and, specifically, the *Canada Health Act*.

I agree wholeheartedly with Senator Keon's statements when he said:

The *Canada Health Act* has been and continues to be an important cornerstone for building and sustaining one of the best health systems in the world.

The *Canada Health Act* has been a critical link in both the development and the survival of our nation's health care system.

He also said at that time:

...most Canadians support the concept of universal health care.

And:

...health is not a single matter assigned by the Constitution...to one level of government. What we have in this country is a balance of federal and provincial

responsibilities, depending on the purpose and effect of the health measure at issue....the *Canada Health Act* is the glue that binds our precious health system. Indeed, it may well be the most important glue that holds our country together.

Honourable senators, today, when every province in this country is implementing major reforms to their health care systems, and, in some cases, when these provincial reforms are challenging some of Medicare's fundamental principles of accessibility, comprehensiveness, public administration, portability and universality, all Canadians should be concerned about the future of our health care system.

Senator Keon stated, and I concur, that change must happen, that the health care system must be improved, and that there must be a stronger federal presence in health reform.

Honourable senators, I am very much interested in all aspects of health care in Canada. However, today, I should like to zero in on women's health in particular. The report on the health of Canadians of September 1996 was intended to inform Canadians about the state of their health and the major factors that influence health. This report was also intended to serve as a tool to help policy-makers, health-care workers and the public measure Canada's progress in achieving a higher level of health for its population, and to identify actions that can be taken to make continued improvements.

On the positive side, this report states that, by many measures, the health of Canadians is improving. For example, Canadians are living longer, fewer infants are dying in the first year of life, and early deaths due to heart disease and injuries have declined. For most of the major diseases, death rates have declined.

On the negative side, the report shows that the rate of low birth weight babies has not changed significantly since the 1980s, that more Canadians are overweight and that more have had to cut down on regular activities due to health reasons.

Women are healthier than men, according to the report. Women live, on average, about six years longer than men, and they enjoy more years free of disabling health problems. However, in recent years, this gap in longevity has been closing. This appears to be related to increasing smoking rates among women and improved health behaviours among men. On measures such as psychological well-being, stress and depression, women do not score as well as men, on average.

Honourable senators, the federal government has undertaken a number of initiatives to address health concerns common to women. In December 1992, the federal government announced the federal breast cancer initiative with funding of \$25 million over five years to breast cancer research and support programs. Grants totalling \$6.5 million were awarded in 1996 to fund 29 breast cancer research projects in Canada. Projects funded included laboratory-based investigations, clinical studies, and psychosocial research on both long-term survival and quality of life.

Breast cancer is the most frequently diagnosed cancer among women. Tragically, the incidence of breast cancer continues to rise. In 1996, it was estimated that 18,600 Canadian women would be diagnosed with breast cancer, and 5,300 would die from this disease. Of major concern is the fact that Canada has the second highest incidence of breast cancer in the world. The United States has the highest incidence. In the United States, for instance, an estimated 180,200 new cases of breast cancer will be diagnosed this year, and there will be 43,900 deaths.

In view of these staggering statistics, and although two recent studies showed reduced breast cancer death rates among women 40 years to 49 years who get regular mammograms, a U.S. federal advisory panel on January 23, 1997, convened by the U.S. National Cancer Institute, declined to recommend routine mammogram screenings for women in that age group!

In July 1994, the federal government launched the Canada Prenatal Nutrition Program in partnership with the provinces and territories. This four-year program was designed to provide low-income pregnant women with food supplements, nutrition counselling, and information about the negative effects of smoking, drinking, drugs, stress and domestic violence. Up to \$85 million has been set aside for this four-year program. To date, 236 Prenatal Nutrition Projects have been funded in all provinces and territories.

• (1500)

Osteoporosis is a crippling disease that affects one in every four women and one in every eight men over the age of 50. The disease progresses without symptoms, and often remains undetected until a fracture occurs in the wrist, the spine or the hip. Each year, this disease is responsible for more than 25,000 hip fractures alone. The cost to the health system in Canada of treating osteoporotic hip fracture exceeds \$1 billion annually. A five-year, \$9 million research study was begun in December 1995 to determine the role that genetics and the environment may play in bone density and fractures. Some of the serious risk factors for this disease — for example, diet, exercise patterns, smoking and medication — can be modified for these patients. This research of \$9 million is being jointly funded by the federal government and pharmaceutical companies.

In June of 1996, the federal government announced the establishment of five centres of excellence for women's health, and \$12 million over six years has been allotted for these centres. Each centre has a broad mandate that includes collecting and analyzing health information and data, conducting research on key women's health issues, providing policy advice to government and health organizations, and generating and communicating information to a wide range of audiences. These five centres are established at Dalhousie University in Halifax, Université de Montréal in Montreal, York University in Toronto, Winnipeg Women's Health Clinic and the British Columbia Women's Hospital and Health Centre in Vancouver.

The first ever Canada-U.S. Women's Health Forum was convened in Ottawa in August of 1996 by Minister of Health David Dingwall and U.S. Secretary of Health and Human Services Donna Shalala. This forum was an opportunity to share perspectives on women's health issues, examine programs and policies, raise awareness of women's health as an important public health concern, and explore possible projects on which Canada and the United States can work collaboratively. During the forum, workshops focused on a broad range of topics such as breast cancer, heart disease, reproductive and sexual health, environmental and occupational health impacts, violence against women, and health issues relevant to indigenous women.

Honourable senators, the National Forum on Health was launched by the Prime Minister in October 1994, to involve and inform Canadians and to return with advice for the federal government on ways to improve the health system and the health of Canada's people. As honourable senators are aware, the final report of the National Forum on Health was just released on February 4, 1997. The forum has concluded that Medicare can be preserved if changes are made to the way in which the health system is funded and structured, especially in the areas of primary care, home care, and medically necessary drugs. The forum's report also states that the health care system is sustainable providing steps are taken to reorganize and improve it. Medicare, the report goes on, cannot continue under its present structure without compromising quality care and universal access. Steps must be taken to make the health system more responsive to a changing environment and to the needs of Canadians, and to make better use of existing resources.

In August 1996, Minister of Health David Dingwall, speaking at the Canadian Medical Association meeting in Sydney, stated:

None of us should be governed by polls, but they do have their place. For example, a major national poll made public last year contains some compelling findings: the view that health care should be at the top of priorities for the federal government; that of all publicly financed systems, health care was the only one where satisfaction was expressed by a majority of Canadians; that in terms of quality of life, health care is seen as Canada's most important social program, and that equality of access is seen as the most important aspect by far of health care in our country. An even larger majority rejected the idea that individuals should be allowed to pay extra to gain quicker access to health care services.

The minister went on to say:

We did not build one of the best health care systems in the world by rejecting change. We will only keep that system and enhance it if we accept that it must, and can, be improved. For the federal government the objective is clear: the preservation and enhancement of our national health care system.

Mr. Dingwall continued:

The first way to achieve that objective is to maintain our commitment to ensure the long-term future of Medicare. In terms of funding, I believe we have now done that. Provinces sought stability, predictability and security in federal funding. They now have it. A cash floor for federal funding is now in place. Overall transfers will begin to rise in the future.

Honourable senators, it was indeed reassuring to hear the Minister of Health say:

I believe the federal government cannot, and must not, make any further cuts to transfer payments for the purposes of health, but as important as that is, it is far from sufficient, which leads me to our second priority. We need to reduce costs and demands arising from within the health system and costs and demands from outside. The goal must be a better balance between treating illness and measures to promote good health, protect health and prevent disease. As we look into the future, an improved health care system for Canada rests as much as anything on improved health for Canadians.

The National Forum on Health recommends that actions to improve the health of Canadians focus on the following elements: first, a broad integrated child and family strategy consisting of both programs and income support; second, collaboration among the federal government, the private sector and existing foundations to strengthen community action; third, an aboriginal health institute to help aboriginal communities find solutions to their health problems and take action; and, fourth, explicit acknowledgement of the health and social impacts of economic policies and action to help individuals who are trying to enter the work force.

Finally, honourable senators, the National Forum on Health discovered that health and health care have become a defining public issue, and that Canadians have an intense interest in this debate, viewing it as a top priority for governments.

Hon. Sharon Carstairs: Honourable senators, I rise today to contribute a little to this debate. I thank Senator Keon for bringing it to the attention of this chamber.

We need to be reminded of the five principles behind the Canada Health Act. Senator Anderson has done that so well today. This system must be accessible to all Canadians, while at the same time we recognize that accessibility will vary from place to place. Clearly, if you live in a remote community, you will not have health care as accessible to you as if you live in a large urban centre.

Health care should be comprehensive: that is, there should be, for all Canadians, a wide range of coverage. There is a recognition that perhaps such things as plastic surgery, which is one only for the sake of vanity, should not be covered in the comprehensive section. Health care should be portable. We

should be able to move it from place to place to place. Health care should be universal. All Canadians should have access no matter what their income, no matter what their lifestyle. Health care should be publicly, and not privately, administered.

• (1510)

Honourable senators, health care has undergone dramatic and drastic changes in the past 10 years. Provincial politicians, to some degree because of financial difficulties but also because they recognized that the system was growing too large and in some cases too cumbersome, realized that some things had to be done. The difficulty for all provincial governments, no matter what their political stripe, was how to maintain the balance. If bed closures were to be undertaken, were there alternatives to those bed closures? In other words, if a bed for surgery was to be closed, was a day-care surgery bed opened at the same time in order to provide a different type of care, all while maintaining the same level of care?

One of the other difficulties that all provinces have experienced has been the readjustment of health-care workers. For example, what is the right mix between a registered nurse and a licensed practical nurse? What is the difference in terms of the capacity of a unit clerk? We have, throughout this period of time, faced some fundamental issues. One of the grave difficulties that was faced in my province — and that is still causing some difficulty — is early release from hospitals and the care of patients upon their early release.

Honourable senators, if someone is released early and there are appropriate supports in the home, or additional supports provided by home-care workers, then that person is probably better off at home. Studies show that patients recover more quickly if they are in their home environment. However, if those home supports are not there; if, for example, you are sending home an 85-year-old man to be looked after by his 84-year-old wife who has her own health problems, and if there is no home-care worker assigned to that home, then you not only will have difficulty with the 85-year-old former patient; you may well have a new patient, the 84-year-old spouse. That has become an increasing difficulty in adapting and adjusting home-care services right across the country.

We have also had a difficulty, quite frankly, in that we have not been able to address what I think is a very serious problem, the overtesting of many Canadian patients. For example, seniors will report that they go to their general practitioner, then to a number of specialists, and each one will order that blood be taken. The individual feels like a human pin-cushion. Instead, those test results should move with the patient from place to place.

The cost of all of that testing is enormous. In most provinces, most medical associations have not been able to agree upon the appropriate protocols for testing in Canada. One study conducted by the St. Boniface Hospital in my city recognized that up to 75 per cent of electrocardiograms could be cancelled if an appropriate protocol was in place and if the doctor did not feel any additional liability for not having conducted that particular test. I am referring to their potential legal liability.

There is much work still to be done.

Senator Anderson addressed the health forum report, and there are two issues there which I think will be the major health issues facing us for the future.

The first of those is the issue of pharmacare. Any of us who have worked with seniors know that in some cases and in some provinces, towards the end of the month, the choice is whether they buy their new medications or whether they buy their food. All too often they purchase the food and do not purchase the appropriate medications.

We also know that there are serious problems with drug profiles on individuals. They are frequently taking medications which are counterindicated because they do not know that one prescription is at odds with another prescription. In another study done at the St. Boniface Hospital, it was discovered that vast numbers of seniors end up in the emergency room because they have taken non-prescription drugs in the wrong quantities. They have overdosed on an over-the-counter drug. Those issues, as well as the high costs of drugs, will clearly have to be addressed in the future.

The national forum also recognized the need for appropriate standards for home care and greater availability of home care. We are an ageing society; we know that. Statistics show that. That will mean that more and more people live longer and longer in Canada. That is to be celebrated, provided there is a good quality of life for those individuals. Many of us would like to live a long time if we had the ability to remain in our own homes and with the supports necessary for an active, viable life. That will require an imaginative development of home care. The extramural hospital in the province of New Brunswick is perhaps a leading example of such a system, but it has to be available throughout Canada. I think we should look to that in our examination of the report of the health forum.

Finally, honourable senators, I wish to express my delight with a recent medical program that has been established in the province of Manitoba. Last Friday, I returned to my home province primarily because I needed my bi-yearly mammogram, which is how often we do them in Manitoba. For any woman — and I hope every woman in this room has had at least one, if not more — it is not the most attractive experience one must undergo, but it is a necessary examination. At the Misericordia Hospital in Winnipeg, they have opened a breast screening program. I must say that the government and the Department of Health has done a first-class job. The facility was bright, attractive, and well decorated, and, more important, the staff was warm, welcoming, and extremely knowledgeable. As I went from station to station in the screening process, I felt a sense of comfort and essential caring which permeated the entire facility. They had even gone so far as to have one of our local clothing manufacturers design special gowns, so away with the paper and away with the indignities that those paper gowns can create for all of us. The gowns, by Nygard, came in a variety of colours and were clearly of haute couture design.

Honourable senators, to the Province of Manitoba, its Health Department, and those running the Manitoba breast screening program, my heartiest congratulations. That is the kind of good health care we all deserve throughout this country of ours. That is what I think any examination of the Canada Health Act should provide.

On motion of Senator Kinsella, debate adjourned.

**DIVORCE ACT
FAMILY ORDERS AND AGREEMENTS
ENFORCEMENT ASSISTANCE ACT
GARNISHMENT, ATTACHMENT AND PENSION
DIVERSION ACT
CANADA SHIPPING ACT**

BILL TO AMEND—REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Mabel M. DeWare, Chairman of the Standing Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, February 12, 1997

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-41, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act, has, in obedience to the Order of Reference of Thursday, November 28, 1996, examined the said Bill and now reports the same with the following amendments:

1. *Page 2, clause 1:* strike out lines 9 and 10 and substitute the following:

“of illness, disability or other cause, to with—”

2. *Page 13, clause 11:* strike out line 40 and substitute the following:

“(2) The guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation.

- (3) In subsection (1), “order for child ”

The Committee received three letters which were read into the record and are appended to this report.

The Minister of Justice and Attorney General of Canada, the Honourable Allan Rock, in his letter of 12th February 1997 to the Chair of the Committee confirmed that the "government will take the steps necessary to introduce a motion in this session to establish a Joint Senate-House of Commons Committee to study issues related to custody and access under the *Divorce Act*. The government is offering this commitment in response to concerns raised by some Senators, on behalf of non-custodial parents, who believe that this issue should be re-examined."

The Deputy Minister of Justice, Mr. George Thomson, confirmed that the following amendment will be made to Section 9 of the January draft of the Federal Child Support Guidelines.

Shared Custody

Replace section 9 of the January 22, 1997 draft Federal Child Support Guidelines with the following:

9. Where a spouse exercises a right of access to, or has physical custody of, a child for not less than 40% of the time over the course of a year, the amount of the child support order shall be determined by taking into account

(a) the amounts set out in the applicable tables for each of the spouses;

(b) the increased costs of shared custody arrangements; and

(c) the conditions, means, needs and other circumstances of each spouse and of any child of the marriage for whom support is sought.

In his letter, Mr. Thomson stated that "This amendment will be included in the Guidelines which we hope will be in effect on May 1, 1997 (depending on the date that Bill C-41, receives Royal Assent) and will remain in effect for a period of time thereafter sufficient to allow it to be evaluated."

The Honourable Leader of the Government in the Senate, Senator Joyce Fairbairn, by her letter confirmed her support for "a motion to ask your Committee to monitor the implementation and application of Bill C-41, and its associated guidelines."

Respectfully submitted,

MABEL M. DEWARE
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator DeWare: With leave, now, honourable senators.

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

Hon. Senators: Agreed.

Senator DeWare: Honourable senators, I rise today to speak to Bill C-41, to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act.

Bill C-41 is a far-reaching piece of legislation that will bring about major changes in an area of law that affects millions of Canadians. It has two main components: first, it seeks to amend the Divorce Act to establish a framework for the use of guidelines to determine child support. The guidelines which would be created through the regulatory process would replace judicial discretion. The bill's second component consists of a variety of enforcement measures.

Despite the tremendous impact that Bill C-41 will have, the Social Affairs Committee was obliged to study it under extreme time pressures. As a result, the bill was considered in a brief series of hearings held in December 1996 and January 1997. We were, nonetheless, able to identify some serious concerns with the proposed legislation which need to be addressed. As chair of the committee, I will outline some of the testimony that we heard, our key concerns and the amendments that have been developed to respond to them.

Honourable senators, we should bear in mind that Bill C-41 and the proposed child support guidelines which would be enacted as regulation under its authority represent a compromise. This compromise was reached after extensive consultations among federal, provincial and territorial governments, and experts in the family law field. Experts and officials testified before the committee that the new regime would result in more consistency in child support awards, less litigation and, on average, they say, more money for children. Although admitting that the regime is not perfect, they urged us to pass the bill as a reasonable compromise.

Other commentators, many of them the same people who would be seriously affected by a change in the law, particularly non-custodial parents, expressed their serious concerns and vigorously opposed the legislation.

The Standing Senate Committee on Social Affairs, Science and Technology has not been entirely convinced that the proposed legislation will have the positive effect that its proponents predict, since we do not believe that the interests of the children of divorced parents should be compromised in any way. The committee, therefore, wishes to express its opposition to parts of the bill and to point out some elements that are missing in the overall scheme. I would first tell you, however, that our concerns are in the main related not so much to the technical elements of the bill, but instead go far into the heart of the matter. Canada must act in a manner that will truly benefit children facing family breakdown.

We would like to share here with you the testimony of one of the witnesses who appeared before our committee. During that testimony, our witnesses asked the question:

What would happen if child support was understood to mean how much each parent could give of their time, abilities and finances to support their combined view of their children's needs with respect to education, spiritual upbringing, physical and emotional health, and social and leisure activities? Further, what would happen if the pejorative language of custodial, non-custodial, custody and access were replaced with the more neutral and positive language of parenting, parenting time and parenting plans? It is postulated that such a comprehensive view of child support, combined with positive language, would engender more cooperation between parents and more consistent child support for children.

Honourable senators, we join with our witness in calling for this broader and more positive view of child support. We urge the government to proceed quickly and with an open mind to address the significant and difficult areas relating to the parenting of children, namely access and custody. We are, therefore, pleased to report to this chamber that the Minister of Justice and the Honourable Joyce Fairbairn, Leader of the Government in the Senate, have agreed to the formation of a joint committee to deal with the important issues of access and custody of children in our society. I wish to commend the minister and the Honourable Leader of the Government for recognizing an important part of the Divorce Act that has not been addressed in Bill C-41.

A key concern of the committee relates to the child support guidelines which would effect a major change in the law. As I mentioned earlier, Bill C-41 seeks to create a new structure for the calculation of child support in the case of divorce. It does so by setting out the power of the government to make so-called guidelines relating to child support. The use of this apparently innocuous term may unintentionally mislead the ordinary citizen. While family law experts and government officials are well aware that these guidelines constitute a major change in family law in this country, it may not be obvious to the millions of Canadians who face divorce that their legal rights and duties will be significantly changed by them.

The committee stresses the need for public education about the major change to family law in Canada. In addition, it must be made abundantly clear that, except in special circumstances, judges will be bound by these guidelines. They are not merely advisory, guiding the judges' decision-making; they are, in fact, mandatory.

Guidelines made to regulations allow government to change the law with no opportunity for parliamentary intervention. It has become a trend to use regulations; that is, to allow cabinet, not Parliament, to set standards. Thus, instead of legislation passed through debate in Parliament, more use is being made of

regulations to set out key elements of the law which will govern our lives. As legislators, we find this trend disturbing. Not only is Parliament removed from the process; so is the process of open, public discussion. This means that many affected citizens who are not considered experts are not given the opportunity to present their views and concerns when parliamentary committees meet.

We are pleased to report that the Standing Senate Committee on Social Affairs, Science and Technology will be given the mandate to monitor the implementation and application of Bill C-41 and its associated guidelines. The committee wishes to sincerely thank Senator Joyce Fairbairn for her commitment to support a motion to this effect. We commend her for recognizing the importance of this monitoring of the guidelines.

Hon. Senators: Hear, hear!

Senator DeWare: I would also like to address some of the provisions of the proposed child support guidelines. A serious concern of the committee and many of the witnesses related to joint parenting arrangements in the guidelines. Department of Justice officials informed the committee that even when children spend 30 or 40 per cent, or even 49 per cent of the time with their non-custodial parent, this was not enough to justify a reduction in child support. Only if children spend 50 per cent of their time overnight with each parent would the sharing be considered substantially equal.

As many witnesses pointed out, children benefit from the love and attention of both parents, and public policy should encourage joint parenting, not discourage it with financial penalties. To encourage joint parenting arrangements, the committee, therefore, proposed replacing section 9 of the draft federal child support guidelines with a provision that would allow the amount of child support to be adjusted in cases where a spouse has access to, or physical custody of, a child for at least 40 per cent of the time over the course of the year. I am pleased to report to honourable senators that the Deputy Minister of Justice, George Thomson, indicated in a letter to the committee that the government has agreed to amend the guidelines in this manner.

• (1530)

The committee was pleased to note also that Bill C-41 provides for the provisions and operations of these guidelines to be comprehensively reviewed and reported on to Parliament. This would occur within five years after Bill C-41 comes into effect. Such a review is important in light of the evolving situations and changing needs of families in Canada's society today.

Another concern of the committee involved the obligation of non-custodial parents to assist their adult children in pursuing their education. The committee recognized the moral obligation of parents to assist their children, even adult children, to pursue their education, in accordance with the abilities of that child and the means of the parents, whether married, separated or divorced.

We are all aware of the sacrifices that families make to ensure educational opportunities for young people, and we applaud those efforts. However, this is far removed from creating an enforceable legal obligation applicable in all cases to pay child support to such young people. They are defined in Bill C-41 as "children of the marriage" who are unable to withdraw from parental care because of their pursuit of reasonable education no matter what their age. There is, after all, no such legal obligation on parents of intact families.

While noting that case law has created this obligation, and an amendment proposed in Bill C-41 would simply make the obligation an explicit part of the statute, the committee remains in disagreement with it. Consequently, we propose that the bill be amended by removing the term "pursuant of reasonable education" from its definition of the "child of the marriage" as it applies to adult children.

Honourable senators, the committee shares the view of many Canadians that the obligation of parenting should be shared by both spouses. This important principle is reflected in the present Divorce Act, which explicitly recognizes the obligation of both parents to support their children. However, Bill C-41 contains no such recognition.

Professor Nick Bala noted in a letter to the committee that from a psychological and symbolic perspective, it is unfortunate that Bill C-41 contains no provision like the present section 15(8) of the Divorce Act which explicitly recognizes the obligation of both parents to support their child.

Therefore, the committee believes it is a serious error to remove the recognition of joint financial obligation and that this must remain part of the law. While we are aware that the obligations of both spouses are alluded to in objectives set out in section 1 of the draft guidelines, we feel that such a significant principle must be stated clearly in the act itself. The committee therefore proposed an amendment to Bill C-41 to state that the guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with relative abilities.

I have outlined for honourable senators the committee's main concerns about Bill C-41, and our proposed amendments which have resulted from them. As you can surely appreciate, the committee did not make these proposals lightly. Despite the constraints under which the committee was forced to operate, we conducted a thorough, reasonable and fair review of this major piece of legislation.

I would like to take this opportunity to thank all the members of the Social Affairs Committee for their hard work and dedication in carrying out the difficult and important task that was assigned to us.

As Chair of the committee, I feel it is appropriate at this time to mention some observations about the conditions under which we were obliged to carry out our mandate. Follow-up on these observations can help ensure that the conditions under which

other committees must work will be such that they will be able to achieve maximum efficiency and effectiveness.

First and foremost, the committee was under imposed time constraints, even though it was charged with the study of a bill which will bring about major changes in an area of law affecting millions of Canadians, and even though it has implications about which thousands of Canadians are greatly concerned. In the interests of democracy and respect of our Parliament, the majority of our committee felt that it was owed to these citizens to further scrutinize this bill. This would have included an opportunity to call in expert witnesses whom we were unable to see in the short amount of time allotted to us before the break.

The already short time line was further shortened by unexpected delays. Department of Justice officials stated that they required three months to put the guidelines and measures of Bill C-41 in place, with the goal of them coming into effect on May 1. The committee came back in the last week of January with that in mind. However, due to unusual procedural circumstances, the proceedings were delayed.

I was planning on saying something about the conditions in committee room 520, but since we have had a good day, I will let that pass.

Honourable senators, as legislators, we know that certain things are required in order for the parliamentary system to function well. The work of committees is integral to the system, and I know that all senators would agree that committees require two simple things — adequate working facilities and adequate time to hear witnesses. Only then can senators make sound judgment on the legislation before them.

I trust that honourable senators now have a good understanding of the work of the Standing Senate Committee on Social Affairs, Science and Technology in its review of Bill C-41 and its motivations for recommending several improvements. Today, I have presented the more or less technical reasons for proposing each of the individual amendments. However, as we prepare for third reading debate, I urge you to keep in mind the real reason why we are proposing them. That reason is one with which I am sure each and every one of us here in this chamber will agree. It is the well-being of the children of divorce, and it is up to us as legislators to ensure that their interests are not compromised.

Hon. Anne C. Cools: Honourable senators, I have been asked by my leader, Senator Fairbairn, to facilitate the adoption of this report today so that third reading debate can go forward tomorrow. I had intended to adjourn the debate so that this chamber could have a full, fair and thorough debate on the committee's report.

In fairness, there have been few issues which have seized the imagination of the public in the way that this particular one has in recent weeks. Public participation has been enormous. I would go even further — this bill has touched the souls of the people of Canada. I could describe it by quoting from a song that was popular in the 1960s and the 1970s, "I feel the earth move under my feet."

Therefore, I am prepared to support the adoption of this report today. However, it is my sincere hope that, tomorrow, the Senate will engage in a thorough and lengthy debate on the subject. It seems to me that the public's discussion and participation has been so vigorous that this chamber should reflect that fact in its debate.

I wanted to put those comments on the record. There is much that I would love to speak to today, but I shall wait until tomorrow. For instance, I should have liked to speak to the particular experience of the committee and to the peculiar and unique deadlock in which the committee found itself. I should have liked to speak to the peculiar and odd technique that was used to end that deadlock, which was, essentially, forcing a halt to the committee's proceedings.

In any event, because my leader has asked me to, I am prepared to facilitate the adoption of the report today. It is my hope and wish that Canadians at large will be well served by senators in this chamber giving the same attention to the debate that has taken place across the country by man, woman, child, and grandparent alike.

I would not want anyone to think that I am passing on this opportunity. I do this deliberately because I understand that my leadership is under certain constraints and wishes to move the amended bill along, as it is desirous of having the House of Commons look at our amendments. Therefore, I am prepared to be cooperative. I usually am.

• (1540)

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 58(1)(b), it was moved by the Honourable Senator DeWare, seconded by the Honourable Losier-Cool, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

The Hon. the Speaker: When shall this bill be read the third time?

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

NATIONAL DEFENCE

DEPLOYMENT OF CANADIAN AIRBORNE REGIMENT IN
SOMALIA—ADEQUACY OF RESPONSE OF CHAIN OF
COMMAND—MOTION TO REFER QUESTION TO FOREIGN AFFAIRS
COMMITTEE—DEBATE ADJOURNED

Hon. Lowell Murray: Honourable senators, I have a motion. Were there other motions on the Order Paper to be called at this point?

The Hon. the Speaker: No. Are you asking leave to revert to Motions?

Senator Murray: No. Motions have been called, I believe. I intend to move a motion for which no notice is required. Have Motions been called, Your Honour?

The Hon. the Speaker: They were called earlier, I believe.

Senator Murray: No. Inquiries were called, with respect. Motions were called, and Your Honour read the motions which were on the Order Paper. Ordinarily, the Deputy Leader of the Government would now move the adjournment. However, I have a motion to propose which requires no notice.

I move, seconded by the Honourable Senator Robertson:

That the question of the adequacy of the response of the chain of command of the Canadian Forces — ministerial, civilian and military — to the operational, disciplinary, and administrative problems relating to the deployment of the Canadian Airborne Regiment in Somalia be referred to the Standing Senate Committee on Foreign Affairs.

The Hon. the Speaker: Honourable Senator Murray, under the rules, this being an instruction to a committee, I believe it would require one day's notice.

Senator Murray: Excuse me, Your Honour, but I took the precaution of looking it up in the rules. If I may, it is not an instruction to a committee; it is the reference of a question to a committee covered by rule 59(2). That rule reads as follows:

59. Notice is not required for:

...(2) Referral of a question to a committee;

I quite agree that the motion is debatable. I shall state what the question is. The motion is debatable. It is a question, rather than a bill or a report.

The Hon. the Speaker: Honourable Senator Murray, as there is some question — there being no motion actually before the Senate at the moment — whether such an instruction can be given, I should like to take this matter under advisement.

Senator Murray: Very well.

Hon. John Stewart: Why not assume that Senator Murray has given notice, accept that and get on with it?

Senator Jessiman: That is a good idea.

Senator Murray: If my motion had been acceptable at this point, I intended to speak to it in the expectation that someone might wish to adjourn the debate, but it is immaterial to me. I can do it now or tomorrow.

The Hon. the Speaker: As usual, honourable senators, we are masters of our own house. If it is the wish of the Senate to proceed now, by consent and with leave, it can be done. Is leave granted?

Hon. Senators: Agreed.

Senator Murray: Honourable senators, it would be interesting at some point to ascertain whether my motion was in order without notice, as I thought it was.

Honourable senators, it was on March 20, 1995 that an order in council was passed by the government to constitute what has become known as the Somalia Inquiry, a royal commission under the chairmanship of Mr. Justice Gilles Létourneau. The terms of reference in the order in council, appropriately, were general enough to encompass an inquiry and report on — and I quote from the order in council:

...the change of command system, leadership within the chain of command, discipline, operations, actions, and decisions of the Canadian Forces and the actions and decisions of the Department of National Defence in respect of the Canadian Forces' deployment to Somalia.

Without restricting the generality of that mandate, the order in council lists 19 specific matters that the royal commission should enquire into and report on. These 19 matters are divided into three chronological categories: pre-deployment, that is, prior to January 10, 1993; in-theatre, January 10, 1993 to June 10, 1993; and post-deployment, June 11, 1993 to November 28, 1994.

The order in council required the commission to report by December 30, 1995. Several extensions were later granted to the commission because, as Justice Létourneau has said:

Anyone familiar with our inquiry and its progress will realize that our original reporting deadline of December 30, 1995 was wholly inadequate.

Earlier this year, the Minister of National Defence, Mr. Young, decided to close down the testimony phase of the royal commission as of March 31. The result of this decision, according to Justice Létourneau, is that the new deadline, and I quote

...precludes our examining the nature and adequacy of the response of National Defence headquarters to the important events that transpired in Somalia, and it almost completely eliminates our ability to probe the crucial issue of a possible cover-up in the upper reaches of National Defence Headquarters and the Forces.

On January 13 last, responding to the minister's decision to shut down the inquiry, Justice Létourneau said as follows:

Particularly troublesome for us in carrying out the task entrusted to us has been the frustration, whether through ineptitude or with deliberate intent, of our efforts to obtain from the Department of National Defence all of the information and documentation relevant to our terms of reference and the key events of the 1993 deployment. If deliberate, these actions would point to the commission of an ongoing coverup. This would then be a matter that

should be of concern to our elected representatives, lest it appear that the coverup itself is being covered up.

• (1550)

This very morning, Justice Létourneau and the other commissioners held a news conference in which they once again argued that the position taken by the Prime Minister and Minister of National Defence as to their ability to hear further testimony is quite wrong, misplaced and unfair. This is not an argument I intend to enter at the moment. However, with regard to the possible cover-up, when Justice Létourneau was asked whether the government was covering up, he said:

I don't know if we can say that it tried to cover things up, but it did not allow us to investigate into the allegations of cover-ups at higher levels, and you can remember that the former minister, Mr. Collenette, said that the worst was yet to come.

Honourable senators, as I read the statements made by Justice Létourneau and as I read the original order in council, the new deadline apparently means that the commission will have inquired into and reported on the pre-deployment and in-theatre phases, but will not have inquired into or reported on the post-deployment phase. That refers to the period from June 11, 1993 to November 28, 1994.

This point is important in the context of my motion and the terms of reference which I hope the Senate will give to the Standing Senate Committee on Foreign Affairs. I want to return to the news conference which the commissioners held this morning in Ottawa. I have an unofficial English translation of what the chairman and other commissioners said about where they must cut off their inquiry. I would like to quote Justice Létourneau:

I'd like to draw your attention on the terms of reference that were given to this commission, and if you look at the pre-deployment phase, for example, which has nine substantial items which cover a page and a half, we have covered all these items to date. When you flip the page over and you look at the in-theatre issues which also run for a page, almost two pages, and covering some nine items as well, we have covered everything of that except the March 16th incident —

I interject here to say that the March 16 incident was the fatal beating of the young Somali.

— which would be additional evidence in relation to these matters. The only thing that is left is paragraph s, and it is the manner in which the chain of command in the post-deployment phase answered or responded to the operational disciplinary and administrative problems related to the Somalia deployment. And that's where we were about to go.

In particular, as Justice Létourneau pointed out on January 13 and, I think, again today in his news conference, the new deadline means that the public will be unable

... to see and hear, among others, the testimony of Major Armstrong, Major Buonamici... Kyle Brown, former Chiefs of Defence Staff Anderson and de Chastelain as well as former Deputy Minister Robert Fowler and former Defence Minister Kim Campbell.

Honourable senators, as this motion indicates, I believe there is an opportunity and a responsibility here for the Senate to pick up where the Létourneau commission is leaving off, that is essentially the post-deployment phase. The motion I have proposed tracks very closely that part of the commission's mandate which the commission will not be able to carry out, and I quote again from the order in council:

...the manner in which the chain of command of the Canadian forces responded to the operational, disciplinary and administrative problems related to the Somalia deployment.

On January 13, when he was responding to the decision of Mr. Young to shut down the inquiry, Justice Létourneau said:

The deadline that is now being imposed upon us makes it impossible for us to comprehensively address the question of the accountability of the upper ranks.

It is obvious, honourable senators, that there will be an extremely serious gap in the commission's inquiry and report. Among other things, that gap relates to "accountability of the upper ranks" and "possible cover-up in the upper reaches of National Defence Headquarters and the forces."

There will not be an opportunity at the commission for people whose role has been a matter of media and political speculation to testify under oath. We believe that the public interest requires that we allow light to be shed on these matters, not have them left in darkness. I believe that natural justice demands that sworn testimony be heard from a number of senior officers and civilians who held the highest offices in government and the military during the relevant period.

The only forum open to them and to us is a Senate committee. These are matters that transcend partisan political considerations.

I believe our committee should follow the evidence wherever it leads. I agree that it would have been immensely preferable to have allowed the judicial inquiry to continue to its conclusion, but given that that will not happen, I believe that we should take our responsibility as members of this place. I earnestly invite the support of all honourable senators for this motion.

On motion of Senator Kinsella, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, February 12, 1997

PAGE

PAGE

SENATORS' STATEMENTS

Corinne Boyer Fund for Ovarian Cancer Research

Senator Johnson	1506
Senator Fairbairn	1506

Foreign Affairs

Previous Visit of Conservative Minister to Cuba.	
Senator LeBreton	1507

Health

Incidence of Diabetes Mellitus. Senator Haidasz	1507
---	------

Visitors in the Gallery

The Hon. the Speaker	1508
----------------------------	------

ROUTINE PROCEEDINGS

The Estimates, 1995-96

Report of National Finance Committee on Budget Material Received During Previous Parliament Presented.	
Senator Tkachuk	1508

Excise Tax Act

Federal-Provincial Fiscal Arrangements Act

Income Tax Act

Debt Servicing and Reduction Account Act (Bill C-70)

Bill to Amend—First Reading.	1508
-----------------------------------	------

Fisheries

Notice of Motion to Authorize Committee to Examine and Report Upon the Privatization and Licensing of Quotas in the Industry.	
Senator Comeau	1508

Foreign Affairs

Committee Authorized to Meet During Sitting of the Senate	
Senator Stewart	1508

Poverty in Canada

Notice of Inquiry. Senator Cohen	1508
--	------

QUESTION PERIOD

Intergovernmental Affairs

Changes to Section 93 of Constitution Requested by Province of Quebec—Assurance of Linguistic and Educational Rights for Anglophone Minority—Government Position.	
Senator Lynch-Staunton	1508
Senator Fairbairn	1509
Changes to Section 93 of Constitution Requested by Province of Quebec—Possibility of Referral to Parliamentary Committee—Government Position. Senator Prud'homme	1509
Senator Fairbairn	1509

National Defence

Curtailment of Somalia Inquiry—Implications of Comments by Commissioner—Government Position.	
Senator St. Germain	1509
Senator Fairbairn	1510
Curtailment of Somalia Inquiry—Independent Status of Commission—Government Position. Senator Kinsella	1510
Senator Fairbairn	1511
Status of Search and Rescue Helicopter Replacement Program— Request for Particulars. Senator Forrestall	1511
Senator Fairbairn	1511

Aboriginal Peoples

Recommendations of the Royal Commission— Government Position. Senator Beaudoin	1511
Senator Fairbairn	1512

Business of the Senate

Bill Concerning Harmonization of Sales Taxes— Referral to Banking, Trade and Commerce Committee— Government Position. Senator Tkachuk	1512
Senator Fairbairn	1512

Youth Employment Initiative

Percentage of New Funding in Total Amount Announced— Government Position. Senator Cochrane	1512
Senator Fairbairn	1512
Creation of Full-time Jobs for Recent Graduates— Government Position. Senator Cochrane	1512
Senator Fairbairn	1513

Delayed Answer to Oral Question

Senator Graham	1513
----------------------	------

Intergovernmental Affairs

Exemption of Provincially-Regulated Professions and Associations from Federal Competition Laws. Question by Senator Doyle.	
Senator Graham (Delayed Answer)	1513

National Finance

Failure of Confederation Life—Estimate of Magnitude of Loss— Government Position—Request for Answer.	
Senator MacDonald	1513
Senator Graham	1513

Answers to Order Paper Questions

Request for Answers. Senator Forrestall	1513
Senator Graham	1513

ORDERS OF THE DAY

Bell Canada Act (Bill C-57)

Bill to Amend—Second Reading. Senator Kinsella	1513
Senator Graham	1514
Senator Lynch-Staunton	1514
Senator Forrestall	1514

	PAGE		PAGE
Senator Murray	1514	Senator Carstairs	1519
Referred to Committee	1515		
Bankruptcy and Insolvency Act		Divorce Act	
Companies' Creditors Arrangement Act		Family Orders and Agreements	
Income Tax Act (Bill C-5)		Enforcement Assistance Act	
Bill to Amend—Report of Committee Adopted.		Garnishment, Attachment and Pension diversion Act	
Senator Angus	1515	Canada Shipping Act (Bill C-41)	
		Bill to Amend—Report of Committee.	
Internal Economy, Budgets and Administration		Senator DeWare	1520
Fifteenth Report of Committee Adopted. Senator Kinsella	1516	Senator Cools	1523
Senator Kenny	1516		
Fourteenth Report of Committee Adopted.	1517	National Defence	
Senator Kinsella	1517	Deployment of Canadian Airborne Regiment in Somalia—	
Health Care in Canada		Adequacy of Response of Chain of Command—Motion to Refer	
Inquiry—Debate Continued. Senator Anderson	1517	Question to Foreign Affairs Committee—Debate Adjourned.	
		Senator Murray	1524
		Senator Stewart	1524



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