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Thursday, February 13, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, February 13, 1997

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would draw your attention to the presence in the gallery of a group of students from the University of Vermont who are enrolled in the Canadian Studies Program, on their annual spring field trip to Ottawa. I point out that this is their 41st trip. They are accompanied by Dr. William Metcalfe, Director of the Canadian Studies Program.

For the last few years, the program has been hosted here in Ottawa by Senator Prud'homme, who took over after Senator Heath Macquarrie's retirement. Up to that time, Senator Macquarrie had taken care of this program.

We welcome you to the Senate.

SENATORS' STATEMENTS

YOUTH EMPLOYMENT STRATEGY

Senator Joyce Fairbairn (Leader of the Government): Honourable senators, given the importance of the announcement by my colleague the Honourable Pierre Pettigrew, I wish to draw to the attention of this house the Youth Employment Strategy. I have said repeatedly — as members on the other side never fail to remind me — that there is an unacceptable and tragically high, unemployment rate amongst Canadian youth: almost twice the adult rate. In recent years, young people in this country have grown tired of hearing that familiar refrain, that Catch-22 position: No experience, therefore no job. Frequently — and tragically — our young people have found themselves dropping out of school, or just giving up.

The strategy announced yesterday is an attempt to build on what federal governments have been doing in the last several years. We have launched a major initiative, nonetheless, to help further remedy the situation.

As I told my honourable friend Senator Cochrane yesterday, $2 billion is earmarked in this coming fiscal year, 1997-98, to bring hope to young people who want to have jobs. That amount includes existing money from Human Resources Development Canada, Indian Affairs, and a host of other federal departments.

In the last federal budget, $315 million was set aside for the establishment of new job programs over a period of three years. Of this amount, $125 million was promised for jobs in areas crucial to today's economy, including science and technology, the environment, international trade and international development.

We will be providing young people with work experience through a new series of internships. Over the next two years, this new funding will provide $65 million for international experience through internships with over 4,000 expected participants, $40 million for new science and technology internships with over 3,700 expected participants, and $30 million for internships for First Nations and Inuit youth with about 11,800 expected participants. In addition, $120 million will be added over the next two years to the funding for summer job programs with some 60,000 expected participants.

These numbers, in comparison to the numbers of young people actually seeking work are not, of course, what any of us in this house would wish. However, through these new internship programs, we are trying to extend our commitment to young people in this country by building on the initiatives that are already in place.

Honourable senators, a significant part of the strategy will be to ensure that young people know about the jobs that are out there, and how to find them. We have set up the Youth Resource Network on an Internet website, which will provide one-stop shopping as a point of access for young Canadians. We will provide job fairs in communities across the country to show them what is available. Last but not least, there is a Government of Canada 1-800 youth information line.

This strategy was developed after wide consultation with young people, with businesses and with other levels of government. Again, we have an enormous responsibility to invest in our young people, and we will continue to do that. I do believe that speaking about this initiative in the Senate is just as important as someone else speaking about it outside Parliament in a news conference.

Hon. John Lynch-Staunton (Leader of the Opposition): At the appropriate time, perhaps. The Honourable Leader of the Government is reading a press release. This government will do anything to win the election, even break Senate rules. The 1-800 line is busy all the time.

Senator Fairbairn: That means that it is working.

PRECINCTS OF PARLIAMENT

Hon. Colin Kenny: Honourable senators, in April of 1996 the Solicitor General of Canada established a committee, composed of senior public servants and coordinated by the Privy Council Office, to review the current security measures on Parliament Hill and to propose, if necessary, means of strengthening them. Among the measures examined by that committee was the restriction of vehicular access to the Hill.

This proposal was reviewed by the Standing Committee on Internal Economy, Budgets and Administration at its June 16, 1996 meeting. At that time, members of that committee conditionally endorsed the recommendation and allocated up to seven person-years to this project. Consequently, the committee of senior officials drew up a plan to implement vehicular access control to the Hill.

This plan, which was reviewed by the committee at its scheduled meeting last Monday, drew hightened attention due to the serious security breach on the Hill on February 7, 1997.

The proposed plan would restrict access to the Hill to accredited vehicles only. That would basically include senators, members of the House of Commons, ministers, deputies, authorized staff, preconfirmed dignitaries, visitors, delivery vehicles, taxis and tour buses. All other vehicles would be prohibited from entering the precincts of Parliament Hill. These measures would be in effect 24 hours per day, seven days per week, and would become effective as of September 1, 1997.

The outline of this plan — which is still under review — is as follows:

First, regular vehicle access to Parliament Hill would be gained through a single entrance situated at the corner of Bank and Wellington Streets.

Second, this access point would be jointly staffed by the House of Commons and Senate security personnel on a 50/50 basis, and would also serve as a screening point for all deliveries to Parliament Hill.

Third, with the exception of the Prime Minister and heads of state, all authorized vehicles would enter upon the precincts of Parliament Hill via the corner of Bank and Wellington Streets, but would exit via one of two automated exits using a proximity card.

Fourth, all other vehicles would have to exit Parliament Hill via the primary access point.

Fifth, the cost of building the necessary access point infrastructure would be assumed by Public Works. The House of Commons and the Senate would share the costs to equip the guard posts.

• (1420)

Recent incidents have clearly demonstrated the need for strengthening security on Parliament Hill. Vehicle access control would alleviate the risk of a similar or more serious incident occurring again. Our Director of Security, Chief Gourgue, has placed a plan of Parliament Hill in the reading room to show in more detail how the proposed vehicle access system would work. I invite senators to review it during the course of the day.

[*Translation*]

INTERGOVERNMENTAL AFFAIRS

LINGUISTIC SCHOOL BOARDS IN QUEBEC

Hon. Gérald-A. Beaudoin: Honourable senators, Quebec will request an amendment to section 93 of the Constitution Act, 1867. While maintaining legislative jurisdiction over education, of course, Quebec wants to get the four subsections of section 93 protecting denominational rights out of the way so that it can now have French and English school boards instead of Catholic and Protestant school boards in its educational system.

Section 93 can be amended. The problem with that is what type of amendment will be required: a bilateral amendment under section 43 of the 1982 Constitution Act, as was the case for Newfoundland, a trilateral amendment, because subsection 93(2) refers to Ontario and Quebec, or a multilateral amendment, involving the six provinces affected by denominational rights? Legal experts are divided.

Many believe that Ottawa, Quebec and Ontario should be involved, but that a bilateral Ottawa-Quebec amendment must not be ruled out.

So much for the denominational issue. As far as the number of school boards is concerned, the National Assembly pretty much has a free hand.

In 1917, in the *Mckell* case, the Privy Council ruled that section 93 protects religion in the schools and not language. That is why, in 1982, section 23 of the Charter was passed; it deals with the right to receive instruction in the language of the minority. This means anglophones in Quebec and francophones outside Quebec. In the *Mahé* case, the Supreme Court indicated that section 23 had a remedial effect. This section corrected an oversight in the Constitution. The key words are "where numbers warrant." Where the number is not very high, minorities may attend French or English school depending on where they live. Where the number is sufficient, the school board itself will be protected and have the right to manage its own schools. These are educational rights. The principles set out in the *Mahé* ruling apply in every province.

We must be careful not to mix everything up in this debate. It is similar in many regards to the Newfoundland debate, but differs on others. I repeat, section 93 protects religion, while section 23 protects the language of instruction.

I will conclude by saying that section 23 of the Charter cannot be amended either bilaterally or multilaterally under section 43, as it does not fall under section 43 but under the general 7-50 rule provided for in section 38 or, according to some experts, under section 41(c) requiring unanimity.

The debate may be headed the wrong way. Let us get it back on track with sections 93 and 23.

[*English*]

ROUTINE PROCEEDINGS

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. David Tkachuk, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, February 13, 1997

The Standing Senate Committee on National Finance has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-270, *An Act to amend the Financial Administration Act* (session of Parliament), has, in obedience to the Order of Reference of Wednesday, December 11, 1996, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DAVID TKACHUK
Chairman

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

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

PRISONS AND REFORMATORIES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Sharon Carstairs, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, February 13, 1997

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTIETH REPORT

Your Committee, to which was referred Bill C-53, An Act to amend the Prisons and Reformatories Act, has, in obedience to the Order of Reference of Tuesday, February 11, 1997, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

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

CANADIAN FOOD INSPECTION AGENCY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-60, to establish the Canadian Food Inspection Agency and to repeal and amend other Acts as a consequence.

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.

PRIVATE BILL

AN ACT TO INCORPORATE THE BISHOP OF THE ARCTIC OF THE CHURCH OF ENGLAND IN CANADA—BILL TO AMEND—FIRST READING

Hon. Michael A. Meighen presented Bill S-15, to amend an Act to incorporate the Bishop of the Arctic of the Church of England in Canada.

Bill read first time.

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

On the motion of Senator Meighen, bill placed on the Orders of the Day for second reading on Tuesday next, February 18, 1997.

• (1430)

BANKING, TRADE AND COMMERCE

HARMONIZED SALES TAX LEGISLATION—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO TRAVEL, AND TO PERMIT ELECTRONIC COVERAGE OF PROCEEDINGS

Hon. John Lynch-Staunton (Leader of the Opposition): I give notice that on Monday, February 17, 1997, I will move:

That, when seized with the Bill C-70, an Act 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, the Standing Senate Committee on Banking, Trade and Commerce be instructed to hold hearings in Nova Scotia, New Brunswick and Newfoundland; and

That the Committee authorize television and radio broadcasting of all its proceedings.

ABORIGINAL PEOPLES

RECOMMENDATION OF ROYAL COMMISSION ON CONSTITUTION OF FORUM—NOTICE OF MOTION TO PROCEED WITH INITIATIVE

Hon. Mira Spivak: Honourable senators, I give notice that, on Wednesday next, February 19, 1997, I will move the following resolution:

> Whereas, the *Royal Proclamation of 1763* portrays the nations of Aboriginal Peoples as autonomous political units living under the Crown's protection while retaining their internal political authority and their territories;
>
> And whereas, the Government of Canada in 1995, recognized the inherency of the right of Aboriginal Peoples to be self-governing as an existing right under subsection (35)(1) of the *Constitution Act, 1982*;
>
> And whereas, the Royal Commission on Aboriginal Peoples has documented the need to fundamentally restructure the relationship between Aboriginal nations and governments of Canada for the long-term benefit of Aboriginal and non-Aboriginal Peoples of Canada;
>
> And whereas, the Royal Commission on Aboriginal Peoples has further identified the need for a Canada-wide framework agreement to guide development of self-government agreements and treaties between recognized Aboriginal nations and the federal and provincial governments;
>
> And whereas, the Royal Commission on Aboriginal Peoples has recommended that the Government of Canada convene a meeting of First Ministers, territorial leaders and national Aboriginal leaders to create a forum charged with drawing up a Canada-wide framework agreement;
>
> Therefore, the Senate of Canada appeal to the Prime Minister to convene the said meeting at the earliest possible date to create the necessary forum and to give Aboriginal and non-Aboriginal Peoples of Canada a clear sign of the government's intent to address the serious and pressing matters raised by the Royal Commission on Aboriginal Peoples.

QUESTION PERIOD

THE ECONOMY

TAX INCREASES INSTITUTED BY LIBERAL GOVERNMENT—GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, on February 11, 1997 in the House of Commons, the Prime Minister, in response to a question on tax increases, made the following statement:

> ...there have been absolutely no tax increases since we have been here.

I find this comment totally unbelievable. I have here in my hands a list of some 40 tax increases which have been imposed on Canadians by the present Liberal regime since they formed the government. Let me take a moment to read a few of them to you: The elimination of the $100,000 lifetime capital gains exemption; the income test on seniors, increasing taxes for those earning more than $25,921; the reduction in the small business deduction, lowering the rate from 28 per cent to 12 per cent on the first $200,000, for Canadian-controlled private corporations with more than $10 million in capital — this under the guise of job creation; the increase in the Part IV tax on dividends from one private corporation to another from 25 to 33.3 per cent — again, job creation; the reduction in RRSP contribution limits; the increase in gasoline taxes by 1.5 cents per litre; and, yes, the increase in tobacco taxes by 60 cents per carton. That names just a few of the 40-plus tax increases imposed by this government on Canadians.

Will the government please come clean with Canadians and admit to them that it has, like any other government, increased taxes to Canadians?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, there have been a number of tax changes as referenced by my honourable friend. I do not have the Prime Minister's exact words, but I do know one thing that we have not done as a government: We have not increased personal income taxes.

Senator Di Nino: Honourable senators, I refer my honourable colleague to the *House of Commons Debates* of February 11, 1997. She will find the Prime Minister's comments there. Reading them will help her understand the purpose of my question.

I ask the Leader of the Government in the Senate to plead with her colleague, the Prime Minister, not to insult the intelligence of Canadians, including her own and her colleagues' intelligence, by making such untrue statements.

BUDGET INITIATIVES FOR TAXPAYERS—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, I have a question for the Leader of the Government in the Senate.

Today in Ottawa, the Prime Minister gave a speech in which he praised the performance of the economy and, in particular, those industries involved in trade which are producing record trade surpluses for Canada. These record trade surpluses are, of course, due to the Free Trade Agreement signed by the previous Progressive Conservative government.

To refresh everyone's memory, if I recall, although I was not here, this agreement was vigorously opposed by my colleagues on the other side. I would hope that you have all seen the error of your ways.

In that same speech, the Prime Minister also said there will be new spending on social programs in the years ahead, but he neglected to say if there would be any tax cuts. After listening to what Senator Di Nino just asked, I find myself troubled by what the Prime Minister might be thinking with regard to tax cuts. Is it the government's plan to increase spending on social programs, as opposed to giving Canadians a much-needed tax cut, which would also have the effect of creating jobs? Or is it, as we suspect, the plan of this government to revert back to the 1960s and 1970s, and the old Liberal philosophy of tax and spend, which led the country to the first record high deficits and debt?

The Leader of the Government in the Senate just spoke of jobs under Senators' Statements. It was the former Prime Minister who always said that the best social program is a job.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators will appreciate that, in spite of my fondness for my honourable friend, I am unable to communicate any direct information from the budget. I am sure he will be here to listen to it when it is released next Tuesday afternoon.

I can tell my honourable friend of one fundamental objective which the Minister of Finance has repeated in recent weeks: In terms of managing our economy; in terms of maintaining and, indeed, accelerating our goals for deficit reduction; and in terms of keeping a pattern which has succeeded in dramatically reducing interest rates, keeping inflation low, keeping our trade balance significantly higher than many countries in the world, the Minister of Finance will stay the course, and he has made that clear. All those good things are as a result of his activities during this mandate, and they have helped to consolidate the credibility of the Canadian economy internationally and given confidence to business, and now, demonstrably, to consumers here in Canada.

The honourable senator talks about whether there will be tax cuts. Certainly, I have no intention of commenting on taxes at this point, but my honourable friend should take comfort in knowing that the Minister of Finance is leading a charge which has made our economy the envy of our trading partners and one of the most stable in the world at this time. He has no intention of taking any action that will, in any way, create in the markets, in other countries, our trading partners, or in the minds of Canadians a state of anxiety about the fundamental strength and good management of the Canadian economy. I salute the Minister of Finance for his efforts because he has been straight, honest and right, and he will continue to be so.

• (1440)

Senator St. Germain: Honourable senators, I am not taking issue with the honesty of the Minister of Finance. He did stand up and say he could not do anything about the GST, whereas the Prime Minister took a totally opposite stance and misrepresented the fact, as we know, during the town hall meeting on the CBC, and really put into question his integrity in dealing with this issue. I agree that the Minister of Finance did not do that.

CREATION OF JOBS FOR YOUTH—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, coming from Alberta as she does, I hope the Leader of the Government recognizes the fact that we are talking about jobs for young people. The unemployment level is extremely high in this country for our young people under 25. The only way to really create jobs is to do what Ralph Klein has done in Alberta. Is this government taking the lead from people like Ralph Klein and Mike Harris in the way it conducts the business of the country?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I am indeed from Alberta. I can tell you that many people in the Province of Alberta have been thrown into a state of great anxiety, if not chaos, by some of the measures put forward by the Alberta government in the past two years. No, honourable senators, we will not be taking a leaf out of that book. We will defend our social programs; we will defend Medicare. That is one commitment that you can expect the federal government to continue. Fond as I am of the premier of Alberta, I would not take that example as one that I would offer to either the Prime Minister or to Mr. Martin.

Honourable senators, in terms of job creation for young people, I agree with my honourable friend that much more must be done. However, I would be very surprised if senators on the other side of the house disagreed with the fundamental tenet that until we have our economy under control and producing the way it should to create an atmosphere to improve job creation, we will not be doing a favour to our young people or, indeed, people of any age group looking for jobs in our country.

Last week I was in Alberta with a colleague. We visited a very progressive company, Computing Devices, which is producing jobs in the new high-tech economy. They have some 52 jobs going begging, and they cannot find the skilled labour, either among our young people or in other parts of our workplace, to fill those jobs. That situation exists all across this country.

As a federal government, we must do a great deal more. However, I would suggest to my honourable friend that in order to offer the support and the skills to young people so they can go out and qualify for these jobs, we need a heck of a lot of cooperation from every level of government in this country. These jobs do not belong to any single government; they belong to all of us. All of us must cooperate to build a climate in which our young people can acquire the education and skills they need to compete for full-time, well-paid jobs that will help our country, and, more important, help them as individuals.

Senator St. Germain: Honourable senators, last week the Foreign Affairs Committee, chaired by Senator Stewart, held hearings in Vancouver on the Asia Pacific Region. It was clearly pointed out at those hearings that Japanese investment in manufacturing in this country is low, due mainly to the high tax rate. We were told that, and it is not partisanship or rhetoric. Witnesses cited other areas, such as high labour costs and the uncertainty created by provincial governments when they cancel programs, such as the Government of British Columbia when it cancelled Windy Craggy.

However, the number one issue was high taxes. We must create good jobs for our young people, not service industry jobs which pay nothing. We must create long-lasting jobs with a manufacturing base. We are clearly being told by manufacturers from outside the country that we are unable to rely on ourselves for our own job investment.

The Prime Minister, however, speaks only of spending on social programs. He does not make any reference to tax cutting. Still, as I pointed out, the Prime Minister said that the best social program in the world is a job. That is what I am driving at. Can we see some tax relief in this country so investors can come in and create the long-term, high-paying jobs to which my honourable friend refers?

Senator Taylor: It will not work if you sell out the country.

Senator Fairbairn: Honourable senators, I agree with the statement of the Prime Minister and I agree with the honourable senator for reiterating it. Certainly, the best security for any young person or a person of any working age is a job. That is the biggest challenge facing this country.

My honourable friend has his views on the way to proceed. Certainly, this government has given no indication in its performance in recent years that it is going off wildly and spending massively all over the country, as my honourable friend fears. The indication is to the contrary. This government is attempting to rein in the objectives to centre on the priorities, the first of them being that, in order to get to the point my honourable friend and all of us wish to get to, we must have proper and stable management of our economy. That is what the government has been doing in a systematic way and will continue to do. At the same time, we will offer support in areas that will help our young people and people of other working ages to find full-time employment and to have the skills to do so.

My honourable friend refers to tax cuts as the way he would like to go. I have no ability to discuss that topic with him. However, in the past three years the federal government has charted a course that has proven to be successful. It is creating opportunities, and we certainly intend to stay that course.

TAX INCREASES INSTITUTED BY PREVIOUS CONSERVATIVE GOVERNMENT— REQUEST FOR STUDY BY DEPARTMENT OF FINANCE

Hon. Pierre De Bané: Honourable senators, in response to the questions of Senator St. Germain and Senator Di Nino, would the Leader of the Government ask the Department of Finance to undertake a study about the number of tax increases imposed on the Canadian people during the nine years of Conservative government?

Senator Lynch-Staunton: Read the Red Book!

Senator De Bané: Perhaps they could then compare that with the fiscal policy of the present government, where for every $1 increase in revenue, there was a $7 reduction in expenditure. For the benefit of Senators Di Nino, St. Germain and their colleagues, I would be interested to know if that could be undertaken by the Department of Finance. Could the minister use her good offices to ask the department to undertake such a study? I am sure it will show that never in the history of Canada have there been so many increases on Canadian taxpayers. It will also show, I am sure, that never in Canadian history has the accumulated debt of our country increased so much as in those nine years of Conservative government.

Finally, I should like to remind Senator St. Germain, with whom I had the pleasure of attending the same meetings in Vancouver, that the three witnesses from whom we heard — that is, the President of Mitsubishi and representatives of two other companies — told us that the result of their study, backed by KPMG, is that contrary to public perception, the corporate rate in Canada is lower than the corporate rate in the U.S. What is higher is the personal income tax rate.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, that is an extremely interesting question.

Senator Lynch-Staunton: It is a statement. You are getting mixed up.

Senator Fairbairn: It is a good question. I am sure that the information Senator De Bané requests is public information. I would be pleased to ask my colleague the Minister of Finance if he could have someone put all of that information together for the benefit of my honourable friend and other senators, if they are interested.

Hon. Consiglio Di Nino: Honourable senators, I would encourage the minister to follow the interesting suggestion of our colleague.

However, this is the question that I asked, which I should like to repeat for the purpose of clarity: Why did the Prime Minister, as reported in the *House of Commons Debates* of February 11, 1997 tell Canadians:

> Your Honour, there have been absolutely no tax increases since we have been here.

That is my question.

RECORD OF CUTS TO PROGRAMS AVAILABLE TO AGRICULTURAL INDUSTRY—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, along with what has been suggested by Senator De Bané, could the Leader of the Government in the Senate find out how much the present government has cut from agricultural support to farmers compared with cuts made by the Mulroney government? I think she will find that billions and billions of dollars of cuts have been made to that productive sector by her government. This situation will create some very serious problems in the future, especially in terms of freight rates and so on.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I can certainly do that. That is a matter of public record. The honourable senator will know that the program of this government in the last three years, obviously, has been an open record of federal budget processes. In order to bring stability to our economy, some very difficult and profound changes have been made. I would point out to Senator Gustafson that although some of those changes have been traumatic in Western Canada in the sense of changing old patterns, not all producers in Western Canada have found the changes to be totally negative. My honourable friend is nodding; I think he knows that that is the case. Certainly, it is a different way of doing things. There have been profound changes; however, those profound changes may also produce some very good results.

Because of the other concerns of my honourable friend, he will probably be glad to know that the Minister of Agriculture is in Calgary tonight, where he will be talking with the railways in very vigorous terms about the situation concerning the movement of grain in Western Canada.

JUSTICE

ALLEGED WAR CRIMINALS DOMICILED IN CANADA— GOVERNMENT POSITION

Hon. Jerahmiel S. Grafstein: Honourable senators, my question is for the Leader of the Government in the Senate. As senators and Canadians, we are justifiably proud that Canada has earned and deserves recognition as being one of the best, if not the best, country in the world in which to live. Regretfully, Canada is also earning the reputation of being one of the best havens in the world for war criminals, both past and present.

If there are any history lessons to be learned, it is that ignoring the rule of law sooner or later brings contempt for the very rule of law, and for the justice that Parliament works so assiduously to uphold.

Since the first of this year, CBC, Canada's national network, and NBC and CBS, two of the three major networks in the United States, have each broadcast rather detailed documentaries which illustrate alarming stories that admitted war criminals can live, apparently, in Canada without fear of prosecution, with impunity and in comfort. Obviously, this should cause all senators some distress.

On February 5, the *Toronto Sun* published stories on war criminals, past and present, living in Canada in apparent comfort and dignity; something of which they deprived their victims and their victims' families. The *Toronto Sun* of February 5 further stated, in part, that:

> Justice Minister Rock has started the ball rolling on prosecutions, although Canada's dismal record remains one deportation and one extradition in 50 years.

I repeat, honourable senators — one deportation and one extradition in 50 years.

In 1988, after extensive and expensive hearings, Mr. Justice Deschênes' inquiry found that there were over 20 clear cases — and I do not have the exact number — that required immediate action; and that there were over 200 cases which required further investigation but could be brought forward quickly. Since that time, that list has been expanded many times as a result of these documentaries.

Could the Leader of the Government in the Senate advise senators as to the current policy and action plan of the government with respect to alleged war criminals from World War II and present war criminals? Time is of the essence. Justice delayed is justice denied.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, each of us in this house and, indeed, all Canadians across the country have read and watched recent reports and documentaries with great anxiety, alarm, and indeed some considerable anger. It is not the intention of this government to permit Canada to be used as a safe haven for war criminals, either past or present.

I take my honourable friend's point as to the unsatisfactory record of federal governments, of whatever political persuasion, in dealing successfully with this issue. It is certainly the intention of the Minister of Justice and the Minister of Citizenship and Immigration to attempt to get a grip on what is — not just for today but historically — a very disturbing element within our country.

I think my honourable friend knows that there have been measures taken, in particular by the special unit that was set up last year to try to increase our efforts to deal with modern war crimes cases. There must be a much more focused effort on this issue. The Minister of Justice and his colleagues are trying to provide just that, and their efforts are beginning to pull it together. I will try to obtain for my honourable friend a better description of what the ministry intends to do. I believe the will is there in this government to proceed. I will certainly extend my honourable friend's concerns and his questions to the minister.

Senator Kinsella: That is not much of a policy.

• (1500)

ADEQUACY OF RESOURCES AVAILABLE TO PURSUE AND PROSECUTE ALLEGED WAR CRIMINALS— GOVERNMENT POSITION

Hon. Jerahmiel S. Grafstein: I appreciate that answer from the government leader. When she is examining the record and bringing forth fuller answers to the Senate, could the government leader also have the responsible government agencies and government departments detail what manpower and resources they are prepared to make available to pursue these matters — I am talking about detailed resources within the Department of Justice, the Department of the Solicitor General, the RCMP, and the Department of Citizenship and Immigration — and whether each of those ministers responsible could also give us a statement that the resources being made available will be adequate to pursue justice in these matters in a timely fashion.

Hon. Joyce Fairbairn (Leader of the Government): I will certainly take that question to my colleagues.

In answer to a comment by Senator Kinsella to the effect that this is a weak policy —

Hon. Noël A. Kinsella: It is no policy.

Senator Fairbairn: — or rather, no policy; I disagree with him completely.

Senator Kinsella: Tell us about it.

Senator Fairbairn: I would ask the honourable senator to cast his mind back to efforts that were made by the former government through the Deschênes inquiry. The recommendations that came from that commission were also to the effect that we must get a grip on this issue. The former government found it extraordinarily difficult to do what we are also trying to do. We hope to do better. This is not an issue which carries a political label with it.

Senator Kinsella: But we want results.

Senator Fairbairn: The Canadian government, in our recent history, has not done a good job on this type of issue. In spite of efforts in recent years, the results are still not satisfactory. I am simply saying to Senator Grafstein that we have the will to try and do better. We will try to do that, Senator Kinsella.

Senator Kinsella: Would the honourable leader not agree that effect is the true measure of government policy? The effects and results of this government policy in dealing with this matter are zero.

Senator Fairbairn: Honourable senators, in any government's policy, effects are a visible measure of the success of a policy. I am suggesting that, with respect to efforts made on the same endeavour by previous administrations, the effects have also been totally unsatisfactory. This is a shared responsibility across governments. We will do our utmost to try to make those measurable effects more satisfactory and more effective.

Hon. John Lynch-Staunton (Leader of the Opposition): Prime Minister Trudeau would not touch the subject of war criminals. The Honourable Leader of the Government in the Senate was a staff member in his office. She should know that. There were 16 years of neglect.

Senator Fairbairn: Honourable senators, I will continue to say to Senators Grafstein and Kinsella that we will attempt to do a better job than we have been able to do in the past three years, and better than other governments before us have been able to do.

Senator Lynch-Staunton: That is better. There was a time for Trudeau to do it.

HEALTH

SAFETY OF BLOOD SUPPLY—PROSPECTIVE NATIONAL BLOOD SYSTEM TO BE ESTABLISHED WITHIN PARAMETERS OF RECOMMENDATIONS FROM KREVER INQUIRY—GOVERNMENT POSITION

Hon. Richard J. Doyle: Honourable senators, I am grateful to the Honourable Leader of the Government in the Senate for replying to my efforts last December to ascertain whether the government had decided upon a policy of convergence of studies and investigations relating to the Canadian blood supply.

The answer, honourable senators, offers an assortment of dates and occasions when unanimity of purpose seemed secure: On February 15, 1995, the interim report of the Krever commission and the safety audit committee saw restructuring as a solution to conflicts. On March 11, 1996, the health minister called on all partners in the blood service to prepare for the recommendations of the Krever commission. On September 10, 1996, health ministers met and agreed to put together an entirely new blood authority.

Everyone outside Quebec was supportive of the ministers' four principles: Safety of blood is paramount; a fully integrated approach is essential; accountabilities must be clear; and the system must be transparent.

That answer, with its choice of dates, was delivered to me on February 11, just one day after I received a joint press release from Health Canada and Health and Community Services, New Brunswick, advising me that blood implementation plans will require independent analysis, as well as collaboration with stakeholders, professional and consumer organizations.

The press release provides more dates, and I will quote a paragraph very carefully so that it will be on the record:

> A forum of 16 national consumer groups met in Toronto January 24, 25 and 26 to discuss ideas for a new blood system. On January 26, they announced their support for a complete restructuring of the current blood system but advised governments that plans for the new system should accommodate Judge Krever's final recommendations.

My question is this: Does the round-up of dates, promises and whatnots in the minister's reply to my question provide us with an unequivocal assurance that all of the government's planning and providing of a new blood system will be carried out in the light that we expect from Judge Krever's report?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, it is certainly my information that, as the honourable senator has noted, the health ministers across this country, after coming together, have been working for the last little while on planning for a new national blood system, and that they have indeed directed their officials to continue to do the necessary planning for that new national authority to operate.

My understanding is that this is being done in an effort to respond very quickly to Justice Krever's report when he makes his recommendations, which certainly our Minister of National Health and Welfare is looking forward to receiving at the end of April.

• (1510)

I will take Senator Doyle's request for reassurance on this point to my colleague and determine whether or not I can add anything to what I have just said.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on October 3, 1996 by the Honourable Senator Forrestall regarding Employment Insurance, changes to rules governing fishers, application of intensity rule; by the Honourable Senator MacDonald on October 30, 1996, regarding national finance, failure of Confederation Life, estimate of magnitude of loss; by the Honourable Senator Brenda Robertson on November 26, 1996, regarding property in Canada; and by the Honourable Senators Robertson on December 11, 1996 regarding the National Health Forum.

EMPLOYMENT INSURANCE

CHANGES TO RULES GOVERNING FISHERS—APPLICATION OF INTENSITY RULE—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on October 3, 1996)

The government is well aware of the impact of the intensity rule and considers that it would be unfair and discriminatory to exempt only one group from its application. The key objective of the intensity rule was to bring an element of "experience rating" to the system; that is, while not limiting the ability of many seasonal workers to collect benefits year after year, ensuring that there were also incentives to accept other available work in the off-season.

Self-employed fishers were heavy users of the UI system — i.e., 60 per cent of fishing claimants received 100 or more weeks of benefits during the previous 5 years, while only 8 per cent of regular claimants received 100 or more weeks of benefits over the same period; the average total fishing benefit was over $8,000 under UI, compared to about $6,000 for regular claimants; the fishing sector received $10 in benefits for every dollar paid in premiums. A typical fisher would have received $41,970 in benefits over a five-year period while having contributed only $4,055 (employer and employee) in premiums.

The intensity rule provides an incentive to minimize the use of income benefits without excessively penalizing those who may have to make longer or more frequent claims, and at most those who have collected more than 100 weeks of benefits in the past 5 years will see their benefit cheques drop by $38 per week.

It is important to note that recipients of the family income supplement (i.e., claimants in low income families with children) are exempt from the intensity rule.

As well, the regulations do take into account the fact that fishers can only work for limited periods of time. Elements such as the earnings-based system, the 31-week qualifying period with flexible start and end dates and the fixed 26-week benefit period with its 4-week flexible start and end dates were adopted in recognition of the effects of quota and licensing restrictions.

NATIONAL FINANCE

FAILURE OF CONFEDERATION LIFE—ESTIMATE OF MAGNITUDE OF LOSS—GOVERNMENT POSITION

(Response to question raised by Hon. Finlay MacDonald on October 30, 1996)

The final value of the liquidation of Confederation Life will depend on the sale value of the assets of the estate.

The liquidator, KPMG, has recently indicated they are optimistic that policyholders will receive payouts between 95 and 99 cents on the dollar. Hence, losses to policyholders in Canada could range between $40 million and $200 million depending on asset sale prices.

No payout on Confederation Life debt instruments is anticipated. World-wide, this amounts to some $1.3 billion.

POVERTY IN CANADA

EMERGENCE OF LATEST STATISTICS—GOVERNMENT POSITION

(Response to question raised by Hon. Brenda M. Robertson on November 26, 1996)

The ISCC was formed in 1995 as an ongoing interdepartmental mechanism and meets approximately three times annually. It is chaired by the Assistant Deputy Minister of Health Promotion and Programs Branch in Health Canada.

The mandate of the Interdepartmental Steering Committee on Children (ISCC) is: to ensure a coherent horizontal approach on federal children's issues at the levels of both policy direction and program delivery; to develop a framework to deal with federal children's issues across government; and to ensure a collective federal government focus and response to children's issues both domestically and internationally. The committee consists of senior level representation from eighteen federal departments.

HEALTH

CUTS TO TRANSFER PAYMENTS TO PROVINCES—GOVERNMENT POSITION

(Response to question raised by Hon. Brenda M. Robertson on December 11, 1996)

The National Forum on Health, which submitted its report one year ahead of schedule, had total actual costs of $7,805,706 to January 27, 1997. The time, location and costs for its meetings is as follows.

NATIONAL FORUM ON HEALTH

Meetings - Location

Total Cost
(includes travel, accommodation and meals)

October 19-20, 1994 Conference Centre, Ottawa (Ontario)	$16,184
November 22-23-24, 1994 Chateau Cartier Sheraton, Aylmer (Québec)	$20,562
January 16-17, 1995 Westin Bayshore, Vancouver (B.C.)	$37,848
March 15-16-17, 1995 Delta Hotel Ottawa (Ontario)	$43,334
June 21-22-23, 1995 Citadel Inn Ottawa (Ontario)	$33,262
October 19-20-21, 1995 Citadel Inn Ottawa (Ontario)	$21,214
January 25-26, 1996 Bonaventure Hilton Montréal (Québec)	$33,528
March 21-22, 1996 Westin Hotel Ottawa (Ontario)	$30,275
June 10-11, 1996 Bonaventure Hilton Montréal (Québec)	$37,043
September 27-28-29-30-October 1, 1996 Marriott Residence Inn Mont-Tremblant (Québec)	$58,565
December 9-10-11, 1996 Minto Place Ottawa (Ontario)	$39,964

HERITAGE

MINISTERIAL SOURCE OF POLICY ON CULTURAL ISSUES—EFFICACY OF CULTURAL EXEMPTIONS EMBODIED IN NORTH AMERICAN FREE TRADE AGREEMENT—REQUEST FOR ANSWERS

Hon. Lowell Murray: Honourable senators, several weeks ago I asked the Leader of the Government in the Senate a question in which I drew attention to recent cases of apparent breakdown in the convention of cabinet solidarity. I wonder whether, in reply to the question, there may be an early declaration by the government, perhaps in the course of delayed answers, reaffirming the government's commitment to this important constitutional convention.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, that question is outstanding in some of the details requested by the senator. I would not want my honourable friend to think that there is any lessening in the minds of this government, any more than there was in the minds of the government of which he was a member, as to the importance of the principle of cabinet solidarity.

In response to my friend, I attempted to answer my honourable friend and agreed to enlarge upon that answer to him. The ministers Senator Murray named are indeed working very closely together in the areas to which he referred. There is no question about that, but I will continue to press on for a further answer to the questions.

Senator Murray: Honourable senators, I will not prolong the debate, except to say that I am glad to have the assurance of the minister that various cabinet colleagues are working closely together to resolve their differences. What we need to know is that there is a firm commitment on the part of the Prime Minister to uphold and enforce the convention.

Senator Fairbairn: Honourable senators, there is no question at all that there is a commitment, nor is there any question of the Prime Minister's continuing responsibility in support of that convention. I did not say that my colleagues were working together to resolve their differences; I said they were working together and cooperating jointly on the very important issues to which my honourable colleague referred. In each case, these are areas of joint and shared responsibility, and they are cooperating in each case to achieve the very best results.

ORDERS OF THE DAY

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

BILL TO AMEND—THIRD READING

Hon. B. Alasdair Graham (Deputy Leader of the Government) moved the third reading of Bill C-5, to amend the Bankruptcy Act, the Companies' Creditors Arrangement Act and the Income Tax Act, as amended.

Bill, as amended, read third time and passed.

[*Translation*]

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

BILL TO AMEND—THIRD READING

Hon. Rose-Marie Losier-Cool moved third reading of 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.

She said: Honourable senators, Bill C-41 before us is now at third reading. Following the various comments heard in recent months since second reading, it is important to remember the objectives of Bill C-41. The fact is that Bill C-41 concerns children. This bill primarily seeks to ensure a greater degree of fairness in the determination of the amount of child support, and to improve the means of collecting this support. It goes without saying that what benefits children will also benefit custodial parents. However, I am convinced this bill will benefit both parents, since it helps reduce conflicts regarding at least one consequence of divorce.

The amendments to the Divorce Act, the Family Orders Agreements Enforcement Assistance Act, and the Garnishment Attachment and Pension Diversion Act which are found in this bill, as well as the changes to the Income Tax Act, represent a comprehensive reform of the child support legislation, because they deal with the calculation, taxation and improved collection of this support.

Bill C-41 is the result of a close cooperation between various federal departments, and also between the federal, provincial and territorial governments.

For close to six years, the federal government has worked closely with the provinces and territories to find the funds required to develop a formula to determine the amount of child support, which would be based on economic studies concerning the money spent on children by families and adapted to the Canadian context. The provincial, territorial and federal governments also worked together to determine in which cases the formula would apply.

Bill C-41 is also the result of extensive consultations with all those concerned. At least three different series of consultations were held. Hundreds of submissions were received and reviewed, and over 8,000 copies of the report of the federal-provincial-territorial committee on family law were distributed.

What is required now is an opportunity to work with the guidelines, to closely monitor their implementation, and to then make adequate changes, based on concrete experience, not speculation. The Minister of Justice will begin his assessment of the guidelines as soon as they are adopted and will report back to Parliament in five years. During this five-year period, it is possible, and even likely, that various improvements will be made to the guidelines on child support, based on the assessment made.

No formula for determining child support is perfect. Each one has its own strengths and weaknesses. It is even more difficult to deal with issues such as the recognition of access rights, second families and exceptions than it is to select the formula, as these issues are essentially the result of a compromise.

• (1520)

Most provinces are getting ready to introduce the guidelines. They want to try them out, and then work together to improve them.

As the committee chair, Senator DeWare, so eloquently pointed out yesterday in her committee report, a number of comments were heard during consideration of this bill.

I would like to mention two specific comments made by certain members of the committee.

First, Bill C-41 in no way eliminates the objectives now found in section 15(8) of the Divorce Act. In fact, this reform reaffirms these objectives. The objective of child support payments will now be contained in the first section of the guidelines. This follows from Bill C-41, which provides for the determination of orders for child support under the applicable guidelines and not according to the discretion now exercised by the courts. All the details concerning the determination of orders for child support are therefore contained in the guidelines.

The primary purpose of section 15(8) of the Divorce Act was to define the concept of discretion as used in the determination of orders for child support.

If the objectives were left in section 15(1), two different interpretations would be possible when determining orders: one under the guidelines, and the other in accordance with the objectives set out in section 15(1) allowing complete discretion in determining support payments for children. This is counter to the stated purpose of Bill C-41.

Accordingly, the principle of joint financial obligation will be contained in a new paragraph in clause 26(1) of the bill, and I quote:

> 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.

The principle is entirely in line with the use of child support guidelines.

All types of guidelines are based on the principle of the parents' joint responsibility for the financial support of their children, according to their respective means.

The first objective of the guidelines also supports this principle:

> To establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both spouses after separation;

Several members of the committee also raised a number of arguments against the definition "child of the marriage" in Bill C-41. This new definition includes the concept of "pursuit of reasonable education." This amendment to the act was proposed only to maintain a measure of uniformity between the act and the jurisprudence.

I understand the apprehensions of some groups which maintain that including the word "pursuit of reasonable education" might make it impossible for the court to get away from this definition and take a different approach. I am therefore willing to eliminate these words.

Although married couples have no legal obligation to pay for the postsecondary education of their children, there is also no court order ordering them to pay child support. The fact is that we must have legislation to protect children and define the rights and obligations of parents in case of divorce.

In the United States, most states have decreed that at the age of 18 or 21, children are no longer entitled to child support. Studies have shown that this had the effect of denying children the right to a college education. Finally, in 1992, the U.S. commission on child support recommended that the states amend the legislation to allow the courts to order a parent to pay child support if the child wishes to pursue a postsecondary education. A number of states have since amended their laws to provide for such situations. However, although the United States has demonstrated that a reform is necessary to protect children who wish to pursue postsecondary studies, it seems that Canada wants take a step back.

[*English*]

Finally, honourable senators, with regard to the guidelines, they have been available to the public since June 1996. Refinements have since been made following this consultation period. We have received copies of guidelines and have heard comments about them from interested groups and individuals. Indeed, most groups and individuals have more to say about the guidelines than about the substance of the bill itself. One of the amendments the Department of Justice will make to the guidelines is to recognize situations where parents exercise 40 per cent or more access to their child. In these cases, courts will have broad discretion in awarding support.

I am also aware that much criticism and many concerns have been directed to the fact that this bill does not include amendments to either the spousal-support or custody-and-access provisions of the Divorce Act. Bill C-41 was never intended to be a comprehensive family law reform bill. This is not because the government wants to ignore these family issues, or because these issues are seen as being unimportant. Rather, it is because Bill C-41 adopts a policy approach that focuses on the best interests of children, and on the obligations, rather than the rights, of parents. This requires acknowledging that a parent's responsibility to support a child financially is a primary obligation separate from negotiations respecting family law matters, and, in particular, independent of whether or not access is granted or utilized.

However, a joint parliamentary review of custody and access will be undertaken to examine these issues and to make recommendations on how to meet the best interests of children.

Bill C-41 and the proposed child support guidelines have been studied thoroughly with assistance and advice from many groups and individuals in the private and public sectors. Changes in the way parents provide child support following family breakdown are long overdue and urgently required. An advisory committee will assist in monitoring the implementation of the guidelines to ensure that this goal is met. I thank Senator Joyce Fairbairn for proposing a motion to that effect.

Bill C-41 is a major step forward for the children of this country. I sincerely hope honourable senators will appreciate the importance of Bill C-41 and pass it without further delay. What we need now is the opportunity to work with the guidelines, to monitor them closely, and then to make changes based on experience with them.

Before closing, I should like to thank the Chairperson of the Social Affairs, Science and Technology Committee, Senator DeWare. We certainly have not made her work very easy at times during the past few months, but she must be congratulated on the way she kept her cool.

[*Translation*]

Honourable senators, I am convinced that this bill will improve the quality of life of hundreds of Canadian children. On behalf of those children, I thank you.

[*English*]

• (1530)

Hon. Duncan J. Jessiman: Honourable senators, I also rise to speak on 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. This afternoon, I will try to answer some of the many questions asked of me over the past several weeks respecting this bill. Those questions are as follows:

One, as the passing of this bill will not amend the Income Tax Act to provide that the payor of child support payments will be able to deduct such payments as an expense for income tax purposes and the payee will receive such payments as a capital payment — not include it as income for income tax purposes — in what way will passage of this bill affect the income tax treatment of child support payments?

Two, what in this bill is so abhorrent and draconian that required us on this side to muster the numbers or convince the present Liberal government to make amendments to the bill and to the guidelines?

Three, what are the guidelines that are referred to in clause 11 of the bill which will be section 26.1 of the Divorce Act?

Four, since the schedules to the guidelines are to be used to determine the amount of a child support order by looking only at the annual income of the non-custodial spouse and not the annual income of the custodial spouse, are the guidelines fair to the non-custodial spouse?

Five, under what circumstances are the incomes of both the custodial and non-custodial spouse taken into account by the courts in determining the amount of child support payments?

Six, what was in the proposed guidelines that we on this side thought required amending; and what agreements did we reach with the government?

Seven, how was it possible for the Conservative opposition members of a Senate committee to persuade the Liberal members of that committee to unanimously agree with Conservative amendments regarding Bill C-41 and section 9 of the guidelines?

Eight, refusal by custodial spouses to allow their divorced husbands access to their children contrary to orders of access issued by the court is not addressed in this bill. What has the committee convinced the government to agree to in that regard?

Nine, was all the time and effort expended by all the senators on the committee, particularly, Senator Cools, Senator Lynch-Staunton, Senator DeWare, the chair, Senator Losier-Cool, as well as by Mark Audcent, our Senate law clerk, and his associate Deborah Palumbo, and in particular my secretary, Janelle Feldstein, worth it?

Ten, should the Senate vote in favour of passage of this bill with the amendments as recommended by the committee?

Honourable senators, I will try to answer those 10 questions in order.

Question one: What is it about this bill that is connected with the income tax treatment of child support payments? The proposed guidelines, which will be promulgated shortly after this bill has received Royal Assent — expected prior to May 1, 1997 — will have federal child support tables attached to them. Those will have been drawn up on the basis that the monthly awards will be free of tax on receipt by the custodial spouse and, of course, will not be deductible as an expense for income tax purposes for the non-custodial spouse.

As Justice Minister Rock said to the committee on December 12, 1996:

> I am not here to debate the tax matters. The tax matters are not in the bill, is what I mean to say.

That is true but, honourable senators, we must be cognizant of the fact that passing this bill, as amended, implies that we, as a Senate, are agreeing to the proposed tax treatment of these monthly awards.

There was no rationale in 1942 — almost 55 years ago — to treat payments for child support as tax deductible by the payor and taken as income by the payee because married couples were unable to deduct such expenses from their incomes. To be precise, the married person, the higher income earner — usually the man, as you will remember in those early days when most women stayed home to care for the family — could not pay his wife spousal support and child support, and deduct that as an expense from his income, with the wife then declaring that money as income. That, of course, would have resulted in family savings as the wife's only income would be what she received from her husband.

I personally have no objection to the change of policy by the government with respect to these payments. I do take exception, however, to the proposition that this change in policy will benefit the children of divorced couples. This tax grab, legitimate as it may be, will take from divorced parents what will amount to hundreds of millions of dollars so that they will have that much less to spend on themselves and their children. The fact that the money received by the government by this tax grab is supposed to be used for the children of the poor through the working income supplement does not change the fact that divorced couples will have less available for themselves and their children.

Question number two: What is it in this present bill that is so abhorrent and draconian that required us to do what we did to try to convince the government to accept amendments to this bill?

The worst part of Bill C-41 was the repeal of section 15(8) and section 17(8) of the Divorce Act, which would have gutted the Divorce Act in respect of the responsibility of both spouses to be financially responsible for the maintenance of their children. Section 15(8) deals with when an application for a child support order is made, whereas section 17(8) deals with a variation order. The words, however are exactly the same. The words that would be deleted from both those sections are as follows:

> In making an order, the court shall
>
> > (*a*) recognize that spouses have a joint financial obligation to maintain the child; and
> >
> > (*b*) apportion that obligation between the spouses according to their relative abilities to contribute to the performance of the obligation.

It was the deletion of these words and the substitution of words in the guidelines that caused us by far the most concern.

The words that were in the guidelines, and they are still in the guidelines, are as follows:

> The objectives of these guidelines are:
>
> > (*c*) to establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both parents.

Not only are these words in subsection (*a*) of the guidelines not nearly good enough, but they are contained in a guideline which, at the government's whim, could be amended or deleted at any time.

Through some strenuous and arduous negotiation, we were able to persuade the government to agree to add to subsection 26.1 of the Divorce Act — clause 11 of the bill — the following:

> 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.

As a result, the courts will have to be satisfied now that the guidelines themselves and the award table attached thereto are in fact based on this principle. To amend this very important principle now would require any other government to have such amendment passed by Parliament.

That was the worst part of the bill.

Another part of the bill we were unhappy with was a proposed amendment to the Divorce Act to codify what the courts have determined is the present law under the act — that is, that pursuit of reasonable education is, in some circumstances, a reason to compel a divorced, non-custodial spouse to continue to pay child support to the custodial spouse for a child, even though the child has reached the age of majority, and in some cases is in his late twenties.

• (1540)

The definition in the Divorce Act of "child of the marriage" reads, in part, as follows:

> — is 16 years of age or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessaries of life;

It is the words "other cause" that the courts have said allow such interpretation, that is, that the pursuit of reasonable education falls within "other cause." The courts have held that the *ejusdim generis* rule does not apply because the words "illness and disability" are all encompassing and "other cause" would be redundant or have no meaning, if the courts applied the rule. The courts have ruled that it must have been the intention of Parliament to give meaning to such words.

It was the view of senators on this side of the chamber that the courts were wrong, and have been wrong. We tried, therefore, to have the words "other cause" removed. As it appeared that by insisting on it we would not get the other amendments that were so necessary from our standpoint to be passed, we agreed that the words "pursuit of reasonable education" alone be deleted. Thus, the Divorce Act, in this regard, remains as it has been for several years.

It is interesting to note that not all judges agreed with this interpretation of the act. The Honourable Kenneth R. Halvorson, retired Queen's Bench Justice from Saskatchewan, said he thought that the interpretation was wrong because it would mean that a child of a married couple living at home would have less rights than a child of a divorced couple. I agree with that.

Question three: What are the guidelines that are referred to in clause 11 of the bill? As Murielle Brazeau, a lawyer with the department said:

> The guidelines are basically a method for determining child support that is more directive than the current means and needs approach that is being used by the courts.

She went on to say:

> Guidelines are used in every American state, in the United Kingdom, in Germany, Australia, New Zealand and some Eastern European countries. Developing guidelines for child support that are appropriate for Canada has turned out to be a long, labour-intensive process. It has required six years of research, consultation and negotiations among the jurisdictions to arrive at a set of guidelines which have been adapted to Canadian realities.

Question four: Because the schedules to the guidelines are used to determine the amount of a child support order by looking only at the annual income of the non-custodial spouse and not the annual income of the custodial spouse, are the guidelines fair to the non-custodial spouse?

In response to that, Murielle Brazeau said:

> Various formulae for the base award calculation were considered, including those where both parents' incomes are taken into account. However, the family law committee found that the fixed percentage model provides children with the most appropriate levels of child support which reflect the parents' capacity to pay.

The evidence of Professor Ross Finnie, from the School of Public Administration, Carleton University, in respect of these guidelines was as follows:

> The government's guidelines appear to be based on what can be seen as a fair and reasonable set of principles and procedures — i.e., the basic notion that awards should vary only with the non-custodial parent's income, with the equal sharing rule as the means of establishing the level of the award at each income level. It is difficult, however, to evaluate fully the guidelines and the awards they generate, owing to the lack of detailed documentation in the government's releases; these provide only the actual schedules of awards and a very general description of the construction of the guidelines, along with the aforementioned statement that its proposals are based on the Committee's recommended model.

There was a joint committee of the provinces and the federal government in this regard.

Professor Finnie continued:

> For example, we are left to speculate as to why awards are uniformly higher — and sometimes substantially so — than those in the underlying Committee's model. Either the basic principles changed or the specifics of the calculations were altered from the previous round. It would be interesting to know this information but it is not provided. It would be similarly interesting to be able to evaluate the detailed construction of the guidelines — such as the treatment of various tax credits when calculating the child's financial needs and the sharing of these costs between the two parents.

Professor Ross Finnie was partially responsible for drafting the guidelines in the first instance. However, when he made public some criticism of the guidelines, once they were published, he lost his job.

Having got the bill amended to provide for joint responsibility it may be that someone — and it could be the Social Affairs Committee of this place — will have to delve into this matter further to ensure that these guidelines and the tables attached to them are, in fact, fair to the non-custodial parent.

Professor Nicholas Bala of the Faculty of Law, Queen's University, stated at pages 311 and 312 in a 1996 article, entitled "Ottawa's New Child Support Regime, A guide to the Guidelines":

> This focus on the payer's income and ignoring the custodial parent's income seems inconsistent with the objective of having the child benefit from the "financial means of both parents."

He also stated:

> There are, however, also good policy and psychological reasons for utilizing a model that takes account of both parents' incomes and household size — an income shares model.

Evidence was presented before the committee that Quebec is in fact developing such a model. We will only know in time, and as we monitor this, whether these guidelines are fair.

Question five: Under what circumstances are the incomes of both custodial spouse and the non-custodial spouse taken into account by the courts in determining what amount should be paid respecting child support payments?

The following are occasions when the court will consider the incomes of both spouses. The first is in respect of special or extraordinary expenses as found in section 7 of the guidelines. In summary, they include child care expenses incurred as a result of the custodial parent's employment, illness or disability or education or training for employment; that portion of the medical and dental insurance premium attributable to the child; health-related expenses that exceed insurance reimbursement by at least $100 annually; extraordinary expenses for primary and secondary school education or for any educational programs that meet the child's particular needs; expenses for post-secondary education; extraordinary expenses for extracurricular activity.

The second occasion is shared custody where a non-custodial parent has 40 per cent or more of the physical custody of the child or children.

The third is split custody, where one parent has custody of one or more of the children, and the other parent has custody of one or more of the children.

The fourth is undue hardship, where a spouse can convince a judge that he or she would suffer undue hardship as a result of an order in the amount determined under the guidelines.

The fifth occasion is where the income of the spouse is in excess of $150,000. The amount payable would be as per the guidelines up to $150,000 but, for the balance, the court would have the discretion and would take into account the financial abilities of each spouse to contribute to the support of the children.

• (1550)

Question six: What was in the proposed guidelines that we thought required amending and what did we persuade the government to approve?

We were first given a version of the guidelines dated June 27, 1996. Section 7 stated:

> Where both spouses share physical custody of a child in a substantially equal way, the amount of the child support order shall be determined by taking into account
>
> (*a*) the amounts set out in the applicable table for each spouse 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.

Section 9 of the guidelines replaced section 7 as of January 22, 1997, not many days ago. We received this guideline as we were about to adjourn. It states:

> (1) Where both spouses equally share overnight physical custody of a child, the amount of the child support order is the difference between the amount that each spouse would otherwise pay for the number of children in the shared custody arrangement if a child support order were sought against each of the spouses.

This was the last matter to be negotiated, and it was an important one. We were most unhappy with the words "substantially equal" as the government lawyers told us that, in effect, meant 50-50 custody by each spouse.

I asked two practising family law lawyers who gave evidence before the committee whether they believed custody on a Tuesday and Thursday of each week as well as alternating weekends would be interpreted by the courts to meet the requirement of "in a substantially equal way." Both expressed the opinion that they thought such custody would be considered by the courts as "in a substantially equal way."

After my questioning, the family law lawyers gave their responses to the old section 7 which became the new section 9. It was amended so that it would no longer read, "both spouses share physical custody" and then it set out a formula.

I hope the departmental officials read the testimony of those two lawyers, will allay any suspicions I may have and change the wording. As it is worded now, if a man had custody of his child or children for seven days of the week, but took them to their mother's home each night to bed them down, he would have to pay just as much as he would if he did not look after the children for one minute. A parent could have custody for 49 per cent of the nights and days and would still be treated as though he had no custody whatsoever. It really was ludicrous.

I was not only unhappy with the words "equally share overnight physical custody," but also considered that their formula, even on a 50-50 basis, which was the difference between the amount that each spouse would otherwise pay, was not fair and that the difference should be one-half of the amount the government suggested. I brought that to the attention of the government. They had no rationale whatsoever for selecting those numbers.. It was not until Tuesday, February 11, that the government agreed to replace section 9 of the guideline with the following:

> Where a spouse exercises a right of access to or has physical custody of a child for not less than 40 per cent 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.

As you can see from the above, the word "overnight" and "equally" have been changed to "physical custody for not less than 40 per cent of the time." This leaves it to the courts to determine what in fact should be paid, taking into account the matters set out in 9(a), (b) and (c) above.

We further asked for and received a letter from the minister's office signed by the deputy minister confirming this amendment in the guidelines. You must appreciate they can change the guidelines on any day they choose. We confirmed 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 the bill receives Royal Assent, and will remain in effect for a period of time thereafter sufficient to allow it to be evaluated. This change could be substantial.

One of our witnesses, who has acted as a mediator in custody matters for the last 20 years, said that he thought, in a divorce case where parents were trying to continue as a family although apart but still remain parents of the children, that the best solution is for the non-custodial spouse to have custody from Thursday till Tuesday morning every second week.

That access alone represents 35.6 per cent of the time. With time usually given to the non-custodial parents at Christmas, Easter, summer holidays, birthdays, et cetera, I would hope it would not be difficult to increase it by a further 4.3 per cent. I expect that, under these guidelines, non-custodial parents will be asking for at least that much custody in the future.

We brought another matter to the attention of the minister on December 12. That was the tables themselves. The tables are set out to show the amount to be awarded monthly based on salary divisions. One such division falls on $50,000. If a Saskatchewan parent making $49,999 gets a raise of $1, he must pay $8 in additional support for one child. The minister's initial reaction was that we would just have to live with it, but when the testimony was read again, before we could demand it, what is called "notching" was introduced. That will respond to this situation.

Question seven: How is it possible for the Conservative opposition members of a Senate committee to convince Liberal members of that committee to unanimously agree with Conservative amendments respecting Bill C-41 and section 9 of the guidelines?

It was because Senator Cools, a duly appointed member of the Social Affairs Committee, was favourable to the proposed amendments. This Senate, the Parliament of Canada and all Canadians are indebted to this lady senator for the stand she took on this matter.

Hon. Senators: Hear, hear!

Senator Jessiman: The result was that nothing could have passed in the committee because of the deadlock between the five Conservative members and Senator Cools and the six remaining Liberal senators. The government may have attempted to have Senator Cools dismissed as a member of the committee but, if that had happened, Senator Cools may have had a right to remain and may have taken such action as she considered appropriate to retain her seat on the committee.

There is no doubt that the Senate, as a whole, would have the authority to dismiss Senator Cools from this committee, but I have my doubts that any such motion would have passed in this chamber. Of course, there is always the political fall-out by the Liberal government if it had moved such a motion.

The Senate itself could have demanded that the committee report, but that, too, may have encountered difficulties in the Senate.

• (1600)

Further, it was apparent that public opinion was finally aroused by the unfairness of this bill and its guidelines. The government was afraid that if they did not get it passed soon, it might die on the Order Paper on the call of a federal election.

Question eight: Refusal by custodial spouses to allow their divorced husbands access to their children contrary to orders of access issued by the courts is not addressed in this bill. What has the government agreed to in that regard?

The Honourable Allan Rock, Minister of Justice, has agreed through a letter to the chairman of the committee as follows:

> Please accept this letter as confirmation that this 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.

As Senator Losier-Cool explained, the Leader of the Government, Senator Fairbairn, has also written a letter saying that the guidelines will be monitored by the Social Affairs Committee. I think we have made some good progress.

Question nine: Was all the time and effort expended over these several weeks by all the people I mentioned earlier worth it? The answer is yes.

Question ten: Should we, as a Senate, vote for this bill with the amendments as recommended by the committee? My answer is a resounding yes.

I understand Senator Cools has a few other amendments that she will introduce in the chamber. I hope honourable senators will listen to her reasoning in respect of those amendments, and then support them. Time permitting, I may speak to the amendments after Senator Cools has presented them to the chamber.

Hon. Anne C. Cools: Honourable senators, I should like to begin on a note of magnanimity and thank all senators who served on this committee and worked so strenuously on this bill.

I would especially thank Senator Jessiman for his work. Senator Jessiman is an ageing man, so I know that the work was strenuous for him. I do thank him for his efforts. I also thank him today for his speech and his comprehensive survey of the situation.

We are in an odd situation. If one reads the newspapers and other press and listens to TV, the debate is extensive; however, if one looks to the Senate chamber, there has been little debate on the record. I thank Senator Jessiman for putting his exhaustive speech on the record. I would also add that, in what he said today, he spoke for me. I do not guarantee that he may ever be able to do that again; however, today he did.

I should also like to thank Senator Fairbairn from the bottom of my heart. She has demonstrated enormous forbearance, positive initiative, and leadership on this matter. She has understood a principle of party politics and a principle of parliamentary politics: Parliaments work as well as political parties, and political parties work as well as their caucuses. Governments operate as well as their party caucuses do. I thank Senator Fairbairn for understanding this. I never had a doubt nor a suspicion, nor any uncertainty for a moment that I might be removed from any Senate committee. I say that with great sincerity.

I should like to ask the indulgence of all honourable senators. I have two amendments, and I propose to speak to both of them quite quickly. Then, at the end of that, I shall move the two amendments. I ask one of our pages to circulate my amendments to all senators. They have been duly processed and translated.

The first amendment would amend clause 2 of Bill C-41 on page 6. In particular, the amendment relates to the subsection of the Divorce Act on spousal misconduct. The existing provision in the bill provides that a court must not take into account the misconduct of a spouse in making a spousal support order. My amendment would add to this subsection that any conduct by a spouse that is so unconscionable as to constitute an obvious and gross repudiation of the relationship will, however, be considered. The language for my amendment is borrowed from the Family Law Act of Ontario, which language is already the law in Ontario.

The second amendment would address the issue of the denial of passports. At present, clause 22 of Bill C-41 would replace Part III of the Family Orders and Agreements Enforcement Assistance Act to permit applications by provincial enforcement services to the Minister of Justice to deny any licences listed in the schedule to persons who are in persistent arrears under the support order or support provision.

That having been said, I shall proceed with the amendment to clause 2 of Bill C-41. As I said before, I stand in agreement with everything that was previously said by Senator Jessiman and the amendments that we have gained. I now speak to other issues that have not been addressed, so I do not feel the need to repeat what Senator Jessiman has said.

Honourable senators, the amendment I propose in speaking now at third reading was suggested to us by Mr. Michael Day, a family law practitioner from Mississauga just outside of Toronto. He advanced the notion that the Divorce Act should be amended in its subsection 15(6) to be consistent with the provincial family law acts, particularly the Family Law Act of Ontario, which had been the flagship family law act. Most family law acts in Canada pattern themselves after it.

The Family Law Reform Act of Ontario, as it was then called, was passed in 1978 by then Attorney General Roy McMurtry, now Chief Justice of Ontario. At the time, this legislation was the most advanced and the most brilliant initiative of the era, upholding equality of men and women in the law.

The current Family Law Act subsection 33(10) states:

> The obligation to provide support for a spouse exists without regard to the conduct of either spouse, but the court may in determining the amount of support have regard to a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship.

The Divorce Act 1985, section 15(6), states:

> In making an order under this section, the court shall not take into consideration any misconduct of a spouse in relation to the marriage.

• (1610)

The same spousal conduct clause is before us in Bill C-41, at clause 15.2(5) on page 6, and reads as follows:

> In making an order under subsection (1) or an interim order under (2), the court shall not take into consideration any misconduct of a spouse in relation to the marriage.

This clause, then, is very clearly before the Senate.

During our committee hearing on January 25, 1997, Mr. Michael Day proposed that the Divorce Act be harmonized with the Family Law Act of Ontario. Mr. Day cited much case law and described the terrible case of his client, Mr. Toby Mutka, whose wife drove a butcher's knife six inches into his chest and yet Mr. Mutka is compelled to continue to pay spousal support to her of $1,500 per month. This is not unusual, honourable senators.

Mr. Day told our committee:

> Mr. Mutka alleged, among other matters, that his wife bullied him throughout the marriage and, on one occasion, butt her cigarette out on his person in an argument. His wife denied this treatment with unconfirmed general denials.
>
> What was not in dispute was one particular event where my client was, while sleeping and without provocation, attacked by his wife with a butcher knife. The knife was plunged six inches into his chest. He was rushed to hospital and through the efforts of the doctors who treated him, his life was saved.
>
> The wife was charged under the Criminal Code with attempted murder. She retained the services of Mr. Greenspan, and at a preliminary stage in the criminal proceedings, was discharged because she was determined by the court that tried the issue not to be mentally competent and able to stand trial. The matter within the criminal courts never proceeded beyond that point.

Mr. Day continued:

> My client commenced a divorce proceeding on the basis that the marriage had broken down. His wife counter-petitioned for support and the matter was argued in the Ontario Court General Division in Brampton in November, 1995. The Honourable Mr. Justice McKay, who heard the interlocutory proceedings within the divorce, ordered that my client was to pay spousal support on an interim basis in the amount of $1,500 per month.
>
> I argued, unsuccessfully, that it was not fair that a support order be made under the circumstance that were presented to the court. I argued, unsuccessfully, that it was not fit or just that my client be ordered to pay support to his attacker.

Mr. Day continued:

> Justice McKay, who is a well respected, well known and knowledgeable jurist, held that the Divorce Act, as it stood at the time, was clear that conduct — or misconduct, more accurately — of spouses within a marriage was irrelevant and was not a consideration that he could take into account in making his decision to order spousal support.
>
> My client is still under psychological and psychiatric care. He still suffers from the problems he says he experienced within the marriage and as a result of the attack. The support order that was made in the divorce proceeding only magnified his suffering. Mrs. M is now living on her own, fully functional within the community, and is still receiving support from my client.

Mr. Day proposed an amendment which I am pleased to move here today to amend clause 15.2(5) of Bill C-41 to reflect subsection 33(10) of the Family Law Act of Ontario, 1990 therein to include in the Divorce Act the issue of unconscionable conduct between spouses for the courts' consideration.

Honourable senators, Mr. Michael Day continued in his testimony, and brilliantly described the case law and outlined many of the cases involved. He also described the prejudices involved. He informed us that if one spouse tries to kill another, whether because of mental illness or malice, that the court should be able to consider and decide whether such murderous aggression constitutes an obvious and gross repudiation of the marriage, and consequently it should be considered in respect of support obligations and entitlements.

Mr. Day argued that the common law process of *stare decisis* can determine what is or is not "an obvious and gross repudiation of a relationship." He proposed that we amend the Divorce Act by way of Bill C-41, which is before us today to replicate and therefore reflect subsection 33(10) of the Family Law Act of Ontario 1990. This is important since the Divorce Act has constitutional pre-eminence over the provincial statutes. It is important that the Divorce Act reflect and basically maintain its superiority over the provincial legislation.

Mr. Day's request that the Senate amend Bill C-41 is based on the public policy principle that the Divorce Act should not countenance spousal assault, attempted spousal murders or violence, particularly of the homicidal variety. The Divorce Act, as public policy, must assert that violence in the family is inconsistent with society's best interests.

In describing the case law, Mr. Day informed our Senate committee that the violated spouse must come to the courts with clean hands. To support this, Mr. Day referred senators to certain principles from the case law which the courts must consider in determining exceptional spousal misconduct, quantum and support obligations and entitlements. These principles include, but are not limited to, the principle that the conduct in question must be exceptionally bad and offensive to social standards, and also the principle that the offensive conduct has persisted or occurred in the face of innocence and virtual blamelessness on the part of the other spouse, the violated spouse.

Honourable senators, I have several cases in my files of such behaviour. I would say, in defence of the old way of looking at life, that originally when legislators — and I was in on some of these discussions many years ago — removed conduct and misconduct from the divorce law, they were looking at moral behaviour. The consideration then was whether or not one spouse would say that he smiled at her this way, or they fornicated, or whatever. At that time, no one had full knowledge of the depth and extent of domestic violence. I submit to you that, even today, we do not really have a full understanding of the depth or extent of domestic violence.

I want to put on the record some academic studies in the area of domestic violence. I will cite Dr. Murray Straus, of the University of New Hampshire, who is the godfather of research on domestic violence. He began the study of domestic violence so many years ago. I should like to share with senators the fact that he and other American scholars inform us that general population research examining domestic violence reveals that there is no statistical difference in the rates of violence perpetrated by men and women against each other, and against their children.

• (1620)

Recently, in a speech in Toronto entitled "Corporal Punishment By Parents: Violence By Siblings: Violence By Wives and Mothers," Dr. Straus explained that "women hit just as often, and start it just as often as men do." The results are frequently different, and the injuries that men deliver are usually worse.

Dr. Straus reveals the same in his article entitled, "Physical Assaults by Wives: A Major Social Problem." He and Dr. Richard Gelles and Dr. Susan Steinmetz, who are all eminent Americans scholars, conducted the U.S. National Family Violence Survey. That was a general population survey. I quote Dr. Straus:

> Of the 495 couples in the 1985 National Family Violence Survey for whom one or more assaultive incidents were reported by a woman respondent, the husband was the only violent partner in 25.9% of the cases, the wife was the only one to be violent in 25.5% of the cases, and both were violent in 48.6% of the cases.

All the research shows a mutuality of violence. This is a very important point. I am taking the opportunity to put this data on the record. In addition, the mutuality or the reciprocity of violence has been confirmed by Canadian scholars, and I would refer honourable senators to the work of researchers such as Dr. Reena Sommer, Dr. Merlin Brinkerhoff, Dr. Eugen Lupri and others.

Honourable senators, having said that, I shall move quickly to my next amendment, which deals with passports and their denial.

Honourable senators, I should like to make a point that I feel confident that there is no one in this chamber — no senator and no senator's friend — who would ever support parental delinquency. I am also very sensitive to the fact that many are afraid to touch these issues because, in today's era of massive and tyrannical conformity, someone, God forbid, might accuse one of supporting a deadbeat dad. Well, deadbeat dads and deadbeat mothers are usually just deadbeats, period. I do not know anyone here who would support any of them.

I ask senators to look at the civil liberties and human rights issues contained in the phenomenon of this government using royal prerogative to withdraw passports, because I take the position that once governments begin to take passports, God knows where it will end.

Honourable senators, I ask you to focus again on Bill C-41, clause 22, which deals with Part III, section 62 of the Family Orders and Agreements Enforcement Assistance Act, which authorizes the minister to suspend the passports of persons described as debtors. It describes a debtor as "a person who is in arrears under a support order or a support provision."

Our Social Affairs Committee, considering Bill C-41, was informed, as was the entire country, that this penalty of denying passports is necessary as a matter of social and public policy to meet the problem of delinquent parents who fail to make support payments. My concern here, honourable senators, is the enlisting of the royal prerogative in Bill C-41 and its deployment to undermine Canadian citizenship. I sincerely believe that once this door is opened, and suspending passports becomes a practice, governments will soon find other equally compelling reasons to suspend the passports of Canadian citizens. The procedures to refuse or revoke passports are found in an Order in Council, PC 1472 of June, 1981, entitled, "Canadian Passport Order", and is administered by the Passport Office of the Ministry of Foreign Affairs. Sections 9 and 10 of the Canadian Passport Order set out the grounds for refusal and revocation of a passport.

Honourable senators, on January 29, 1997, at our Social Affairs Committee hearing, Mr. Jocelyn Francoeur, Director, Security and Foreign Operations Division of the Ministry of Foreign Affairs appeared as a witness. I ask honourable senators to note that passports are administered by the Department of Foreign Affairs, but here we have a bill which is bringing such a matter into the purview of the Minister of Justice and the provincial governments, but I will come back to that.

The Hon. the Speaker: Honourable Senator Cools, I regret to have to interrupt you but your speaking time has expired.

Some Hon. Senators: Continue.

The Hon. the Speaker: Senator Jessiman and Senator Losier-Cool each had 45 minutes because they were sponsor and first speaker, but other than that, the standard rule of 15 minutes applies. However, is there agreement that Senator Cools be allowed to continue?

Hon. Senators: Agreed.

Senator Cools: Thank you very much, honourable senators.

On January 28, Mr. Jocelyn Francoeur from the Ministry of Foreign Affairs, told our committee:

> Throughout the years, the policy of the Passport Office, as reflected in the legal framework I just mentioned, has been tailored to meet a specific objective, that is, to enhance and protect the reliability and integrity of the Canadian passport as an internationally respected travel document. This is achieved by observance of high standards both in terms of entitlement determination and on the research and development front, or what I have labelled the "passport recipe."

I repeat: Passport Office policy of Canada has been tailored to enhance and protect the reliability and integrity of the Canadian passport.

He also told us:

> The Passport Office has always relied upon Parliament and the Royal Prerogative to determine the rules of entitlement.

He continued, in reference to Bill C-41:

> It is important to note that the Passport Office will have no say in determining the appropriateness of denying passport services to a person in arrears under a support order. All licensed denial applications will be initiated by provincial enforcement services and addressed to the Department of Justice, the federal co-ordinator for all federal licences considered in the scheme. Only then will that department inform us of the receipt of the application.

I hope honourable senators are comprehending what this gentleman told us. I will not read it again, but the gentleman told us that the Foreign Affairs ministry, which is the ministry of Canada that looks after passports, will have a very slight role, and we are told that provincial enforcement services, through the Minister of Justice, will be dominant. That is extraordinary.

Honourable senators, it is most curious that this measure in Bill C-41 not only invokes the royal prerogative powers, but also brings the Ministry of Foreign Affairs under the purview of the Ministry of Justice, which then brings both ministries, Justice and Foreign Affairs, under the purview and influence of provincial governments. That does not seem to bother many people. At first when I raised it, people laughed and asked, "Are you supporting those deadbeat dads?" This passport issue concerns every Canadian citizen — every single Canadian citizen.

Honourable senators, I find this mechanical manipulation of the machinery of government objectionable. That is what we are talking about here. I would think that Parliament should also find it objectionable.

• (1630)

A great constitutional lawyer, O. Hood Phillips, in his famous 1987 book *Constitutional and Administrative Law*, 7th edition, in the chapter entitled "The Prerogative in Foreign Affairs", wrote about passports and royal prerogative. This is a British reference. He said:

> The Secretary of State has a discretion to grant, refuse, impound or revoke passports, which remain Crown property. A passport was defined by Lord Alverstone C.J. in *R. v. Brailsford* as "a document issued in the name of the Sovereign on the responsibility of a Minister of the Crown to a named individual, intended to be presented to the governments of foreign nations and to be used for that individual's protection as a British subject in foreign countries."

Mr. Hood Phillips continued:

> It contains a request in the name of Her Majesty to allow the bearer to pass freely, and to afford him such assistance and protection as may be necessary. The Crown has a duty to protect its citizens abroad although this is not legally enforceable. A passport is not legally necessary at common law in order to go abroad, but it is universally used as a certificate of identity and nationality.

I repeat, internationally, a passport is used as a symbol of nationality. I am not dreaming when I talk about citizenship and nationality.

Mr. Hood Phillips also stated, and he goes into some of the rather contentious areas of royal prerogative and discretionary powers, that:

> The alleged prerogative power of the Crown to refuse or impound passports has been described as arbitrary, objectionable and of doubtful legality. Further, the right of establishment in Community Law means that nationals are entitled to identity cards or passports enabling them to leave and re-enter the country freely, subject to public policy, security and health.

Honourable senators, I had hoped that our committee would have paid more attention to this passport issue. I am sensitive to the fear and trembling that many feel lest they be accused of supporting deadbeats. I understand that many are fearful that, in today's current atmosphere of conformity and tyranny to conform, they might be accused of supporting delinquent or negligent parents and may find themselves under enormous attack. However, I know of no senator in this chamber who would support any wilfully delinquent parent, be it mothers or fathers.

Honourable senators, I wish to cite Canada's Charter of Rights and Freedoms, the part entitled *Mobility Rights*. Subsection 6(1) of the Charter states:

> Every citizen of Canada has the right to enter, remain in and leave Canada.

That is the Charter of Rights that our dearly beloved Mr. Pierre Trudeau risked everything to bring into force. I understand that to mean that the right of Canadian citizens to passports and to have freedom of mobility are upheld by this section. Further, on this same issue of mobility rights and the rights of citizenship and nationality, the United Nations, in its Universal Declaration of Human Rights, 1948, Article 13.2, similarly states that:

> Everyone has the right to leave any country, including his own, and to return to his country.

Honourable senators, citizenship, nationality and the rights of citizenship must not be tampered with, undermined or assailed by Parliament for any reason whatsoever. I believe, as do many Liberals, that passport denial, suspension or revocation should be occasioned by and for violations, infractions and crimes in respect of passport abuse and misuse. Let me be quite clear on that. Passport violation should invoke passport penalties. However, this measure of suspending passports for activities unrelated to misuse, abuse or violation of the passport privilege is odious. Further, it is not and has not been the practice in Canadian governance.

Honourable senators, on January 28, 1997, in committee, I put a question to Mr. Francoeur from the Ministry of Foreign Affairs. I was talking to him in general about inmates in prisons and convicted criminals. I said:

> If a person who already has a passport is in prison, do you revoke it?

Mr. Francoeur responded:

> The short answer is no.

I continued:

> We want to know about all of the 10,000 inmates who are currently in jail and whose passports have not been revoked.

Mr. Francoeur's colleague, Mr. Evans Gerard, legal counsel for the Department of Foreign Affairs, joined in this exchange, saying:

> Could I make a contribution? The passport order regarding the grounds to refuse or revoke states that the passport office "may" refuse or may revoke, so there is discretion there. That is as opposed to Bill C-41, which says that if there is a suspension application, we "shall" suspend. We will have no discretion. I just wanted to make that clear.

This is not Senator Anne Cools talking; these are the officials from the Department of Foreign Affairs.

Honourable senators, time is limited. My intention is to bring this very serious problem forward. Karla Homolka, when out of prison — which I hear will be soon — will still have her passport and driver's licence, but so-called debtors will lose theirs. The conclusions are obvious. This measure is odious, draconian and another tool in the already bountiful arsenal of a vengeful spouse.

Honourable senators, that is another concern — the abuse and misuse in the hands of a spouse on either side who just wants to hurt and inflict injury. What a powerful tool to eat away at one's national personhood and one's own nationality!

In closing, before I make my motion, I wish to point out that I used to be on the National Parole Board. I remember that years ago the National Parole Board used to have authority to cause licences, when suspended, to be given back to individuals. At that time, when licences were taken in criminal circumstances, there was an agency of clemency which had some powers. The Parole Act, 1958, stated:

Where the Board suspends or revokes an order made under the Criminal Code prohibiting a person from operating a motor vehicle, the suspension or revocation may be made upon such terms and conditions as the Board considers necessary or desirable.

Obviously, honourable senators, the National Parole Board used to have certain powers. Much of that has been rendered unnecessary in the climate of today's Charter protections because, in the practice of criminal law today, governments do not take away passports in the way that Bill C-41 proposes: in a purely arbirary manner.

MOTIONS IN AMENDMENT

Hon. Anne C. Cools: Having said all of that, honourable senators, I move, seconded by Senator Jessiman:

That the Bill be not now read a third time but that it be amended in clause 2, on page 6, by replacing line 15 with the following:

"marriage, unless the conduct is so unconscionable as to constitute an obvious and gross repudiation of the relationship."

• (1640)

Honourable senators, I move, seconded by the Honourable Senator Robertson:

That the Bill be not now read a third time but that it be amended in clause 22,

(*a*) on page 18, by replacing lines 4 and 5 with the following:

"cate or an authorization of any kind, but does not include a passport within the meaning of sec-";

(*b*) on page 19, by deleting lines 13 to 15;

(*c*) on page 22, by

(i) deleting the title immediately preceding line 36, and

(ii) deleting lines 36 to 46; and

(*d*) on pages 19 to 24, by renumbering sections 67 to 82 as 66 to 80, and any cross-references thereto accordingly.

Honourable senators, this amendment will delete the word "passport" from all the relevant sections. A companion amendment is required to deal with the schedule to Bill C-41. It will take a separate motion.

Therefore, I move, seconded by the Honourable Senator Robertson:

That the Bill be not now read a third time but that it be amended in the Schedule, on page 33, by deleting the title "Canadian Passport Order" and the item "Passport *Passeport*" thereunder.

Honourable senators, I hope my intention here is clear. I had previously said to the government that if they were to leave passport denials in as a penalty for violation of child support orders, then they should leave it in as a penalty for the violation of access orders. In other words, if we are to take it from the gander, then let us take it from the goose.

Upon reflection, I think it would be best to remove the provision from the bill altogether. It should never have been there in the first place. Furthermore, I say with great assurance that that part of the bill does not put a penny into the hands of any custodial parent. That is heartbreaking. I have spoken to a lot of people over the years on this matter. Punitive, coercive action does not bring in another penny to a truly deprived custodial parent.

As Margaret Atwood said, "An eye for an eye does not bring justice, it just brings blindness."

The Hon. the Speaker: Honourable senators, is leave granted to deal with the three amendments at the same time?

Hon. Senators: Agreed.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators. It is understood that there will be one vote only on the three motions in amendment, is that correct?

• (1650)

Hon. Senators: Agreed.

The Hon. the Speaker: Can the Whips advise us as to timing?

Senator Kinsella: There is agreement for a 20-minute bell.

The Hon. the Speaker: We shall vote, therefore, at five minutes after 5:00 p.m.

• (1700)

The Hon. the Speaker: Honourable senators, the question before the Senate is on the amendments by the Honourable Senator Cools. The first, moved by Honourable Senator Cools, seconded by Honourable Senator Jessiman, is:

> That the Bill be not now read a third time but that it be amended in clause 2, on page 6, by replacing line 15 with the following:
>
> "marriage, unless the conduct is so unconscionable as to constitute an obvious and gross repudiation of the relationship."

[*Translation*]

It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Robertson:

> That the Bill be not now read a third time but that it be amended in clause 22,
>
> *(a)* on page 18, by replacing lines 4 and 5 with the following:
>
> "cate or an authorization of any kind, but does not include a passport within the meaning of sec-"
>
> *(b)* on page 19, by deleting lines 13 to 15;
>
> *(c)* on page 22, by
>
> (i) deleting the title immediately preceding line 36, and
>
> (ii) deleting lined 36 to 46; and
>
> *(d)* on pages 19 to 24, by renumbering sections 67 to 82 as 66 to 80, and any cross-references thereto accordingly.

[*English*]

The third amendment is:

> That the Bill be not now read a third time but that it be amended in the Schedule, on page 33, by deleting the title "Canadian Passport Order" and the item "Passport *Passeport*" thereunder.

Motions in amendment by the Honourable Senator Cools negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	MacDonald (*Halifax*)
Cools	Murray
DeWare	Phillips
Doyle	Prud'homme
Grimard	Robertson
Jessiman	Simard
Kinsella	St. Germain
LeBreton	Tkachuk—17.
Lynch-Staunton	

NAYS

THE HONOURABLE SENATORS

Adams	Johnson
Anderson	Landry
Austin	Losier-Cool
Bacon	Maheu
Bosa	Mercier
Bryden	Milne
Carstairs	Pearson
Corbin	Petten
De Bané	Poulin
Fairbairn	Riel
Gigantès	Rizzuto
Grafstein	Robichaud
Graham	Rompkey
Haidasz	Stanbury
Hays	Stewart
Hébert	Watt
Hervieux-Payette	Wood—34.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

• (1710)

The Hon. the Speaker: It was moved by the Honourable Senator Losier-Cool, seconded by the Honourable Senator Mercier, that this bill, as amended, be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Cools: On division.

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

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 CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., 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.—(*Honourable Senator Kinsella*).

The Hon. the Speaker: Honourable senators, I wish to make a brief comment on this item. You will recall that yesterday, when the motion was proposed by the Honourable Senator Murray, I questioned whether it was in order and said I would take the matter under advisement. The Senate then agreed to proceed in any case with leave, with which I do not disagree. However, since I said I would take the matter under advisement, I thought I should at least make a report of what I found.

At the time, there was no question before the Senate. There was no motion. Senator Murray was proposing, in my view, a substantive motion; a substantive motion meaning an independent motion neither incidental to nor relating to a proceeding or Order of the Day already before the Senate.

There was nothing before the Senate per se, so it was a substantive motion. Under our rule 58(1)(*i*), you need one day's notice for the making of a substantive motion. Nevertheless, the Senate agreed to proceed. It is obviously in order, but it is not a precedent for the Senate for the future.

Hon. Lowell Murray: Your Honour, although it is impertinent of me to say so, upon reflection I am sure you are right. I read the rule in haste, and I misunderstood the meaning of "reference of a question to a committee."

The Hon. the Speaker: In view of the fact that this was not a ruling by the Speaker but a comment, I accept your comment. On a ruling, of course, I could not accept any comment.

Hon. Noël A. Kinsella: Honourable senators, I wish to make a few comments today to the substantive matter of the motion by Senator Murray.

First and foremost, it is important that we place this matter in context. The context, as far as the Senate is concerned, is that we have before us a proposal that one of our standing Senate committees examine the Somalia affair in a particular way. Rule 86(1)(*h*) describes for us the mandate of the Senate Committee on Foreign Affairs. Subsection (*iv*) includes defence. It is therefore clear that the Standing Senate Committee on Foreign Affairs is the appropriate committee of the Senate to address this affair, and Senator Murray is, in my judgment, quite correct in directing this question to that committee.

It seems to me that we also need to reflect somewhat on the process that is associated with this motion, in particular, whether it would be an appropriate process for the Senate given the nature of the commission of inquiry, its mandate and the circumstances of recent events surrounding its work, some of which were alluded to by Senator Murray yesterday. It seems to me, honourable senators, that we have had the recent example of the —

The Hon. the Speaker: Could I ask the honourable senators who must have conversations to please have them outside of the chamber so that we can hear the speaker.

Senator Kinsella: Honourable senators, the special committee of this chamber that examined the Pearson airport matter served this chamber and this country extremely well. It is a recent example of a difficult file being examined in detail by a Senate committee. The process of having a Senate committee examine an issue such as the Pearson airport matter or, in this instance, the Somalia affair, as it has become known, seems to me to be proper and, indeed, a good process.

Why should we consider taking on this task? Why should that committee in particular be seized of this matter? The other day I read with interest the report of the United States Department of State on human rights around the world. As honourable senators know, the United States government conducts a report on different countries around the world. The report released on January 30, 1997 by the Bureau of Democracy, Human Rights and Labour of the United States Department of State includes a report on Canada on human rights practices in 1996.

One of the items in that report dealt with respect for the integrity of the person, including freedom from political and other extra-judicial killing. They indicated that a civilian inquiry is continuing into activities of a now-disbanded Canadian military regiment during its 1993 peacekeeping mission in Somalia. The inquiry is reviewing the entire mission, with its current focus on allegations of a cover-up of regiment activities, including the 1993 killing of a Somali teenager in its custody.

• (1720)

Honourable senators, here is a serious report of the United States Department of State speaking to the issue, a serious human rights question of political and other extra-judicial killing. They focused on what we were doing as a remedy because there was an extra-territorial killing and because agents of Canada were involved, and they seem to be lauding the fact that we as Canadians had a special commission of inquiry delving into the matter.

Honourable senators, Senator Murray indicated yesterday that the terms of reference of the Order in Council to the special inquiry touched on three phases: the pre-deployment phase, the deployment phase and the post-deployment phase. It is that third phase of the mandate given to the commission that, it would appear, will not be executed or completed because of the government's decision to bring the Somalia inquiry to a conclusion before they can, in the opinion of the commissioners, complete it.

Senator Murray's motion, which I support, deals with an area of foreign affairs and defence of interest not only to Canadians but to our friends around the world. Not only do Canadians want to see us get to the bottom of this matter, but so do our international friends.

Honourable senators, I raised this matter during Question Period. What concerned me was the sort of unseemly debate, conflict, contrast of view or divergence of opinion between a commission of inquiry made up of justices and chaired by a renowned and immensely respected justice in Canada, on the one hand, and the Government of Canada on the other. I am not making a judgment as to who is right. As we all know, in the matter of the justice process, the appearance that justice is being done and truth is being sought or ascertained is vitally important.

Honourable senators, it seems to me that it will not be satisfactory to Canadians or our friends internationally to have this third phase or any part of the questions that were laid out go unanswered. That is why the Foreign Affairs Committee of the Senate may be the appropriate body to deal with this issue.

Honourable senators, yesterday Justice Létourneau, the chair of the commission, denounced, effectively I thought, the government's decision to muzzle the Somalia inquiry. If you read the verbatim transcript of the press conference the commissioners held yesterday, it has to cause all of us concern, notwithstanding partisanship. We have a justice who has been assigned a responsibility. We often draw from the judiciary justices to lead up these kinds of commissions, and we have a long and noble tradition in this country of always protecting and safeguarding the judiciary and the judges. When judges are drawn into public issues to conduct special inquiries or special commissions, it is important that we maintain the respect and the dignity of those positions they assume.

At his press conference yesterday, Mr. Justice Létourneau disagreed with the arguments of the Minister of National Defence and with the position of the Prime Minister to the effect that the commissioners of the inquiry are free to call anyone they wish. Mr. Justice Létourneau called this "misleading and unfair." Those are his words. I do not know whether he is right or wrong, but that is what has been said.

Certainly, there is growing public uncertainty, and perhaps unhappiness, with what appears to have been the government's attempt to stop the inquiry from shedding light on cover-ups involving, as Senator Murray indicated yesterday, senior officials of the defence department.

Justice Létourneau was asked whether or if the Prime Minister and the Minister of National Defence are deliberately misleading the public with their arguments. He replied, "I do not know." We have to find out whether this is so. Perhaps the Prime Minister and the Minister of National Defence do not understand the fullness of what is happening. I do not know and I do not think anyone in this chamber knows.

Mr. Justice Létourneau then said, in 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, this distinguished jurist, is accusing the government of a cover-up. This is an unheard of accusation. These commissioners are respected and non-partisan people. That they should be driven to say such things has to concern us all. It really is almost beyond belief.

Honourable senators, because of the events of yesterday and the recent past, when the commissioners for the Somalia inquiry expressed their unhappiness with the Prime Minister and the Minister of National Defence over what they feel are erroneous, misleading and unfair statements about the inquiry's work and ability to complete its mandate, we have this uncomfortable situation in which commissioners of an inquiry, from the judiciary, have been forced into this kind of competition or disagreement with the government. We are left to wonder what is behind all this.

Honourable senators, what Senator Murray has proposed is an excellent suggestion. His suggestion is one which, at the end of the day and upon reflection, we will probably find to be a positive contribution to ascertaining the truth and answering the questions of Canadians and our international friends.

On motion of Senator Hébert, debate adjourned.

• (1730)

POST-SECONDARY EDUCATION

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. Mabel M. DeWare, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, pursuant to notice of Tuesday, February 11, 1996, moved:

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

Motion agreed to.

[*Translation*]

FISHERIES

COMMITTEE AUTHORIZED TO EXAMINE AND REPORT UPON THE PRIVATIZATION AND LICENSING OF QUOTAS IN THE INDUSTRY

Hon. Noël A. Kinsella, for Senator Comeau, pursuant to notice of February 12, 1997, moved:

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.

Motion agreed to.

[*English*]

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Monday next, February 17, 1997, at 8 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, February 17, 1997, at 8 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 35th Parliament)
Thursday, February 13, 1997

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to amend the Judges Act	96/03/19	96/03/20	Legal & Constitutional Affairs	96/03/21	none	96/03/26	96/03/28	2/96
C-3	An Act to amend the Canada Labour Code (nuclear undertakings) and to make a related amendment to another Act	96/03/27	96/03/28	Social Affairs, Science & Technology	96/05/01 96/05/15	none none	96/05/08 referred back to Committee 96/05/16	95/05/29	12/96
C-4	An Act to amend the Standards Council of Canada Act	96/06/18	96/06/20	Banking, Trade & Commerce	96/09/24	none	96/09/25	96/10/22	24/96
C-5	An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and the Income Tax Act	96/10/24	96/10/31	Banking, Trade & Commerce	97/02/04	eleven	97/02/13		
C-6	An Act to amend the Yukon Quartz Mining Act and the Yukon Placer Mining Act	96/10/21	96/10/23	Aboriginal Peoples	96/11/05	none	96/11/06	96/11/28	27/96
C-7	An Act to establish the Department of Public Works and to amend and repeal certain Acts	96/03/27	96/03/28	National Finance	96/05/14	none	96/06/12	96/06/20	16/96
C-8	An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof	96/03/19	96/03/21	Legal & Constitutional Affairs	96/06/13	fifteen	96/06/19	96/06/20	19/96
C-9	An Act respecting the Law Commission of Canada	96/03/28	96/04/23	Legal & Constitutional Affairs	96/05/09	none	96/05/14	96/05/29	9/96
C-10	An Act to provide borrowing authority for the fiscal year beginning on April 1, 1996	96/03/26	96/03/27	National Finance	96/03/28	none	96/03/28	96/03/28	3/96
C-11	An Act to establish the Department of Human Resources Development and to amend and repeal certain related Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/15	none	96/05/16	96/05/29	11/96
C-12	An Act respecting employment insurance in Canada	96/05/14	96/05/30	Social Affairs Science & Technology	96/06/13	none	96/06/20	96/06/20	23/96

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-13	An Act to provide for the establishment and operation o fa program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions	96/04/23	96/04/30	Legal & Constitutional Affairs	96/05/28	one	96/05/30	96/06/20	15/96
C-14	An Act to continue the National Transportation Agency as the Canadian Transportation Agency, to consolidate and revise the National Transportation Act, 1987 and the Railway Act and to amend or repeal other Acts as a consequence	96/03/27	96/03/28	Transport & Communications	96/05/08	none	96/05/16	96/05/29	10/96
C-15	An Act to amend, enact and repeal certain laws relating to financial institutions	96/04/24	96/04/30	Banking, Trade & Commerce	96/05/01	none	96/05/02	96/05/29	6/96
C-16	An Act to amend the Contraventions Act and to make consequential amendments to other Acts	96/04/23	96/04/25	Legal & Constitutional Affairs	96/05/02	none	96/05/08	96/05/29	7/96
C-18	An Act to establish the Department of Health and to amend and repeal certain Acts	96/04/24	96/04/30	Social Affairs, Science & Technology	96/05/08	none	96/05/09	96/05/29	8/96
C-19	An Act to implement the Agreement on Internal Trade	96/05/14	96/05/30	Banking, Trade & Commerce	96/06/11	none	96/06/12	96/06/20	17/96
C-20	An Act respecting the commercialization of civil air navigation services	96/06/05	96/06/10	Transport & Communications	96/06/19	one	96/06/19	96/06/20	20/96
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1996	96/03/21	96/03/26	—	—	—	96/03/27	96/03/28	4/96
C-22	An Act granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/03/21	96/03/26	—	—	—	96/03/27	96/03/28	5/96
C-26	An Act respecting the oceans of Canada	96/10/21	96/10/23	Fisheries	96/12/03	none	96/12/04	96/12/18	31/96
C-28	An Act respecting certain agreements concerning the redevelopment and operation of Terminals 1 and 2 at Lester B. Pearson International Airport	96/04/23	96/05/30	Legal & Constitutional Affairs	96/06/10 defeated 96/06/19	seven	defeated 96/06/19		
C–29	An Act to regulate interprovincial trade in and the importation for commercial purposes of certain manganese–based substances	96/12/03	96/12/13	96/12/17 Energy, the Environment and Natural Resources					
C-31	An Act to implement certain provisions of the budget tabled in Parliament on March 6, 1996	96/05/28	96/05/30	National Finance	96/06/13	none	96/06/18	96/06/20	18/96
C-33	An Act to amend the Canadian Human Rights Act	96/05/14	96/05/16	Legal & Constitutional Affairs	96/05/28	none	96/06/05	96/06/20	14/96
C-35	An Act to amend the Canada Labour Code (minimum wage)	96/10/31	96/11/07	Social Affairs, Science & Technology	96/12/04	none	96/12/05	96/12/18	32/96
C-36	An Act to amend the Income Tax Act, the Excise Act, the Excise Tax Act, the Office of the Superintendent of Financial Institutions Act, the Old Age Security Act and the Canada Shipping Act	96/06/18	96/06/19	Banking, Trade & Commerce	96/06/20	none	96/06/20	96/06/20	21/96

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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	96/11/25	96/11/28	Social Affairs, Science & Technology	97/02/12	two	97/02/13		
C-42	An Act to amend the Judges Act and to make consequential amendments to another Act	96/06/18	96/10/02	Legal & Constitutional Affairs	96/10/21	none	96/11/07 (2 amend.)	96/11/28	30/96
C-45	An Act to amend the Criminal Code (judicial review of parole ineligibility) and another Act	96/10/03	96/10/22	Legal & Constitutional Affairs	96/12/05	none	96/12/18	96/12/18	34/96
C-48	An Act to amend the Federal Court Act, the Judges Act and the Tax Court of Canada Act	96/06/18	96/06/20	—	—	—	96/06/20	96/06/20	22/96
C-53	An Act to amend the Prisons and Reformatories Act	97/02/05	97/02/11	Legal & Constitutional Affairs	97/02/13	none			
C-54	An Act to amend the Foreign Extraterritorial Measures Act	96/10/21	96/10/30	Foreign Affairs	96/11/06	none	96/11/07	96/11/28	28/96
C-56	An Act for granting Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/09/24	96/09/26	—	—	—	96/10/01	96/10/22	25/96
C-57	Act to amend the Bell Canada Act	97/02/04	97/02/12	Transport & Communications					
C-60	An Act to establish the Canadian Food Inspection Agency and to repeal and amend other Acts as a consequence	97/02/13							
C-61	An Act to implement the Canada—Israel Free Trade Agreement	96/11/07	96/11/28	Foreign Affairs	96/12/11	none	96/12/12	96/12/18	33/96
C-63	An Act to amend the Canada Elections Act, the Parliament of Canada Act and the Referendum Act	96/11/27	96/12/05	Legal & Constitutional Affairs	96/12/12	none	96/12/18	96/12/18	35/96
C-68	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1997	96/11/25	96/11/27	—	—	—	96/11/28	96/11/28	29/96
C-70	An Act 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	97/02/12							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act respecting a National Organ Donor Week in Canada	96/12/13	96/12/18	Social Affairs, Science & Technology	97/02/04	none	97/02/06		
C-216	An Act to amend the Broadcasting Act (broadcasting policy)	96/09/24	96/12/03	Transport & Communications					
C-243	An Act to amend the Canada Elections Act (reimbursement of election expenses)	96/05/16	96/05/28	Legal & Constitutional Affairs	96/09/26	none	96/10/01	96/10/22	26/96
C-270	An Act to amend the Financial Administration Act (session of Parliament)	96/12/03	96/12/11	National Finance	97/02/13	none			
C-275	An Act to establish the Canadian Association of Former Parliamentarians	96/04/30	96/05/14	Legal & Constitutional Affairs	96/05/16	three	96/05/16	95/05/29	13/96

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-347	An Act to change the names of certain electoral districts	96/11/25	96/11/27	Legal & Constitutional Affairs	96/12/12	three	96/12/12	96/12/18	36/96

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Human Rights Act (Sexual orientation) Sen. Kinsella	96/02/28	96/03/26	Legal & Constitutional Affairs	96/04/23	none	96/04/24		
S-3	An Act to amend the Criminal Code (plea bargaining) (Sen. Cools)	96/02/28	96/05/02	Legal & Constitutional Affairs	96/11/07	Rec.			
S-4	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	96/02/28	96/10/28	Legal & Constitutional Affairs					
S-5	An Act to restrict the manufacture, sale, importation and labelling of tobacco products (Sen. Haidasz, P.C.)	96/03/19	96/03/21	Social Affairs, Science & Technology					
S-6	An Act to amend the Criminal Code (period of ineligibility for parole) (Sen. Cools)	96/03/26		Dropped from Order Paper re: Rule 27(3) 96/11/07					
S-9	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	96/06/13		Dropped from Order Paper re: Rule 27(3) 96/11/06					
S-10	An Act to amend the Criminal Code (criminal organization) (Sen. Roberge)	96/06/18	96/12/10	Legal & Constitutional Affairs					
S-11	An Act to amend the Excise Tax Act (Sen. Di Nino)	96/06/20							
S-12	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	96/11/25							
S-13	An Act to amend the Criminal Code (protection of health care providers) (Sen. Carstairs)	96/11/27							
S-14	An Act to amend the Criminal Code and the Department of Health Act (security of the child) (Sen. Carstairs)	96/12/12							
S-15	An Act to amend An Act to incorporate the Bishop of the Artic of the Church of England in Canada (Sen. Meighen)	97/02/13							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-7	An Act to dissolve the Nipissing and James Bay Railway Company (Sen. Kelleher, P.C.)	96/05/02	96/05/08	Transport & Communications	96/05/15	none	96/05/16	96/10/22	—
S-8	An Act respecting Queen's University at Kingston (Sen. Murray, P.C.)	96/06/06	96/06/10	Legal & Constitutional Affairs	96/06/13	none	96/06/13	96/06/20	—

CONTENTS

Thursday, February 13, 1997

ORDERS OF THE DAY