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OFFICIAL REPORT
(HANSARD)

Thursday, April 17, 1997

THE HONOURABLE EYMARD G. CORBIN
ACTING SPEAKER

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THE SENATE

Thursday, April 17, 1997

The Senate met at 2:00 p.m., the Acting Speaker, Eymard G. Corbin, in the Chair.

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE DR. MARILYN TRENHOLME-COUNSELL

APPOINTMENT AS LIEUTENANT-GOVERNOR OF NEW BRUNSWICK

Hon. Joseph P. Landry: Honourable senators, I wish to salute the appointment of the Honourable Dr. Marilyn Trenholme-Counsell as Lieutenant-Governor of New Brunswick. Dr. Trenholme-Counsell served our area of southeastern New Brunswick very well while a member of the Legislative Assembly for Tantramar and as Minister of State for Family and Community Services. I believe that as Lieutenant-Governor of New Brunswick, Dr. Marilyn Trenholme-Counsell will continue to serve her province and her country with honesty, competence and dignity.

With this nomination, honourable senators, our Prime Minister continues to promote equality of the sexes at all government levels. This noble objective fosters a fairer society and should be applauded by all Canadians.

[*Translation*]

CHARTER OF RIGHTS AND FREEDOMS

FIFTEENTH ANNIVERSARY

Hon. Gérald-A. Beaudoin: Honourable senators, the Canadian Charter of Rights and Freedoms, the only charter enshrined in the Canadian Constitution, came into force 15 years ago today.

The Charter is the most important event since 1867. It is a revolution, from the legal and even from the constitutional point of view.

The debate that preceded the inclusion of the Charter was short, despite its many implications. Some people regret this and do not like the Charter. I am in the other camp. I support this Charter which has enshrined important principles of democracy, freedom and equality in our Constitution.

The Supreme Court has already handed down more than 330 Charter decisions, which is remarkable. Constitutional jurisprudence is growing, and throughout the world, the number of charters has increased, which is encouraging in a century that was torn by two world wars. The Supreme Court has been able to speak out on fundamental freedoms, democratic rights, freedom of mobility, legal guarantees, equality rights and language rights.

A number of key decisions are starting to materialize. Main trends and schools of thought are developing. The court is not always unanimous, which is not surprising since society itself is often divided on important issues. The debate continues, for instance, on freedom of expression, democratic rights and legal guarantees, and equality rights are next. The Charter has become one of the pillars of our democracy.

We are influenced somewhat by the Americans and increasingly by the Europeans, but the Charter maintains its Canadian flavour.

The courts have breathed life into the Charter. They have put flesh on these bones.

Rights and freedoms are not absolute. They can be restricted; when doing so, we must prove the restriction is reasonable in a free and democratic society. The so-called notwithstanding clause remains but is rarely used. Let us hope that will continue to be the case.

One third of the decisions of our highest court concern the Charter. Personally, I am delighted. I do not think this is too much, but I hope decisions will be shorter and more succinct. I think we are going in the right direction. Canadian life has changed, and it has changed for the better.

[*English*]

[Later]

Hon. Stanley Haidasz: Honourable senators, it is indeed a great privilege to mention in this chamber at this time that, 15 years ago, in the precincts of Parliament, our new Constitution was signed by Her Majesty Queen Elizabeth II, Canada's head of state.

I should like to refer in particular to our Canadian Charter of Rights and Freedoms which is about human dignity. Its preamble states:

> Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law...

I am therefore honoured and privileged to rise today to mark its 15th anniversary.

The Charter reflects our unique Canadian identity. It enshrines a balance between citizens and individual rights as well as societal responsibilities and between citizens and governments. It enshrines a balance between the power of Parliaments and the power of the courts. It enshrines a system of checks and balances which safeguard us against the abuse of power. This Charter, I think you will agree, is a milestone in Canadian history and a tribute to our ingenuity as a people. Truly we can all take pride in our Charter, which reflects the soul of our Canadian citizenship.

•(1410)

NATIONAL ABORIGINAL DAY OF PROTEST

Hon. Thérèse Lavoie-Roux: Honourable senators, thank you for allowing me to say a few words on this National Aboriginal Day of Protest.

The place where aboriginal peoples and their institutions can be situated in relation to federal, provincial and territorial jurisdiction is a very important issue. It is one that all senators would agree deserves more attention than it presently gets. The present government needs to know that the place where honour and accommodation between native and non-native Canadians can be achieved is not on top of barricades.

Canadian achievements in the area of native rights have been remarkable. Canadian failures, however, have been disheartening, and a mark on our reputation as a defender of human rights. For over 30 years, the need for a partnership to honour the obligations of history has been a priority: More of a priority for some governments at times, and less for others. It was only in 1960 that the right of First Canadians to vote in federal elections was recognized and affirmed. It is an historic slight of epic proportion that the First Canadians would be the last ones to gain the right to vote. The Right Honourable John G. Diefenbaker righted that wrong.

The government must seek action that achieves healthy, productive and economically secure lives for native peoples while respecting their culture, heritage and tradition. Efforts in this regard must be fair, constructive and result-oriented, and undertaken with the helpful vigilance of the native peoples themselves.

Solutions to complex questions are possible. Putting power at the local level so that community-based solutions can be devised for community-based problems is possible. Efforts are being made in that direction, but they must be accentuated. Consider that, on reserves, students remaining until grade 12 for consecutive years of schooling was at 30.6 per cent in 1984, and 77 per cent in 1993. Let us consider that enrolment in post-secondary institutions for registered Indians has improved from 8,000 in 1984 to 23,000 in 1993.

In spite of this progress, First Nations illiteracy rates range as high as 65 to 75 per cent in some regions. Language use in 69 First Nations communities is declining, endangered or critical. That is a very serious fact. Approximately 283 of the 633 First Nations communities in Canada do not have schools of any kind. In this day and age, this is something that we must talk over and think about.

In 1984, the Canadian government endorsed the following commitment to aboriginal peoples: "They have the right to self-governing institutions that will meet the needs of their communities, subject to the nature, jurisdiction and powers of those institutions, and to the financial arrangements relating thereto being identified and defined through negotiation with the Government of Canada and the provincial governments."

What is the result? Are there practical results? In 1992, the Prime Minister of Canada negotiated agreement between all the provincial governments and major native organizations to formalize our relationship in the highest law of this land, but that tremendous effort failed.

The Hon. the Acting Speaker: Honourable senators, I hesitate to interrupt the Honourable Senator Lavoie-Roux, but her time has elapsed. However, with the permission of the Senate, you may continue.

Is it agreed?

Hon. Senators: Agreed.

Senator Lavoie-Roux: Thank you, honourable senators.

We should be proud of the efforts that past governments have made to formally establish a new partnership with aboriginal people. Given the terrible circumstances of so many of our aboriginal people, we cannot be complacent. We must try again. One would do well to remember what the Right Honourable Robert Stanfield said in Calgary in 1967, that "The leadership within the Indian community, for the most part has been responsible and moderate. Their methods have generally been the peaceful demonstration and the reasoned brief, but if we do not respond to the moderate spokesman of Indian Canada, there is always a danger that they will be displaced by less patient and more militant leaders."

History defines the present. It is not something to set aside in pursuit of better tomorrows. In closing, may I urge the federal government to respond to the many worthwhile recommendations contained in the report of the Royal Commission on Aboriginal Peoples that was released close to one year ago.

[*Translation*]

IN PRAISE OF SUCCINCTNESS

Hon. Philippe Deane Gigantès: Honourable senators, as Montesquieu said:

> A good writer knows what to leave out: enough not to be boring but not so much as to fail to get his idea across.

[*English*]

SMOKERS' RIGHTS

Hon. Consiglio Di Nino: Honourable senators, yesterday we passed Bill C-71. I abstained from voting on that bill, and I should like to tell you why.

In my opinion, forgotten in this debate are the millions of Canadians who use tobacco products, a perfectly legal substance, and at least in the past number of years who have been treated, and continue to be treated, in a disgraceful and insensitive manner. Our colleagues, friends and family members who smoke — whether an occasional social cigarette or many a day — are now treated like parasites.

Smokers are often regarded with more disfavour than some of the worst criminals in our country. We force them to hide while indulging in their habit. We force them to stand in the freezing cold outside of their place of work, where they are more liable to die of pneumonia than of cigarette smoke, because of an oppressive, insensitive, self-righteous, fanatical group of Canadians.

I fully acknowledge the tremendous health risks posed by smoking, particularly cigarette smoking. The evidence is overwhelming. However, I object to the treatment of our colleagues and friends by people like Mr. Gar Mahood — or should I say "Gar the Hood", who suggests guerrilla tactics to hijack the democratic process in order to achieve his ends, however honourable they may be.

The pendulum seems to have swung too far. The balance is out of whack. No one, certainly not I, disagrees with the right to be protected from second-hand smoke. All reasonable steps should be taken to ensure that this protection exists. I do not object to the intent of Bill C-71, but because of the mistreatment of Canadians who use tobacco products, I find it difficult, in all conscience, to applaud this or similar legislation.

The historical rhetoric of the Non-Smokers' Rights Association and their fanatical supporters has resulted in a kind of madness such as the behaviour of many of the City of Toronto councillors. Now smokers in Toronto have been relegated to less than human status — at least in the eyes of many. The tyrannical behaviour of those whose self-righteousness does not allow them to see the other human side of this issue is unacceptable. Smokers are not faceless beings, and we should accord them the same sensitive consideration as those who may be victims of this regrettable habit.

[*Translation*]

Hon. Thérèse Lavoie-Roux: Honourable senators, I was very pleased —

The Hon. the Acting Speaker: Is Honourable Senator Lavoie-Roux attempting to make a second statement?

Senator Lavoie-Roux: Honourable senators, I promise it will be shorter than the first one.

The Hon. the Acting Speaker: Honourable senators, our rules provide that an honourable senator can make only one statement during this period. However, it would be a different matter if there is unanimous consent.

Hon. Senators: Agreed.

INTERGOVERNMENTAL AFFAIRS

LINGUISTIC SCHOOL BOARDS FOR QUEBEC

Hon. Thérèse Lavoie-Roux: Honourable senators, I was very pleased to learn that the National Assembly passed a unanimous resolution, which was to be transmitted — and it may already have been — to the federal government. This resolution asks that section 93 be amended, so as to free Quebec of the obligation to have only denominational school boards, and allow the province to switch to linguistic school boards. This is an issue I have been concerned about at least since 1960, almost 40 years now.

I have always been in favour of linguistic school boards, because they meet people's needs. I was pleased to hear that the Prime Minister said in the House of Commons that hearings would be held. This seems to make a lot more sense than what was done in the case of Newfoundland, in which the Senate had to take the initiative.

I can assure you that this side, to the extent that we discussed the issue, will take part in these hearings in an active and positive fashion. Our primary goal will be to ensure that all interested parties can be heard. However, this is not to say that the Senate should abdicate its obligations as stated in the Constitution.

This is an important issue, and we feel it should not be dealt with so expeditiously as to prevent us from doing a good job. I can assure you that we are prepared to cooperate to ensure that this resolution of the National Assembly is followed up.

[*English*]

ROUTINE PROCEEDINGS

BILL TO AMEND CERTAIN LAWS RELATING TO FINANCIAL INSTITUTIONS

REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, April 17, 1997

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

FOURTEENTH REPORT

Your Committee, to which was referred the Bill C-82, An Act to amend certain laws relating to financial institutions, has examined the said Bill in obedience to its Order of Reference dated Wednesday, April 16, 1997, and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

REFERENDUM ACT

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ON REVIEW OF REGULATIONS PROPOSED BY CHIEF ELECTORAL OFFICER TABLED

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

Thursday, April 17, 1997

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

TWENTY-FIFTH REPORT

Your Committee, to which was referred the Regulations pursuant to subsections 7(6) and (7) of the *Referendum Act*, has, in obedience to the Order of Reference of Tuesday, April 15, 1997, examined the said Regulations and finds them satisfactory.

Respectfully submitted,

SHARON CARSTAIRS
Chair

CRIMINAL CODE

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, April 17, 1997

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

TWENTY-SIXTH REPORT

Your Committee, to which was referred Bill C-27, An Act to amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation), has, in obedience to the Order of Reference of Wednesday, April 16, 1997, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

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

CITIZENSHIP ACT
IMMIGRATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-84, to amend the Citizenship Act and the Immigration Act.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

•(1430)

AGRICULTURAL MARKETING PROGRAMS BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, to establish programs for the marketing of agricultural products, to repeal the Agricultural Products Board Act, the Agricultural Products Cooperative Marketing Act, the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act and to make consequential amendments to other Acts.

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received form the House of Commons with Bill C-46, to amend the Criminal Code (production of records in sexual offence proceedings).

Bill read first time.

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

On motion of Senator Graham, with leave of the Senate and notwithstanding rule 57(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Jean B. Forest: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*a*), I move:

> That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 2:30 p.m. today, April 17, 1997, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

GOODS AND SERVICES TAX

REMOVAL OF TAX FROM READING MATERIALS—PRESENTATION OF PETITION

Hon. Consiglio Di Nino: Honourable senators, on behalf of 345 British Columbians, I have the pleasure to present a petition to the Senate of Canada. It states:

> We, the undersigned, believe that the application of the 7 per cent GST to reading material is unfair and wrong.
>
> Education and literacy are critical to the development of our country. A tax on reading is regressive and hampers Canada's development.
>
> We urge the Senate to adopt Bill S-11, which would free reading of the burden of the GST.

They quote the Prime Minister in their petition, who stated:

> Applying tax to books and periodicals discourages reading...the Liberal Party has passed a resolution calling for the removal of the GST on books and periodicals...and that I will do.

The Prime Minister made that statement on September 19, 1992 in a letter to the Don't Tax Reading Coalition.

I will not read all 345 names on the petition, but I would like to point out that one of the 345 names is Raymond Chan. Obviously, I do not know whether it is the same Raymond Chan who is a junior minister in the other place. One can only hope that at least one member of that government has seen the light and would join thousands, if not millions, of Canadians who have urged the government to remove the GST burden on books.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, as you will know, Senator Fairbairn is not with us today. She is attending the funeral of the late Honourable Muriel McQueen Fergusson. In her absence, I will be happy to take questions as notice.

ABORIGINAL PEOPLES

FULFILMENT OF PRE-ELECTION PROMISES—GOVERNMENT POSITION

Hon. Duncan J. Jessiman: Honourable senators, in their famous Red Book, the Liberals promised that they would build a new partnership with aboriginal peoples that is based on trust, mutual respect and participation in the decision-making process. Given that the federal government has yet to respond to the Report of the Royal Commission on Aboriginal Peoples, and that proposed changes to the Indian Act are being rammed down the throats of aboriginal leaders, I should like to ask the Deputy Leader of the Government to pass on to the Leader of the Government the following question: How is the government keeping this Red Book promise? In the minds of many, it has been broken.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will take the question of the honourable senator as notice.

HUMAN RIGHTS ISSUES—IMPLEMENTATION OF RECOMMENDATIONS OF ROYAL COMMISSION—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I note that the government is reverting to bilateral, constructive dialogue on human rights issues. Does the government agree that the issue of aboriginal peoples in Canada is a human rights issue that needs to be addressed quickly and that a constructive dialogue with aboriginal people is as fruitful and as necessary as it is with the government of China? Surely, such a constructive dialogue should start around the report of the royal commission.

Hon. B. Alasdair Graham (Deputy Leader of the Government): I will also take that question as notice, honourable senators.

CONSULTATION PROCESS ON AMENDMENTS TO INDIAN ACT—REQUEST FOR DETAILS

Hon. Duncan J. Jessiman: Honourable senators, there is evidence that the proposed amendments to the Indian Act have little support among aboriginal peoples. According to the Assembly of First Nations, the amendments were proposed, "without serious consultation and without any formal consent from the First Nations."

In addition, it was reported in the news that about 800 native delegates attending a meeting in Winnipeg in September rejected the minister's proposed amendments. Can the Leader of the Government tell us whether consultations took place with aboriginal peoples concerning the Indian Act?

•(1440)

Could the Leader of the Government explain the consultation process that was carried out by the government? In addition, if the aboriginal peoples were consulted properly, how does the leader account for such opposition to the amendments to the Indian Act?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will also take that question as notice.

[*Translation*]

INTERGOVERNMENTAL AFFAIRS

QUEBEC—AMENDMENT TO SECTION 93 OF CONSTITUTION—APPEARANCE OF JUSTICE EXPERTS BEFORE PARLIAMENTARY COMMITTEE—GOVERNMENT POSITION

Hon. Gérald A. Beaudoin: Honourable senators, the government has decided to hold public hearings on Quebec's resolution respecting the amendment to section 93 of the Constitution. We agree. I understand that the government considers the resolution may be passed bilaterally. I would tend to agree that is possible.

Could the Leader of the Government in the Senate inform us whether the opinion of the Department of Justice on this matter will be tabled in committee?

[*English*]

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will take that question as notice.

THE ENVIRONMENT

ACTION PLAN ON TRANSBORDER AIR POLLUTION—LACK OF NEW TARGETS—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, recently in Washington, the Environment Minister signed an action plan to cut back on transborder air pollution. It was reported in the news that officials had acknowledged that the agreements, which deal with transboundary air pollution, a process to eliminate toxins from the Great Lakes, and the sharing of information on research and development, do not set new targets for either government.

I should like to ask the Leader of the Government in the Senate why no new targets were set, given the fact that U.S. pledges on ozone reduction do not go as far as the Canadian target. Why was Minister Marchi unable to achieve firmer goals?

AIR QUALITY STANDARDS—TREATIES SIGNED WITH UNITED STATES—REQUEST FOR PARTICULARS

Hon. Ethel Cochrane: Honourable senators, I have two supplementary questions, and I will read them now.

I understand that, in March, the Canadian government asked the United States to improve its air quality standards. Currently, U.S. standards are some 50 per cent lower than Canadian standards. What progress has been made in this area by the Americans, and what action is being taken?

Will the Leader of the Government also please provide us with details on all environmental agreements signed in Washington last week, including the agreement protecting endangered species?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will bring those matters to the attention of the Leader of the Government on her return.

Hon. J. Michael Forrestall: Honourable senators, as a mainland Nova Scotian, I would hardly have the nerve to ask a Cape Bretonner to be a messenger boy for me. Suffice it to say he is doing well. We wish him well later in the day.

ABORIGINAL PEOPLES

PROMISE OF COMMISSION FOR RESOLUTION OF LAND CLAIMS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, I have a question for the Leader of the Government through the Deputy Leader. It has been reported in the news that the federal government is extending the $25-million land claims inquiry, which it has ignored for five years now. It was also reported that the government only wants to maintain the claims commission because it has not delivered on a 1993 Red Book promise to create a permanent and independent body. The Liberals promised to create, in cooperation with aboriginal peoples, an independent claims commission to speed up and facilitate the resolution of such claims. Perhaps Senator Graham would ask the Leader of the Government to find out if the government plans to keep this promise made to the aboriginals.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will be happy to bring that to the attention of Senator Fairbairn.

IMPROVEMENT OF LITERACY SKILLS AMONG YOUTH ON RESERVES

Hon. Consiglio Di Nino: Honourable senators, today is a special day for the aboriginal community. It is in that vein that I ask the Deputy Leader of the Government in the Senate to please convey these questions to the appropriate minister and obtain some answers for us.

The government's 1995 action plan, called "Improving Social Security in Canada" no doubt has been forgotten. It is a bit like Canada's aboriginal people, the forgotten people. On page 25 of this forgotten action plan, the government suggested that, "Canada must invest first and foremost in its people." On page 19, it said, "Almost 3 million Canadians have very limited literacy skills. Another 4 million have some difficulty with everyday reading tasks."

Back in 1995, the Minister of Human Resources announced that 16 new programs aimed specifically at 17,500 Indian youth on reserves would start the very next month. Statistics then cited by the minister indicated that 60 per cent of people on reserves were without necessary literacy skills.

Have these programs been implemented? Can the Minister with special responsibility for Literacy — the Leader of the Government in the Senate, whose interest in aboriginal rights is well known — offer this chamber some idea of what has occurred during the 35th Parliament to assist aboriginal people on reserves to obtain the necessary literacy skills?

I also have a supplementary. For many aboriginal communities, the functional language of the community is the aboriginal language. Does your department classify as functionally illiterate those who cannot communicate in their aboriginal language within their own communities? What mechanisms has the Liberal government developed to ensure aboriginal language retention, retrieval and renewal?

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will bring that and other related matters to the attention of the leader when she returns.

PEARSON INTERNATIONAL AIRPORT

COST TO TAXPAYERS OF SETTLEMENT OF LAWSUIT— REQUEST FOR PARTICULARS

Hon. Stanley Haidasz: Honourable senators, I should like to ask the Deputy Leader to ask the Leader of the Government in the Senate to present to this chamber, as soon as possible, the real cost to the people of Canada of the settlement of the Toronto Pearson airport controversy.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I will be happy to do so.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, with respect to those questions on the Order Paper dealing with Airbus, we have been in contact with Parliamentary Returns in the Privy Council Office, the office of the Minister of Justice, and the office of the Solicitor General. The problems we have experienced in obtaining answers to those questions have been brought directly to the attention of the ministers themselves, not just to the members of their respective staffs. We anticipate that answers to those questions will be available early next week, possibly as early as Monday.

With respect to other delayed answers, we have been pursuing them aggressively with all ministers' offices, emphasizing how important it is that the turn-around time be reduced to a minimum. I can only express regret to honourable senators opposite that we have not been more successful to date, but we are hopeful that we will have some very positive evidence of our efforts early next week.

In the meantime, I have a response to a question raised in the Senate on December 12, 1996, by the Honourable Senator Spivak regarding plutonium MOX fuel initiative, and a response to a question raised in the Senate on December 17, 1996, by the Honourable Senator Spivak regarding plutonium MOX fuel initiative. I have a response to a question raised in the Senate on February 12, 1997, by the Honourable Senator Cochrane regarding youth employment initiative, percentage of new funding in total amount announced. I have a response to a question raised in the Senate on February 13, 1997, by the Honourable Senator Gustafson regarding the record of cuts to programs to the agricultural industry.

THE ENVIRONMENT

ATOMIC ENERGY OF CANADA LIMITED—
EXPLORATION OF ALTERNATE METHODS OF FUELING
NUCLEAR POWER PLANTS—GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on December 12, 1996)

Any project involving the supply of MOX fuel to Ontario Hydro would not proceed if its use would result in any additional cost to the Canadian taxpayer. The Russians and Americans have the financial burden of dealing with the disposition of their weapons plutonium that has been declared surplus to their defence needs. The various options being considered are examining the most effective and economic methods for the disposition of this material in a safe and secure manner. The relative costs will eventually play a key role in which option will be chosen. The use of a MOX fuel affords the potential of generating some revenue from the purchaser (the nuclear utilities) to offset the costs of fuel manufacture. The utility will be expected to ensure that any additional costs or risks are taken into account when a fuel supply contract is negotiated. If it is not economic for it to do so, then the exercise will terminate.

Ontario Hydro decided to mothball Bruce A unit 2 because it was faced with surplus capacity. The decision to refurbish was delayed to some future date when increase in demand justified consideration of generation options. If the Bruce mothballed units are restarted, this will be a business decision of Ontario Hydro dependent on the demand for electricity and the economics of doing so and not on the source of fuel, MOX or otherwise.

Large-scale MOX fabrication plants are in operation in Europe for the supply of MOX fuel using plutonium from reprocessed spent fuel from light water reactors using enriched uranium fuel. Europeans have used MOX fuel on a commercial basis for over 20 years.

Canadians will not be subsidizing the operation of any MOX fabrication plant. The MOX fuel would not be manufactured in Canada.

CANDU is the only technology that Canada has available today which will allow it to participate in weapons plutonium reduction programs. Vitrification technology has not advanced as far as the technology of using MOX fuel in a nuclear reactor. An added problem is that the Russians do not accept plutonium vitrification as an equivalent technology to MOX reactor consumption today as the plutonium would retain the original weapons plutonium isotopic and could be readily reused for weapons purposes.

AECL has undertaken research work at the request of the U.S. Department of Energy. All of this work has been done on a commercial basis and at no cost to Canadians. Ontario Hydro, the owner of the Bruce reactors, would be the proponent in the implementation of any MOX fuel project involving its reactors. Many U.S. utilities/reactors have also expressed interest in burning MOX fuel.

NON-PROLIFERATION POLICY ON PLUTONIUM—
ROLE OF VARIOUS GOVERNMENT DEPARTMENTS—
GOVERNMENT POSITION

(Response to question raised by Hon. Mira Spivak on December 17, 1996)

The Canadian government is a strong supporter of efforts to reduce the risk posed by the existence of surplus weapons-grade plutonium and views the MOX fuel program as a means of making a valuable contribution to reduce the risk of theft to rogue states and the proliferation of nuclear weapons.

This initiative is motivated by the potential benefits to non-proliferation and the lead Minister for the Governments interest is the Minister of Foreign Affairs and International Trade. In view of the nuclear safety and domestic aspects affecting our nuclear industry the Minister of Natural Resources is also a key Minister in the Government's consideration of the matter.

YOUTH EMPLOYMENT INITIATIVE

PERCENTAGE OF NEW FUNDING IN TOTAL AMOUNT
ANNOUNCED—GOVERNMENT POSITION

(Response to question raised by Hon. Ethel Cochrane on February 12, 1997).

We recognize that investing in our youth is an investment in the future of our country. That is why we implemented a Youth Employment and Learning Strategy shortly after coming to government.

Through this strategy we were able to:

- help more than 1 million students gain job search skills though the Canada Employment Centres for Students; and
- help almost 240,000 young Canadians through programs such as Youth Services Canada, Student Summer Job Action and Youth Internship Canada.

We appointed a Ministerial Task Force on Youth, and held a National Conference for Youth in the New Economy.

We also increased funding for youth employment initiatives in the 1996 budget by $315 million over 3 years and we have recently announced a Youth Employment Strategy which will help 110,000 youth.

The government's total investment of $2 billion in the Youth Employment Strategy is for the one-year period of 1997-98 and is for some 200 youth-targeted programs and services delivered by a number of Government of Canada departments.

The Department of Human Resources Development Canada has earmarked close to $1 billion for Youth for the 1997-98 fiscal year. This includes $220 million for existing programs (existing budgets), $125 million for the Government's Youth Employment Strategy (new funds), and $643 million for the Canada Student Loans Program (existing budgets).

In 1997-98, $60 million of these new funds will enable an additional 30,000 summer placements to be created this summer.

This is what we have 'started' to do for young Canadians, but we will continue to examine ways of supporting youth so that they can succeed in the future.

THE ECONOMY

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

(Response to question raised by Hon. Leonard J. Gustafson on February 13, 1997)

To best position Canada for the future, this government has made deficit reduction a major objective, to be achieved primarily through spending restraints. Most sectors, including agriculture, have had to share in this effort.

The level of direct support provided to the agricultural sector peaked in 1991-92 at about $3.2 billion when farmers were caught in an international trade war. Direct assistance then fell in 1992-93 to approximately $1.9 billion and continued to fall to reach its current, 1996-97 level of about $675 million.

The farm sector fully understands the implications of the current fiscal situation facing governments, and farmers accept that past levels of government involvement in agriculture could not be continued. Producers want to receive a larger share of their income from the market.

In consultation with producers and provinces, the government has reviewed programs for agriculture to improve their cost-effectiveness and to ensure that they help farmers better manage risks on their own, becoming less dependent on government support. Given the opportunity, farmers do not want subsidies; they want fair markets and decent prices from which they can earn their living.

The government is confident that the new agricultural safety net system it is moving towards, with its emphasis on whole-farm income protection, will fulfill the needs of the farmers while the sector does its share for deficit reduction.

The transportation sector in Canada has undergone significant reform. Transportation subsidies have played a role in the development of our country but more recently they have been an impediment to diversification and value-added activities, particularly in western grain-producing regions. They have led to inefficiencies and higher costs by distorting the decisions of producers and by encouraging the export of raw grain from western Canada rather than the development of livestock and processing industries which would add value to that grain. And they have been, to some extent, in conflict with new world trading rules. In the case of Feed Freight Assistance, local producers found it difficult to compete with the subsidized transport of grain from western and central Canada. Adding the subsidy to locally produced grain would only lead to industry becoming more dependent on the subsidy.

A one-time ex-gratia payment of $1.6 billion was made to owners of prairie land as a result of freight rates subsidies having been eliminated. An interim payment was announced on February 19, 1996 and paid to producers from the beginning of March until the end of June of 1996. A final payment was announced on September 30, 1996 and paid to producers in October 1996. The amount recognizes both the fiscal realities facing the government and the need to be as fair as possible to producers affected by this change. The payment is roughly equal to three or four years of the western grain transportation subsidy. An equivalent program was in place for those affected by the elimination of the Feed Freight Assistance.

The government is confident that the removal of transport subsidies will, over the longer term, benefit the sector by fostering diversification and by encouraging value-added activities.

THE SENATE

The Hon. the Acting Speaker: Honourable senators, before proceeding to Orders of the Day, I should like to remind honourable senators of rule 19(1), in light of the fact that there have been breaches to that rule again today, as well as a number yesterday. The rule reads:

> During any sitting of the Senate.
>
> (1) Neither Senators nor any person authorized to be on the floor of the Senate Chamber while the Senate is sitting shall pass between the Chair and the Table, nor between a Senator who has the floor and the Chair;

ORDERS OF THE DAY

CANADA-CHILE FREE TRADE AGREEMENT IMPLEMENTATION BILL

THIRD READING

Hon. Jerahmiel Grafstein moved third reading of Bill C-81, to implement the Canada-Chile Free Trade Agreement and related agreements.

•(1450)

He said: Honourable senators, a century ago, Sir Wilfrid Laurier modernized his party based on the ideas of Manchester liberalism. What is a Manchester liberal? A Manchester liberal is a liberal who believes that the growth and development of a robust economy depends on liberal freer trade.

Manchester liberalism meant cost-effective products manufactured at home which could compete and penetrate the farthest markets abroad. It also meant lower food costs and prices for workers at home to better enjoy the fruits of their labour.

Winston Churchill left the Conservative Party and became a Liberal at the turn of the century precisely because the Liberal Party was true to its liberal roots. Liberalism then stood for fuller, freer and fairer trade. Liberalism stood against Tory protectionism. This strain of liberalism is alive and well in Canada.

This liberal strain continues to propel Canada's construction of a freer, fairer international trading order based on transparent, consistent and equitable rules. Set up rules based on fair trade and watch Canada compete with any state in the world.

Honourable senators, it has become a truism that bears repetition: Canada is a trading nation. Our statisticians may express differing views in certain areas, but they all agree that at least one out of every three jobs in Canada now depends on trade.

Trade occupies over 40 per cent of our economy, over 40 per cent of our GDP. Canada's trade is three times more per capita than the United States, and two times more per capita than Japan.

Why Chile and why now? After Asia, South America is the fastest growing trade area in the world. After years of chaotic governance, matched by economic instability, runaway deficits and wild inflation, the states of South America are each finally getting their act together.

With Brazil in the lead, the MERCOSUR countries are developing a trade bloc that in size and growth will, by the early part of the next century, rival Europe.

Meanwhile, Canada's trade picture, while rosy with growing surpluses, in reality has become overly dependent on our giant neighbour to the south. Everyone in business knows that relying on one customer, one trading partner, while positive in the short run can only be dangerous in the long run. Ask any supplier who has placed his primary business reliance on one customer — even on wonderfully solid companies such as Eaton's — it is just not good business. It is not good common sense. Moreover, it is unsound economic policy.

It is simply short-sighted for Canada to become overly dependent on one trading partner. One billion dollars a day now crosses our border to the south. All the more reason for every effort to be made to diversify our trading relationships, to diversify trade sources. Trade diversion must become a first and constant priority in our trade policy. That is the organizing idea behind Team Canada. Trade diversity means greater independence in our foreign policy.

With growth second only to Asia, Latin America and the Caribbean present a unique and accessible opportunity to market our goods and services. Canadians are welcomed to South America. To use the local dialect, we bring "gringo" technology and know-how without the burden of "gringo" hang-ups or the "gringo" history of our neighbour to the south. We are respectful and we are respected. We are welcomed and we are not feared or suspected. We are trusted trading partners.

By the year 2000, Latin America and the Caribbean will reach a total population of over 500 million people, of whom over 50 million will be middle- and upper-class households. The region is expected to produce a GDP of $2 trillion U.S. in the near future.

In 1992, Canada's trade surplus was $6 billion. In 1994, our trade surplus was $15 billion. In 1996, our trade surplus was $31 billion, a new record, and $6 billion more than the year before. Yet we cannot rest on this growth, since 80 per cent of our trade depends on one country, and it is growing.

Particularly in recent years, Canada and Chile's relationship has been solid, stable and steadfast. Canada is Chile's second largest foreign investor. Chile boasts a population of over 14 million, with the majority living in 20 principal cities and towns. Since the 1990s, Chile has been recognized as a stable, democratic country with a freely elected government.

While Canada's illiteracy rate hovers between 18 and 37 per cent in certain regions of this country, the illiteracy rate in Chile is below 4 per cent. Chile is renowned for its university education programs, both humanistic and technical.

Chile's social and labour system has been expanded steadily to cover all labour sectors. All workers are covered by a social insurance system maintained by contributions from employers, employees and the state. The social security system was changed in the 1970s to individual savings schemes in which workers invest with private companies.

Chile, with aboriginal minorities and a large multicultural mix, has displayed a high degree of tolerance towards the customs and traditions of its minority groups. Freedom of religion is respected and widely practised. Chile has an independent judiciary and a free press.

Any lover of literature will recall two Chilean Nobel Prize laureates, Gabriella Mistral and Pablo Neruda, who won the Nobel Prize in 1945 and 1971, respectively.

Music has played an important part in Chile's heritage. Classical, folk and dance music are important parts of Chilean society. Hence, cultural, business and political consensus in Chile has propelled Chile up the rungs of quickly developing countries without neglecting her social responsibilities. All in all, Chile is an ideal trading partner for Canada.

Honourable senators, we are delighted to join with Chile in a free trade agreement. Chile has the most stable and fastest growing economy in Latin America. Over the last decade, economic growth in Chile has averaged 7 per cent and more. This agreement will give Canadian companies a comparative advantage over our U.S. and other competitors. Canada, after the U.S., is the largest single investor in Chile, particularly in mining, energy distribution and telecommunications.

Without this free trade agreement, Canadian exporters to Chile would have a competitive disadvantage relative to other exporters from Latin America. However, more important, this agreement is an important bridge to putting Canadian interests on a faster trade track to adjacent Latin American markets. It is Canada's desire that the Canada-Chile bilateral agreement will provide an important bridge to full NAFTA access for Chile. Once again, this will demonstrate Canada's leadership role in a free trade area for all the Americas.

As an interim agreement, the Canada-Chile FTA is modelled on and consistent with many NAFTA provisions which will ensure improved, more secure and preferential access and guarantees for Canadian exporters and investors alike until NAFTA accession becomes a reality.

Honourable senators, this interim agreement is a vital step towards fulfilling Canada's broader trade policy objective of promoting NAFTA as a model for hemispheric trade liberalization throughout the Americas.

Canada's recent exports to Chile have been mining equipment, aluminum vehicles and various machinery. Chile becomes, with its fast-growing middle class, a trade opportunity for Canadian companies specializing in value-added or high technology goods. Equal opportunities will be open for telecommunications, energy, oil, gas, agri-food and fish.

Without this agreement, Canadian exporters would not have been competitive in Chile's own developing trade relations with other South American countries and the U.S. This agreement puts Canadian exporters on an advantageous footing with respect to our American and Latin American competitors alike. This agreement will give Canadian companies a head start into the Chilean marketplace. Not only will the agreement provide Canadian exporters with a considerable advantage over U.S., European and Asian suppliers, our principal competitors, but Canada will be able to compete with Chile's own regional Latin American trading partners.

Again we note and remind senators that the MERCOSUR trading bloc will rival and exceed Europe in growth, moving to the head of the line, and second only behind Asia as the fastest growth area in the world.

Chile's trade has parallel investment opportunities.

Chile has a strong history of commercial law, so that Canada would be inviting other Canadians to participate in a country that respects local rule of law and private commercial law, unlike other growth markets in Asia.

•(1500)

Currently, under the WTO, most of Chile's products enter Canada free of tariffs. Meanwhile, Chile has an 11-per-cent tariff on Canadian goods. This agreement is meant to rebalance tariffs and level the playing field between Canadian goods and Chilean goods. Eighty per cent of all Canadian manufactured goods and resources will now enter Chile duty-free over the next five years. Of our agricultural products, 25 per cent plus will now be tariff free, 50 per cent within five years and the balance over a longer period, but the balance will face no further threat of tariff increases by Chile.

The agreement includes an improved legal regime for Canadian investment, particularly in the mining sector which now totals more than $7 billion. As I said earlier, Canada is Chile's second largest investor. Value-added machinery and equipment relating to the mining sector, purchased in part by Canadian investors in Chile, will be among the goods benefiting greatly from this agreement. In addition, exports of telecommunications, micro-electronics, environmental machinery, as well as glass products are now anticipated to grow.

The agreement also includes the service sector. This will provide Canadian service providers with an open and transparent regime. Enhanced opportunities for Canadian service companies with export interests such as mining, forestry, construction, engineering, housing, education and specialty air services should provide excellent opportunities.

All Canadian firms will benefit from an immediate reduction in the Chilean tariff. The 11-per-cent Chilean tariff will be reduced to zero immediately for certain segments of goods and thus provide a significant head-start tariff preference over most of Canada's competitors.

Honourable senators, this agreement, as I said earlier, will provide duty-free access for Canada's agri-food exports in wheat, lentils, beans, canary seed, barley, maple syrup, seed potatoes and alcoholic beverages. For most agri-food products, they will either be duty free immediately or within five to 10 years. This is good news for Canadians.

In the interim, this agreement guarantees that Canada will maintain a comparable or even better access to the Chilean market vis-à-vis the U.S. and the MERCOSUR countries — which are Argentina, Brazil, Paraguay and Uruguay — for key products.

To assist exporters, tariff schedules will now be posted on the Department of Foreign Affairs and International Trade's website along with the text of this agreement. Rules of origin in the agreement are designed to meet the requirements of producers of both countries. On the whole, they are the same as those in NAFTA and thus will provide an easy adaptation for Canadian export firms.

The major differences between this agreement and NAFTA are that the U.S., Mexican and Canadian inputs are used to determine whether a good qualifies for the preferential NAFTA duties, whereas under the Canada-Chile Free Trade Agreement, only Chilean and Canadian inputs can be used. In order to compensate Canadian firms for the loss of U.S. inputs in certain cases, the rules of origin under this agreement have been liberalized compared to NAFTA to allow for increasing non-originating content, in effect, U.S. content. All this makes it easier and more cost effective for Canadian firms to trade throughout the Americas, North and South.

Honourable senators, let me turn to a problem. MERCOSUR states, led by Brazil, have joined a customs union, while Chile has opted to stay out as a full member. Chile has a bilateral agreement with the MERCOSUR states. Our agreement with Chile gives Canada a presence, a South American platform to export more fully via established and experienced entry ports into the MERCOSUR bloc. All in all, honourable senators, this is a strategic move for Canada into the Latin American market that can only bring short- and long-term benefits for Canada and Chile.

The precise meaning and origin of the word "Chile" is not known. It is believed to be an Inca or Indian word meaning "bird" or "to replicate the sound of a bird." Canada has joined a long trade flight with Chile. It augers to be both an exciting and rewarding experience for both our countries.

Honourable senators, let me say a word about trade and human rights. I believe that constructive trade engagement and rules-based trade spread the use of the rules of private commercial law, which in turn leads to the greater use and acceptance of all rules of law. The rise of the common law, the rise of our civic society and the base of our democracy started with the spread of private commercial law. This is one special, concrete way to advance and enhance democracy at home and abroad. This is one special, concrete way for societies to evolve into civic societies governed by the rule of law.

I commend this bill to all senators who believe in promoting growth and prosperity for all Canadians.

Motion agreed to and bill read third time and passed.

[*Translation*]

CANADA MARINE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Lucie Pépin moved second reading of Bill C-44, an Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

She said: Honourable senators, I am pleased to rise in this house today at second reading to draw your attention to an important bill, Bill C-44, the Canada Marine Act.

Safe, efficient and cost-effective transportation is essential to Canada's prosperity and global competitiveness as a trading nation.

The Canada Marine Act fulfils the promise made by the government to enhance our marine sector and commercialize its operations.

This legislation will make it easier to operate ports and harbours according to business principles. It will enable us to commercialize the operation of the seaway system and ferry services, and to improve the way pilotage authorities operate.

The Canada Marine Act has seven major goals: to promote Canada's competitiveness and trade objectives; to base the marine infrastructure and services on international practices and approaches that are consistent with those of our trading partners; to ensure that marine transportation services are organized to satisfy the needs of users and are available at a reasonable cost; to provide for a high level of safety and environmental protection; to provide a high degree of autonomy in the management of services and facilities; to manage the marine infrastructure in a commercial manner; and to provide for the disposition of certain ports and port facilities.

A new ports policy was required to address the problem posed by the overcapacity and inefficiency of the Canadian system.

The 1995 national marine policy concluded that a complete privatization of Canadian ports and harbours was not desirable. The federal government must focus on ports that are crucial for domestic and international trade as well as on continued access to remote areas. Responsibility for other ports will be transferred to local interests, which will be in a better position to manage them efficiently and to meet local needs.

System users should have more of a say in how ports are operated. Accountability to users and the general public must be transparent and effective.

The new Canada Marine Act provides clear answers in this respect by defining the role of the federal government with regard to ports, providing an equitable, common framework for the commercial ports agency, eliminating the excess port capacity and cutting unnecessary costs.

Ports that are important to national and international trade will operate according to business principles, with less red tape and lower overhead. They will be provided with an organizational framework that will enable them to make business decisions more quickly. The new legislation repeals the Canada Ports Corporation Act and the Public Harbours and Port Facilities Act.

The Canada Marine Act provides for the establishment of Canada port authorities.

•(1510)

The Canada Marine Act will establish Canada port authorities. The majority of the members of the board of directors of each of these port authorities will be appointed in consultation with users of the port. The federal, provincial and municipal governments will each appoint one director. Canada port authorities will be directly responsible for the services formerly provided by the Canada Ports Corporation. The Canada Ports Corporation will be dissolved.

In order to become a CPA, a port must be financially self-sufficient and likely to remain so, be of strategic importance to Canada's trade, have diversified traffic, and be linked to a major rail line or a major highway infrastructure.

A CPA will be incorporated by letters patent for the operation of a particular port. The port authority will be authorized to engage in port activities related to shipping, navigation, transportation of passengers and goods, handling of goods and storage of goods, and activities deemed in the letters patent to be necessary to support port operations.

The relevant provisions of the Canada Business Corporations Act and its regulations will apply. Port authorities may not issue shares. They may be given the management of federal real property, but they may not own this property.

[*English*]

Regarding eliminating excess port capacity, port authorities will have no recourse to the federal treasury to pay off debts, but will remain eligible to benefit from government programs or general application and to receive extraordinary payments, such as disaster relief. Port authority borrowing to support capital investment will be obtained from private sector lenders. The Government of Canada will not guarantee such loans. Each CPA will pay an annual charge to the Crown on a basis which will be included in its letter patent. Surpluses at each port would not be distributed but may be reinvested in the port.

Regarding removing excess costs, fees charged by the port will have to cover costs and be fair and reasonable. A port authority cannot unjustly discriminate among users of the port, but may differentiate in its fees and services on the basis of volume or value of goods or any basis that is generally commercially accepted. This feature, combined with market-driven investment decisions, will encourage continuous cost reduction at our ports.

Regarding accountability, CPAs will be required to abide by strict principles of public accountability. Each board of directors is composed of between 7 and 11 members and will select its own chief executive officer. The majority of each board will be appointed by the federal government after consultation with users. The remaining directors for CPAs will be appointed by the municipality or municipalities adjacent to the facilities. It will also involve provinces and the Government of Canada.

CPA operations will have a high degree of transparency through rigorous disclosure requirements. The following will be mandatory: public annual and quarterly financial reports; public annual audit; public land use plan; annual general meeting open to the public at which directors and senior officers will be available to answer questions; disclosure of remuneration and expenses of board members and details of port operating expenses. This reporting will fall under the Access to Information Act.

Regarding regional local ports, most ports now administrated by Transport Canada are regional. Local ports range from operations that support significant commercial activities to very small facilities with little or no commercial traffic. The intention over a period of six years is to divest as many ports as possible to provincial governments, municipal authorities, communities, organizations, private interests, other groups and, in some cases, other federal departments. Some will be transferred as operating ports. Other sites will be transferred for mixed use. Where port sites primarily serve First Nations, the First Nations are being invited to make proposals for the future management of the port.

The $125-million, six-year, Port Divestiture Fund has been created to support this transition. Any revenue received from divestiture over the transition period will be applied to the implementation costs of the 1995 National Marine Policy. Where divestiture to a new port operation is not possible, the site will be divested for other purposes. Ports can be transferred as operating or non-operating facilities. If a port is to be transferred as a going concern, the local entities must agree to operate the port for a stated period and to submit to a subsequent monitoring period. During this time, should the local entity dispose of the port, the federal Crown is entitled to a share of certain profits realized from the sale. Should the port be transferred as a non-operating facility, it must be sold by public tender for highest and best-use value. The new owners are then free to make use of the property as they see fit.

Divestiture teams have been established in each region, and Transport Canada officials continue to meet with various communities and other groups to explain the National Marine Policy and to outline the procedure involved. So far, the divestiture process has met with a great deal of interest from local community and port users.

As of January 31, 1997, a total of 278 of the 549 harbour and port facilities across Canada were divested to local interests, transferred to other government or federal departments, or de-proclaimed as public harbours. With de-proclamation, the minister no longer appoints a harbour master to exercise direct on-site control over marine traffic in certain defined waters.

As of the same date, 95 letters of intent have been signed with various local interests to start the negotiation process of divestiture.

[*Translation*]

Over the past 10 years, the St. Lawrence Seaway Authority has sought $175 million in parliamentary appropriations for upgrading the Welland Canal.

There are concerns about the competitiveness of the Seaway compared to other shipping routes. Traffic levels from 1994 to 1996 were 20 to 25 per cent higher than they were during the 1991-93 recession. Nevertheless, these figures were only about 65 per cent of the levels recorded between 1977 and 1979.

The Seaway has to compete with rail shipping to the east, and with the highly subsidized southern route via the Mississippi system. Commercialization has, therefore, been seen as the best way of cutting expenses, improving cost-effectiveness and enhancing competitiveness.

The clauses in the Canada Marine Act that refer to commercialization authorize the Minister of Transport to enter into agreements with a not-for-profit corporation or any other corporation for the operation and maintenance of the Seaway, in whole or in part.

•(1520)

The present Seaway Authority is required to turn over assets as the minister sees fit. The St. Lawrence Seaway Authority will be dissolved at an appropriate date.

Any entity which has entered into an agreement with the minister with a view to operating the Seaway must exhibit a high degree of transparency through public annual meetings and public financial statements. Special audits will be carried out at least once every five years.

On July 15, 1996, the Minister of Transport signed a declaration of intent with the Seaway users group made up of the major users of the system. Although there is no definite deal, agreement has been reached on the main thrust and activities will be terminated by July 1, 1997 at the earliest.

The government will continue to own the facilities, and to be responsible for renewing the various assets during the period stipulated. It will cover operating losses under certain scenarios essentially due to abnormally low traffic levels.

It is in the interest of users, who bear the costs of the system, to see that it is managed and operated in a cost-effective manner. If they become the operators, it can be expected that productivity will rise rapidly and expenditures drop just as quickly. Users will also benefit from a certain continuity in toll levels, instead of living with the threat of a sharp rise in future.

The Pilotage Act set out four regional authorities: Atlantic, Laurentians, Great Lakes and Pacific, responsible for delivering efficient and safe services within the geographical area under their jurisdiction. Each authority is directed by a full-time chairman, who also serves as the chief executive officer, as well as a maximum of six other members. The changes to the Pilotage Act contained in the Canada Maritime Act are minor, but their purpose is to attempt to improve the efficiency and financial stability of the four authorities.

There are eight key improvements:

[*English*]

Allow for the appointment of either a part-time or a full-time chairman, who will be chosen in consultation with the user of the service; make the Great Lakes Pilotage Authority a body corporate deemed to have been established under subsection 3(1) of the Pilotage Act and remove its subsidiary relationship to the St. Lawrence Seaway Authority; allow tariffs to come into force 30 days after publication; stipulate that the Canadian Transportation Agency must review and make a recommendation in respect of any tariff objection within 120 days; forbid the use of appropriation to make certain kinds of payment to the authority; set borrowing limits for the authorities and task the minister to review the continued progress of the authorities on certification, training and licensing of pilots, the designation of compulsory pilotage areas, dispute resolution measures and cost reduction efforts, and report to Parliament on the findings; and mandate the use of final offer arbitration for the resolution of service contract disputes.

[*Translation*]

The changes proposed in the Pilotage Act should afford authorities greater control over financial performance. The denial of parliamentary appropriations and the setting of borrowing limits should impose greater financial accountability on authorities and exert some downward pressure on costs.

[*English*]

The bill allows the authorities to begin collecting the tariff 30 days after notice is published. Should the agency recommend a tariff that is lower than that prescribed by the authority, the difference collected will be refunded with interest.

The denial of parliamentary approbation and the setting of borrowing limits should impose greater financial accountability upon the authority as well as exert some downward pressure on costs. The introduction of final offer arbitration should ensure labour and pilot cost stability and diminish the threat of strike and lockouts.

[*Translation*]

In closing, the 1997 review will encourage interested parties to find ways to quickly resolve current problems.

Bill C-44 establishes a new and desirable balance in the management of our marine institutions and facilities. It is intended to complement other transportation initiatives that the government has taken and constitutes another important element in our overall effort to usher Canada's transportation system into the 21st century in the interest of all Canadians.

On motion of Senator Berntson, for Senator St. Germain, debate adjourned.

[*English*]

CRIMINAL CODE
CORRECTIONS AND CONDITIONAL RELEASE ACT
CRIMINAL RECORDS ACT
PRISONS AND REFORMATORIES ACT
DEPARTMENT OF THE SOLICITOR GENERAL ACT

BILL TO AMEND—SECOND READING

Hon. Wilfred P. Moore moved second reading of Bill C-55, to amend the Criminal Code (high-risk offenders), the Corrections and Conditional Release Act, the Criminal Records Act, the Prisons and Reformatories Act and the Department of the Solicitor General Act.

He said: Honourable senators, I rise today in support of Bill C-55, the high risk offenders' legislation. There is no doubt that this bill is one of the most important legislative measures pursued by the current government in the area of criminal justice. It is at the centre of this government's efforts to identify, prosecute and control the highest-risk offenders, those who present a continuing long-term risk to the Canadian public.

If there is one theme that provides a common thread for all the measures set out in Bill C-55, it is that each of these amendments to the Criminal Code will significantly extend our control over this group of offenders.

I should like to describe the main elements of Bill C-55 so that we are all clear on who is being targeted and how the bill improves the ability of the criminal justice system to obtain long sentences for those offenders.

Let us look at the long-term offender concept. This new sentencing option is at the heart of this package of legislative measures. It is set out in detail in clause 4 of the bill. The Canadian public has told us time and again that their biggest fear is of sexual predators, and paedophiles in particular.

This bill provides a new way of targeting and controlling paedophiles. To start with, the long-term offender procedure will allow a prosecutor to seek a special assessment and special sentencing hearing where someone is convicted of one of a range of specified sexual offences. The offences targeted include sexual interference, invitation to sexual touching, sexual exploitation, exposure, sexual assault, sexual assault with a weapon and aggravated sexual assault. These are the most serious sex crimes that involve children. Of course, the victim may be an adult.

There will also be a kind of residual category contained in the new law which will allow the Crown to seek a long-term offender designation where the offender in question has engaged in serious conduct of a sexual nature in the commission of another offence.

It is important to understand what happens in a long-term offender hearing. As I have said, the Crown can ask for a special assessment when a criminal is convicted of one of these offences. The court will then order that a thorough risk assessment be undertaken, usually by psychiatrists, but hopefully involving other experts, such as psychologists and criminologists.

The purpose of this assessment is to assess the kind and degree of risk posed by the offender. You can be sure that, in the case of sex offenders who have a long pattern of sexual offences, the assessment will come up with a prediction that the offender is high risk and likely to reoffend.

On the basis of this risk assessment, the prosecution can initiate a long-term offender application. At a special hearing constituted for this purpose, evidence will be brought about the level of danger presented by the offender. The Crown will introduce evidence of previous convictions and this pattern of past sex-offending will be directly relevant to the decision made by the court.

On that subject, honourable senators, it is important to realize that paedophiles, those who prey on our children, typically have a long pattern of offending. This offending may not have been serious in the sense of significant physical damage having been done, and in fact these people may not have received long prison sentences in the past. However, the pattern of offending is there nonetheless. It is this pattern which provides the court with the strongest indicator of the likelihood of the offender committing new, even more serious crimes against children.

•(1530)

Of course, a long-term offender designation would be meaningless if the law did not provide for stiff penalties for these repeat offenders. Accordingly, when the judge concludes that the long-term offender designation is justified, he or she will impose a sentence of incarceration of two years or more, whatever imprisonment period seems appropriate for the offence which triggered the long-term offender application. The judge will then issue an order adding up to 10 years of long-term supervision to the first part of the sentence.

I ask my colleagues to consider the impact of such a sentence. For example, an offender might get eight years of prison time for sexual assault. As a long-term offender he might get another 10 years of intensive supervision added on, effectively doubling the period of state control over this offender. The supervision period, moreover, does not begin until the offender has fully served his penitentiary sentence, including any periods of parole.

There are teeth built into this long-term supervision concept. First, this supervision will be undertaken by the National Parole Board and Correctional Services Canada, which can impose very stringent conditions on the offender. These conditions can include reporting regularly to the parole supervisor, refraining from use of alcohol, and undertaking counselling and other relapse prevention programs. If the long-term offender breaches any of these conditions, the parole board will have the power to yank the offender back into custody. If the board then determines that the breach of the long-term supervision conditions is serious enough, it can charge the offender with the newly created offence of breach of long-term supervision order.

I have gone through this procedure in some detail, honourable senators, because I know that there is widespread public concern about paedophiles and the need to put in place effective criminal laws to control them. This is an important new tool for prosecutors, judges and correctional authorities to go after this target group.

I anticipate the criticism here: Why not just lock up the paedophiles and other sex offenders indefinitely? The answer, honourable senators, is that it is not only possible to lock up the most serious sex offenders indefinitely, but under Bill C-55 it will also make it easier for that to happen.

While I am referring to the dangerous offender law contained in Part XXIV of the Criminal Code, I should like to take a moment to talk about this procedure. Basically, it is a procedure that allows a court to sentence a certain class of offenders to indeterminate, that is, indefinite, detention. Aside from life sentences that may be imposed for certain crimes, an indeterminate sentence is the severest form of penalty available in the Criminal Code. Indeed, it is only imposed on persons found to be dangerous offenders.

Before I describe the dangerous offender law, I should like to quickly note the relationship between the dangerous offender law and the new long-term offender measure. The dangerous offender group covers the most dangerous criminals, that is, the offenders who pose the highest risk of reoffending. The long-term offender falls into a slightly less risky category, probably less violent and brutal in his criminal history, but nonetheless dangerous. Therefore, a combination of incarceration and intensive supervision is appropriate. Thus, the prosecution has two weapons available in prosecuting sex offenders. In fact, if we do not get them with the dangerous offender procedure, we might well get them with the long-term offender law.

Part XXIV of the law was enacted 19 years ago. Actually, Canada has had high-risk offender legislation since 1948, when the Criminal Sexual Psychopath Act was passed. It was replaced in 1969 by the Habitual Offender and Dangerous Sexual Offender Acts. However, the credibility of this legislation was undermined when studies revealed that these laws were being used inconsistently, and often targeted nuisance or property offenders rather than high-risk, violent offenders.

The current dangerous offender law fixed those problems, and I am pleased to say that the Supreme Court of Canada has upheld Part XXIV, not only as a legitimate form of sentencing but also as consistent with the Charter of Rights and Freedoms. The court has called it a well-tailored scheme. The purpose of Bill C-55, therefore, is to keep the best of the dangerous offender system and build on it.

It is significant that most American states do not have equivalent dangerous offender laws. I am not aware of any that have adopted the Canadian model. If they had, perhaps they would not need the three-strikes-and-you-are-out laws that have resulted in the state of California spending more funds on public jails than on higher education. "Three strikes" is a crude and unselective form of sentencing. The dangerous offender approach is a much better one. In fact, all provinces have expressed their support for a maximum use of the procedure and, indeed, all provinces support the particular amendments contained in Bill C-55.

This bill introduces several improvements to Part XXIV. Currently, when someone is convicted of a serious personal injury offence, the prosecution makes a dangerous offender application. The offender is remanded for psychiatric assessment, and then a hearing is held. This bill will now permit the Crown prosecutor to seek an assessment before deciding whether to proceed with an application. If the assessment concludes that the offender does not present a high risk of reoffending, the Crown may decide not to proceed with an application; or it may choose to go the long-term offender route. This may avoid a number of unnecessary and expensive dangerous offender hearings.

The dangerous offender procedure is all about risk — risk assessment, risk prediction and risk management. In fact, strategic risk management is the idea that informs this whole high-risk offender package. This bill puts the criminal justice system in a better position to identify risk, determine the scope and structure the sentence appropriately.

A dangerous offender finding carries an indeterminate sentence. Under the current law, the judge can impose a fixed limited sentence on the offender in exceptional circumstances. This has only happened a few times out of approximately 186 dangerous offender cases. Bill C-55 will make an indeterminate sentence the only possible one. Some may criticize this as an example of mandatory minimum sentencing, whereby the court loses its discretionary authority to impose an appropriate sentence. However, the case law in this matter makes it clear that the court is required to determine as best it can how long the danger will persist. Is it a short-term risk or an ongoing, uncertain risk? If the risk is at the level that would normally justify a fixed sentence, then I suggest that the court should not find the offender to be a dangerous offender at all, and should either find him to be a long-term offender or simply impose the regular sentence for the offence. If the risk is ongoing, the indeterminate sentence is the right one.

A recent study by the Solicitor General of Canada revealed that 92 per cent of successful dangerous offender applications involved serious sex offences. There is no doubt, therefore, that this procedure is effectively getting at sex crimes. With the new long-term offender sentencing option, there will now be two available strategies for obtaining extended control over sex offenders.

There is a third component of Bill C-55 that I would commend to my colleagues. That is the new judicial restraint order which the government proposes to add to the Criminal Code as section 810.2.

•(1540)

As we know, Canadian law has always contained provisions for peace bonds. In fact, the peace bond concept was accepted in common law even before the first Criminal Code. The idea is simple enough. When a person makes threats or shows by his conduct that he might disturb the peace, the court is justified in imposing a restraining order on him; an order which, quite simply, tells him to conduct himself in the same way that all citizens are expected to do.

There are numerous forms of peace bonds in the civil and criminal law. The Criminal Code already contains a special form of restraining order in section 810.1, which allows the court to impose conditions on someone who clearly presents a risk of committing a sex offence against persons who are under the age of 14. This new judicial restraint order in proposed section 810.2 is quite similar in form. Any person who has reasonable grounds to fear that an individual will commit a serious personal-injury offence can seek an order from the court with conditions attached to the order. The government believes that this order is consistent in its form and purpose with existing peace bonds, and that sufficient protections of the defendant's rights are included. For example, the approval of the Attorney General of the province must be obtained before an application for a judicial restraint order can proceed. This will help screen out any frivolous applications.

Critics have been attacking proposed section 810.2 because it could be applied to someone who has not committed an offence, and objections have been raised to the idea of imposing limitations on the person's conduct. I remind honourable senators that for a long time the Criminal Code has contained a general peace bond provision that talks about having reasonable grounds to fear that someone will cause personal injury to someone else. I am not aware that that law has been abused by police or prosecutors. The concept of the proposed section 810.2 is similar and, indeed, uses similar wording.

We are only talking about applying these restraining orders when it is clearly established before a court that there is a substantial risk of the individual committing a serious personal-injury offence. In a democracy, we must guard against abuses of power, but section 810.1 and proposed section 810.2 contain procedural protections for the rights of the individual. Not just anyone can bring an application for this restraining order. There must be a full hearing before a judge, and the courts have not had any trouble in the past in deciding what are reasonable grounds.

A restraining order of this nature does not constitute a criminal offence, nor does the individual have a criminal record because of it. Certainly, we must be careful in imposing any order on a free citizen that will affect a person's liberty. Protection of society may justify limited preventive measures. In a recent peace bond case, a judge of the Ontario Court, General Division, said the following:

> The existence of a recognizance is no penalty or burden for the respondent to bear, simply because he is only binding himself to do what all law-abiding citizens are required to do.

All peace bonds operate on a basic premise. They are orders to keep the peace and be of good behaviour. The proposed section 810.2 can be seen as a preventive measure. It does not restrict the freedom of movement of the individual. Yes, conditions can be imposed and may include a requirement that the individual report to police or a correctional authority, but these types of conditions need not inhibit the normal lifestyle of the individual.

We have all noted the controversy that surrounded the part of the original bill that provided for electronic monitoring controls to be imposed in connection with a judicial restraint order. The fear was that current technology really only allows a kind of house arrest to be applied, which would confine an individual to his home. This was viewed by some as particularly excessive when applied in the peace bond context to persons who may not have been convicted, or who are not currently serving any criminal sentence. Numerous organizations, including the Canadian Bar Association, and the Canadian Civil Liberties Association, publicly opposed this aspect of Bill C-55 as originally tabled.

It is to the credit of the government that it has dropped the references to electronic monitoring in the amended Bill C-55 that we have before us today. However, the technology is evolving, and in the future — perhaps the near future — we may see technology and programs on the market that will allow the application of less intrusive, more precise and subtle forms of monitoring. For the moment, I suggest that the judicial restraint order as contained in Bill C-55 constitutes a well-structured crime prevention measure.

Honourable senators, I should now like to turn my attention to initiatives which also contribute to the long term protection of Canadians but which target low-risk offenders. We heard in the 1996 Speech from the Throne that the government will focus corrections resources on high-risk offenders while increasing efforts to lower the number of young people who come into contact with the justice system. The government will develop innovative alternatives to incarceration for low-risk offenders.

It is important that we take a balanced approach to public safety, one that underscores the need for strong action to deal with high-risk and violent offenders who pose an immediate and continuing threat to the public, but one that also recognizes the need for crime prevention and rehabilitative measures to intervene early, and divert minor offenders away from crime. The key to this balanced and comprehensive approach is the effective differentiation between high-risk and low-risk offenders, and the development of strategies appropriate for each group.

For some offenders and some offences, prison is the only appropriate sanction. For the smaller number of offenders, a very long period of incarceration may be our only viable alternative. Society has the right to be protected, and Canadians have the right to be safe, but we need to be clear about whom we want and need most to be protected from, and how we can most efficiently ensure that protection. We should avoid what we are seeing in some countries, where prison has become the response of first choice to crime of almost all types.

Bill C-55 proposes a new form of day parole release for non-violent, low-risk offenders. This release has been called accelerated day parole and targets first-time, low-risk, non-violent offenders. There has been widespread support for this proposal. I think it would be helpful to clarify just what we mean by the term "low-risk offender."

Two criteria are involved in someone being designated a low-risk offender. The first criterion is that the offender has not committed a crime involving personal violence. Violent offences include murder, sexual assault, manslaughter and kidnapping, among others. A non-violent offence is usually a property offence that does not include violence against another person. Fraud, for example, is a non-violent offence. The second criterion is that the offender must be assessed as posing a low risk of reoffending in a violent manner.

I would like to point out that a number of assessments are used around the world to assess risk, but Canada is considered to be a world leader in the area of research and the techniques used to assess and manage that risk.

Some of the factors used to determine the risk that an offender may pose upon release into the community include the criminal history of the offender, the nature of the current offence, the social history of the offender, the substance abuse history, sexual deviancy, criminal attitudes, and numerous other factors. All of these factors are analyzed alone, and in relation to each other, to establish the offender's risk of reoffending in a violent manner and to establish which factors need to be addressed in order to reduce and manage that risk. This type of assessment is ongoing, and reviewed regularly for those offenders under federal jurisdiction. All correctional decisions, particularly release decisions, take into account the risk level of the offender.

•(1550)

Honourable senators, I ask you to consider the impact that this bill may have in enabling police, prosecutors, courts and the correctional system to do their jobs. These proposed amendments focus on the worst offenders in our society. We need these improvements in the Criminal Code so that we can begin to obtain the sentences needed to control the risk posed by violent offenders, sexual offenders in particular, and so that we can better target "lower-risk offenders", thereby providing a more balanced approach to public safety.

Hon. Duncan J. Jessiman: Honourable senators, I commend Senator Moore on his scholarly report on Bill C-55. I, too, wish to speak on Bill C-52, to amend the Criminal Code respecting high-risk offenders, the Corrections and Conditional Release Act, the Criminal Records Act, the Prisons and Reformatories Act and the Department of the Solicitor General Act.

The government says that passage of this bill will strengthen the sentencing and correctional regime since it will apply to those who present a high risk of violent reoffending. On December 3, 1996, the Minister of Justice, the Honourable Allan Rock, appearing before the Standing Committee on Justice and Legal Affairs of the House of Commons, stated:

> There are four essential elements to the existing bill...
>
> The first proposes improvements to the existing dangerous offender procedure.
>
> The second proposes the creation of a new long-term offender category.
>
> The third introduces a new basis on which judicial restraint can be imposed on those who may commit a serious violent offence
>
> The fourth proposes changes to the Corrections and Conditional Release Act to deal more sensibly with low-risk offenders.

A simpler bill, although not identical, was tabled by the Progressive Conservative government in May of 1993 but was never introduced into the house as a result of the election call in late August of that year. This Liberal government has sat on this issue for three years. It now chooses to act, I suggest, only as an election is about to be called. The Liberals say this act now fulfils its commitment made in the Red Book as well as in the Speech from the Throne.

Honourable senators, this act does not change what one must establish to determine that a person is a dangerous offender. The offender would have to be convicted of what is called a "serious personal-injury offence," which includes indictable offences punishable by 10 years or more, that involves conduct likely to endanger the life or safety of others or likely to inflict severe psychological damage. Sexual assaults also qualify.

Those convicted of a serious personal injury offence must constitute "a threat to the life, safety or physical or mental well-being of others" to be declared a dangerous offender.

Those convicted of serious sexual assaults must have shown a failure to control their sexual impulses and a likelihood of causing "injury, pain or other evil" to others in the future.

At present, the law provides that the application for a dangerous offender finding must be made at the trial before sentencing. This new law will allow an application to be made up to six months after sentencing. To make such application after sentencing, however, the prosecutor must first give notice at the trial that he or she expects to make such application within the said six months, and, second, must prove at the time the application is made that the necessary evidence to convict as a dangerous offender was not available to the prosecutor at the time of the trial, nor could he or she have found out such evidence, having made a reasonable search to try to do so.

Some would argue that this provision may offend section 11(a) of the Canadian Charter of Rights and Freedoms, which reads as follows:

> 11. Any person charged with an offence has the right
>
> (*a*) to be informed without unreasonable delay of the specific offence;

Others, however, have expressed the view that because of the two conditions imposed upon the prosecutor, namely, of giving notice at trial, and having to prove the evidence was not available and could not, with reasonable searching, have been found out, this section should survive a Charter challenge.

The present law provides that a court may order, in the case of a dangerous offender finding, either a fixed or indeterminate sentence, as Senator Moore explained. Of the 183 dangerous offenders designated between 1977 and June of 1996, only seven received fixed-term sentences, while the remainder received indeterminate sentences. Under this new law, the court will not have the discretion in sentencing and will be obliged to order an indeterminate sentence.

The proposed clause 753.1(1) introduces the new category of "long-term offender." To be convicted as a "long-term offender," the court must find the offence was one that in the ordinary course would have resulted in a sentence of two or more years, and that the offender posed a substantial risk of reoffending.

Section 753.1(2) states that the court may find an offender to be a long-term offender where the offender has been convicted of any number of listed sexual offences — Senator Moore related all of them — and his or her behaviour has also shown a likelihood of causing death or injury, or inflicting severe psychological damage, or whose conduct in any sexual matter has shown a likelihood of causing injury, pain or other evil to others in the future through similar offences.

The finding of an offender being a long-term offender results in a minimum sentence of two years in prison and a supervision order for a period not exceeding 10 years. Supervision orders cannot be made in conjunction with a life sentence, and multiple periods of supervision orders cannot exceed 10 years at any one time. The supervision order is to commence only after incarceration, but non-incarceration sentences are served concurrently with long-term supervision orders.

There is a provision that, upon an application by a member of the National Parole Board, the court could reduce or terminate the period of supervision upon the court being satisfied that the offender no longer presents a substantial risk of reoffending. Whereas two psychiatrists are at present required in respect to a dangerous offender application — one for the Crown and one for the accused — under this bill only one will be considered by the court.

A dangerous offender will not be eligible for parole at the end of three years as provided now. This will be extended to seven years.

A new provision will allow judges to impose certain conditions on persons who pose a risk of committing a serious injury offence. This includes keeping the peace and mandatory counselling. This is intended to apply to persons after they have served their sentences, but it also could apply to those who have never committed any offence whatsoever.

As well, the government is extending the common law use of peace bonds, which have been around from time immemorial but are usually given by consent and relate to certain persons, for example, separated couples agreeing to remain absent from certain locations. As this is really creating an offence before it has happened, a number of experts think this will not withstand a Charter challenge.

•(1600)

There is another part of this act which deals with sentencing reform. It provides the foundation for the provinces and territories to establish alternatives to incarceration for adult, first-time or less-serious offenders. It gives the court more options to distinguish between violent, serious crimes that require jail, and less serious crimes that can be dealt with in the community. It also adds a new type of sentence to the Criminal Code called a "conditional sentence" which will allow more offenders, guilty of less serious crimes, to serve their sentences in the community under appropriate control and supervision.

As Senator Moore said, the Canadian Bar Association made representations to the committee of the House of Commons. I wish to relate some of the things they said with respect to this particular bill.

Professor Michael Jackson, a member of the Committee on Imprisonment and Release of the National Criminal Justice Section of the Canadian Bar Association, appeared. I will quote just some of the things he said, to give you a bit of the flavour. He said:

> We understand that Bill C-55 is an attempt to address issues involving the most serious offenders within the criminal justice system. While we support that endeavour, we are of the view that the proposals contained in the bill in fact do not do justice to the issue and in fact raise considerable problems regarding efficacy and constitutionality.

Preventive detention is an exceptional category of criminal intervention insofar as it focuses primarily upon the fear or risk of future crime rather than the commission of past offences. As such, it raises serious ethical and moral considerations.

Turning now to the particular proposals in Bill C-55 as they deal with the dangerous offender legislation, it is our view that the balance presently drawn by the existing provisions has in fact been reconfigured in a way that runs the risk of threatening constitutionality.

The dangerous offender legislation was subject to constitutional challenge in the case of Lyons. The Supreme Court of Canada, in looking at the existing provisions, said they were carefully tailored and drew the appropriate balance between public protection against those who are truly dangerous and the need to protect against arbitrary application of law, and also to ensure that those people were not detained for longer than their dangerousness required.

The Supreme Court of Canada looked at a variety of both substantive and procedural provisions in the legislation in concluding that it was constitutional. The problem with Bill C-55, from the Canadian Bar Association's perspective, is that it changes the balance. It changes some of those provisions that the Supreme Court of Canada found to be critically integral to the constitutionality of the present scheme.

The first part of Bill C-55 would take away the discretion that presently exists for a judge who has determined that someone is a dangerous offender — a discretion not to impose an indeterminate sentence but instead to impose a definite sentence. Bill C-55 would require a judge, having found someone to meet the criteria of dangerousness, to impose an indefinite life sentence.

The issue, however, is one of proportionality. The present provision allows a judge to tailor the sentence to the offence and there are no compelling reasons for abolishing it. The Canadian Bar Association is of the view that abolishing it changes one of the significant incidences of that careful balance the Supreme Court of Canada looks to in finding the present legislation constitutional.

The second provision in Bill C-55 would change part of the procedure. At the present time at a dangerous offender hearing, evidence is called by the Crown and the defence. Each has the right to nominate a psychiatrist to give evidence regarding dangerousness. Bill C-55 would abolish that requirement. In its place, the bill introduces an over-arching assessment that is viewed as being a neutral one in order to avoid the battle of the experts and to have before the court a neutral assessment, which will hopefully be state of the art, upon which the Crown and the court can place high value in determining the issues of dangerousness.

Again, there are a number of problems with this. In Lyons, the court specifically pointed to the fact that under the existing provisions, both the Crown and the defence have the ability to nominate an expert. In our view, that is a critical provision.

It is the Canadian Bar Association's view that given the issues involved in the dangerous offender application, given the highly contested issues of the reliability of scientific judgments about dangerousness, given the highly contested issues of the balance between the right of the public to protection and the right of an individual not to be detained without justification, the adversary process is in fact the appropriate process.

The third part of the legislation would allow the Crown to bring an application for a dangerous offender within the six months after a person has already been sentenced in a normal criminal proceeding, so long as notice has been given prior to sentence that such an application was made.

The other concern we have is that this provision has serious problems in terms of its constitutionality. It challenges the important concept of finality and also raises serious issues in terms of double jeopardy.

The fourth element of Bill C-55 is one that would shift the present system that allows for a review by the National Parole Board after three years, and then two years thereafter. Bill C-55 would push the threshold of the first parole review to seven years so that someone who is given the indeterminate sentence would have to serve seven years before being given a review.

In actual fact, this would not make much difference in practical terms because to their knowledge no one has been paroled within that seven–year window. However, in looking at the existing provisions, the Supreme Court of Canada placed particular emphasis upon the parole review provisions and it said that absent those provisions it would have grave problems regarding the constitutionality of the dangerous offender legislation.

But, over and above the issue of constitutionality there is the issue of why it is necessary.

Professor Allen Manson a member of the Committee on Imprisonment and Release of the National Criminal Justice Section of the Canadian Bar Association said:

> In general, the Canadian Bar Association is opposed to expanding the net of preventive detention. We already have a dangerous offender regime; we have section 810.1 of the Criminal Code. Surely, that's enough.

Ms Meredith, a Reform Party Member of Parliament from British Columbia, asked Mr. Manson the following:

> Would it be fair to say, after looking at your summary of recommendations, that you feel Bill C-55 should be discarded?

He answered "Yes."

I look forward to having this bill considered by the Standing Senate Committee on Legal and Constitutional Affairs.

Motion agreed to and bill read second time.

Hon. Nicholas W. Taylor: Honourable senators, I want to raise a point of order.

The Hon. the Acting Speaker: You cannot raise a point of order while the Chair is putting a motion.

REFERRED TO COMMITTEE

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

On motion of Senator Hébert, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

•(1610)

POINT OF ORDER

Hon. Nicholas W. Taylor: Honourable senators, on a point of order, I have been noticing for the last while that the Senate refers everything to committee, even the perfunctory bills to which everyone agrees. It seems to take an excessive amount of time.

I have gone through the rules, and the only bills that must be referred to a committee are private members bills. Government bills can skip the committee stage entirely and go to third reading if it is the wish of the house.

Senator Berntson: They would love that.

Senator Taylor: I feel that we are overloading our committees, and some of these bills are fairly straightforward and perfunctory. That is why I should like to move that we go ahead and read this bill a third time, rather than following the habit of referring it to committee.

Senator Berntson: It is not a habit.

The Hon. the Acting Speaker: That is hardly a point of order. That is more in the nature of a proposal which could lead into debate. However, this is not the time to put forward such a proposal.

We should proceed with the motion as passed.

CITIZENSHIP ACT
IMMIGRATION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Philippe Deane Gigantès moved second reading of Bill C-84, to amend the Citizenship Act and the Immigration Act.

He said: Honourable senators, this bill is designed to amend both the Citizenship Act and the Immigration Act. As honourable senators are aware, this bill introduces legislative amendments that are designed to protect Canada's national security.

What does national security have to do with citizenship? It is this: We cannot allow people who are dangerous to the Canadian public to become members of our common family. We do not want to allow terrorists or war criminals to be able to proudly call themselves Canadians and wrap themselves in our flag. If we do, our citizenship is tarnished and being a Canadian is somehow a less precious distinction in the eyes of people in this country and abroad.

However, there are currently deficiencies in the Citizenship Act which may tie our hands when it comes to these people obtaining citizenship. This bill is designed to address this concern.

Honourable senators, there is a clear potential under the current legislation that citizenship could be granted to people who simply should not become Canadians. The problem lies with the procedural questions concerning the role of the Security Intelligence Review Committee in reviewing citizenship applications. This organization is the watchdog group that monitors the Canadian Security Intelligence Service on behalf of Parliament and the public. When there is a clear perception on the part of the Minister of Citizenship and Immigration that an individual applying for citizenship may be a threat to Canada or the Canadian public, the minister asks the Special Intelligence Review Committee to review the cases and render a judgment.

An individual can only be declared a threat and thereby denied citizenship if this committee agrees. This system achieves a fair balance. On the one hand, it protects the individual from unilateral and arbitrary action. On the other hand, it helps to protect the Canadian public from potential harm.

The system is not foolproof; the federal court has identified a problem. There are certain rare circumstances when the committee, through no fault of its own, simply cannot do its job. There are occasions where the committee finds itself in a potential conflict of interest. It does not happen often, but it can happen.

As you know, the bill proposes to establish an alternate procedure to follow if the SIRC finds it cannot act. Amendments to the Citizenship Act proposed in Bill C-84 will make it possible for the Governor in Council to appoint a retired judge to replace the Security Intelligence Review Committee when the committee is of the opinion that it cannot fulfil its mandate for reasons such as bias or conflict of interest. This will allow all cases to be judged in a fair manner.

This bill will also ensure that no one slips through the cracks and becomes a citizen when they should not. It maintains the important balances between the rights of the individual and the rights to protect our country.

On motion of Senator Berntson, debate adjourned.

AGRICULTURAL MARKETING PROGRAMS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Dan Hays moved second reading of Bill C-34, to establish programs for the marketing of agricultural products, to repeal the Agricultural Products Board Act, the Agricultural Products Cooperative Marketing Act, the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act and to make consequential amendments to other Acts.

He said: Honourable senators, the objective of Bill C-34, the Agricultural Marketing Programs Bill, is to provide a common legislative base for financial marketing programs in agriculture and to reinstate provisions for interest-free cash advances.

The efficient and judicious marketing of many agricultural commodities is supported and encouraged at present through four acts: the Prairie Grain Advance Payments Act; the Advance Payments for Crops Act; the Agricultural Products Cooperative Marketing Act and the Agricultural Products Board Act.

[*Translation*]

While these various acts have served farmers well in the past, changes are required, because markets and marketing systems have changed. Many farmers and farm groups are confused, with four different sets of legislation, and criticize current legislation for not treating them all fairly.

The government is proposing therefore to replace the four acts with a single one entitled the Agricultural Marketing Programs Act. Producers' associations have generally been favourable to this bill, which reflects many of their suggestions and meets their needs.

Bill C-34 will take a uniform approach to all sectoral groups and regions, while remaining sufficiently flexible to meet the particular needs of producers and the various marketing systems in place across the country.

The new legislation will tighten administrative controls and eliminate inconsistencies and inequities between the two earlier advance payment programs.

•(1620)

It fits in well with the government's intention to increase its budgetary efficiency and review government structure.

[*English*]

The government made a promise to introduce a statutory interest-free advance program to replace the current cash-flow enhancement program. Cash-flow problems sometimes force farmers to sell their crops and products right after harvest, when prices are generally not favourable. Under Bill C-34, cash advances of up to $250,000 to qualified producers, with the first $50,000 interest free, will be available to meet farmers' expenses after products are harvested. The balance will be lent at a preferential rate of interest, generally less than the going prime rate.

Pooling provisions will be maintained in the new act but will be streamlined to encourage more producers to market cooperatively and to get into value-added processing.

An anticipated average selling price for the pooled product is established to offer a price guarantee of up to 80 per cent of that price. This will help cooperatives avoid serious losses in the event of a significant and unexpected downturn in prices, and will also allow them to negotiate larger loans with lower rates from financial institutions.

Producers have asked the federal government to find a permanent solution to the rate of defaults experienced with programs such as the Prairie Grain Advance Payments Act. Administrative measures have already resulted in a reduction of defaults, from $64 million in the 1993-94 crop year to under $10 million in the 1994-95 crop year. Under Bill C-34, defaults will be kept at acceptable levels through legislative rather than administrative means, with significant savings to taxpayers.

Producers who participate within the rules of the program will probably not notice any major changes compared to the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act programs of the last few years.

In conclusion, I believe this legislation represents progress — progress for farmers, who get a more stable operating environment, and progress for taxpayers, who get more effective use of their tax dollars.

I therefore urge expeditious consideration and passage of Bill C-34 by honourable senators.

On motion of Senator Berntson, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Sharon Carstairs moved second reading of Bill C-46, to amend the Criminal Code (production of records in sexual offence proceedings).

She said: Honourable senators, it is with great pleasure that I rise to speak in support of Bill C-46, an Act to amend the Criminal Code regarding the production of personal records of complainants and witnesses in sexual offence proceedings. These amendments to the Criminal Code correspond to a troubling and complex issue which is having an adverse effect on sexual offence victims, the majority of whom are women and children.

I anticipate that all honourable senators are familiar with this issue. It has been the focus of much media attention. It has been thoroughly debated in the other place and carefully examined by the Standing Committee on Justice and Legal Affairs.

I am confident that senators will share my concern about the current state of the law on this issue, and I am hopeful you will support these essential reforms.

In Canadian society, we rely on our criminal law for protection and we rely on our criminal law to prosecute those who contravene the law.

Sexual offences are offences unlike any other. They are the most invasive and degrading offences a person can experience. Any of us could become a victim of crime but, as we all know, it is more likely that a woman or a child will become the victim of a sexual offence.

Outdated attitudes about sexual offences and the women who are victims of offences are changing, but they are changing very slowly. In 1997, no one should believe that a sexual assault victim "asked for it" or that only "bad" girls get assaulted, or that women are lying about sexual assault out of spite. If these and other myths and stereotypes persist in our society, and within the criminal justice system, they create a climate which undermines our confidence in a judicial system designed to be fair and just.

Over the last several years, defence counsel have increasingly sought access to a wide range of personal records of complainants and witnesses in sexual offence proceedings. These records include those which are expected to be kept private, including school records, medical, psychiatric and counselling records, therapeutic records, employment records, Children's Aid Society records, journals and diaries. The list is endless.

For many sexual offences against adults, the only element that distinguishes acceptable sexual activity from a sexual offence is the absence of the consent of one party. In sexual offence prosecutions, therefore, consent and credibility become the central issues in the prosecution. Therefore, the defence often focuses on and attacks the credibility of the complainant.

Sexual offences are unique. Usually there are no witnesses to the offence and often, in non-violent assaults, there may be no observable signs of any offence having been committed.

The complainant's word pitted against the accused may be the only evidence before the trier of fact, but note, the Crown bears the burden of proving every element of the sexual offence, including the absence of consent, beyond a reasonable doubt. The accused is, of course, presumed innocent.

The search for personal records has become a strategy to assist the defence in their attempts to impeach the complainant's credibility and reputation. I believe that the sexual offence reforms made in the last 20 years have resulted in great progress in changing attitudes and encouraging victims to report, but it has not been easy. Just when victims gain some comfort with the criminal justice system, a new trend emerges, leading them to question why they bother with reporting to the police and testifying in a preliminary inquiry and trial.

The attacks on credibility and character using personal records threaten the progressive reforms we have already made. They threaten the victim's privacy and equality rights and should offend all of those who are charged with the responsibility of creating and maintaining laws that are just and fair.

Consider the following situation. A woman is sexually assaulted and, as a result, seeks counselling from a sexual assault centre. The counsellor may jot down his or her perceptions. These are not verbatim transcripts of the conversation. They are not statements. Yet, defence counsel may seek to gain access to and explore those records looking for perhaps what, in their view, may be an inconsistent statement.

Consider another common situation. A sexual assault complainant has undergone therapy for depression or child abuse a long time before the assault which is now the subject of criminal charges. Records of those sessions may exist, and they may be sought out by the accused to suggest the complainant's recollections of the incident now before the court are confused. The complainant who has received counselling or therapy somehow becomes less credible just because she has been in therapy.

According to accounts from sexual assault service providers, sexual offence survivors, and even lawyers, the range of records sought, the reasons cited for the records, and the ease with which they have been produced to defence counsel without careful scrutiny by a judge, can have devastating consequences for victims.

Victims and service providers criticize the insensitivity of the criminal justice system. They question whether there is any point in participating as witnesses in sexual offence prosecutions. Victim advocates have expressed concerns that, in order to deal effectively with the emotional impact of sexual assault, perhaps it would be better to avoid the criminal justice system because it only makes matters worse.

•(1630)

If sexual offences are not prosecuted, who will be the next victim? The complainant who is the victim is not supposed to be on trial. Yet, in sexual offence proceedings, that is how it often appears.

The production of personal records to the accused is having a serious impact on sexual complainants, as well as on record holders. Some complainants may decide not to participate as witnesses in the prosecution; some may decide not to report the offence; others may, in fact are not reporting to the police, but also forgo the counselling or treatment essential to their recovery and well-being, due to the fears that their personal records, whether generated before or after the offence, will not be kept private during the court process.

Record holders, including hospitals, schools, sexual assault centres, social service agencies and doctors, are incurring substantial legal costs to appear in court to respond to subpoenas. A subpoena cannot be ignored by its recipient. Whether the records are remotely relevant, the proceedings are not. The record holder must respond.

I am not suggesting that an accused person should not have the opportunity to pursue the best defence available. An accused is presumed innocent until proven guilty beyond a reasonable doubt. However, even defence counsel acknowledge that relevance is a factor in assessing these records.

In all other criminal proceedings, courts seem to have no difficulty in determining whether evidence is relevant or whether materials requested for production or disclosure are relevant. Only in sexual offence proceedings do bald statements by defence counsel about how they need certain records warrant the violation of the complainant's privacy. That is simply not fair. This legislation is designed to guide the courts in determining whether personal records are relevant, and to ensure that only the relevant parts of such records will be produced to an accused.

In describing the current situation that this bill addresses, I should point out that our sexual offence laws and, indeed, all of our laws apply equally to men and women in the sense that they are gender neutral. A man or a woman can sexually assault a man, woman or child, but we all know that the majority of sexual offence victims are women and children.

The production of personal records raises more than simply the rights guaranteed by the Charter of Rights and Freedoms to a full answer and defence; it raises equality issues. The solutions to this problem must address them all.

Honourable senators, another troubling aspect of the impact of the production of records is happening today in our courts. It runs counter to the spirit of the reform of our sexual assault laws in which the federal government has been engaged in the past 20 years under both administrations. Our laws, long criticized for not fairly serving victims of sexual offences, are still open to that accusation.

Before the substantive reforms to the sexual assault provisions of the Criminal Code in 1976, followed by those in 1983, the successful prosecution of the offence of rape was extremely difficult. The evidentiary provisions required the victim's evidence to be corroborated and left the victim's personal life, including sexual history and reputation, as virtually an open book.

The reforms of 1983 attempted to eradicate myths about sexual offence victims and their behaviour. Despite significant law reform in 1983, which repealed old offences, including rape, and put into place the current sexual assault offences, and which repealed the restrictive evidentiary provisions, attitudes about sexual offence victims have been slow to change.

Further amendments were necessary in 1992 to restore the rape shield protection in the Criminal Code to safeguard the complainant's sexual history to as great an extent as possible without adversely affecting the accused's rights to a fair trial. I have been on record in the past as supporting the previous government for their tremendous efforts in this regard.

Now we are faced with yet another issue which threatens the confidence of a victim of a sexual offence in the criminal justice system. The progressive reforms of our sexual offence laws, which have been widely supported by both the other place and the Senate, must continue. We have the opportunity now to lend our support to a law that clearly states that the complainant, as well as the accused, is worthy of the law's protection.

Bill C-46 takes a comprehensive approach to a complex issue in order to improve significantly the situation for complainants and witnesses of sexual offence. No single measure will provide the answer. There is no quick or simple solution.

The bill provides for a two-stage test for the production of records which places the onus on the accused to establish the likely relevance of the records requested. In addition, the bill provides guidance to the court in determining whether to order production. It emphasizes that the trial judge must consider Charter rights of both the accused and the victim when determining whether the records should be produced. Strict procedures must be adhered to when seeking those personal records. In the event the records are ultimately produced to the accused, appropriate safeguards for privacy are available.

A new form of subpoena for personal records will provide better information to the recipient.

A preamble articulates why these reforms are essential and emphasizes our intention as legislators.

While the legislation sets out new rules for the production of records, it does not prohibit the production of records. It recognizes that both complainants of sexual offences and persons accused of sexual offences have rights guaranteed by the Charter, and that these rights, although they may conflict, must be carefully considered, accommodated and reconciled to the greatest extent possible.

Let me briefly review the key features of Bill C-46. The bill includes a preamble. A preamble was formerly considered to be a rare feature in criminal legislation. However, preambles have proven to be an effective way to convey Parliament's intention in reforming the law. They identify the mischief that the law seeks to address and guide the interpretation of the legislation.

The preamble in Bill C-46 reiterates our concern as legislators about sexual violence and its impact. It specifically acknowledges that the compelled production of records may deter complainants from reporting to police and from seeking treatment. It also emphasized that the rights guaranteed by the Charter are guaranteed to those who are accused of criminal offences, as well as those who are complainants and witnesses.

The preamble makes it clear that one Charter right does not trump the other. Competing Charter rights must be balanced and they must both be considered. We need not sacrifice the rights of the accused in order to enhance the victims' rights. Both should be reconciled.

Bill C-46 will amend the Criminal Code to provide that in sexual offence proceedings all applications by the accused for the production of records of a complainant or witness are to be determined by the trial judge in accordance with the new law on procedure. A justice presiding at a preliminary inquiry does not have jurisdiction to determine an application for production of records.

Amendments will clearly define what records are subject to the new regime. The definition is general: any form of record that contains personal information for which there is reasonable expectation of privacy.

To avoid any disputes about whether a certain type of record is included, several specific records are referred to as examples. Note that the definition especially excludes records or notes made by the police in the course of their investigation, or made by the Crown in the preparation of their case.

Where such records are sought in sexual offence proceedings, the accused must bring an application to the judge with notice to the Crown, the person in possession of the records, and the complainant. This written application must set out the grounds or reasons relied upon by the accused to establish that the record sought is likely relevant to an issue at trial or the competence of the witness to testify.

The Criminal Code will further provide that certain assertions made by the accused, if unsupported by other information, will not meet the threshold of likely relevance which is necessary for the judge to review the records.

Some critics contend that the proposed amendments which require the accused to establish the likely relevance of the records, and which set out several assertions which, on their own — in other words, without any supporting information — are not sufficient to satisfy the likely relevance criteria, places the accused in a bind. They argue that the accused may not be able to establish how the records are likely to be relevant because he or she does not know what information is in the records.

We should carefully analyze this supposed Catch-22 situation. First, if the law does not impose a threshold of likely relevance on the production of records, then it would be open season on records. Records would be available simply on request. If an accused does, in fact, have a defence to the charges, for example, if he or she did not have any contact with the complainant, or if he or she believes that the complainant consented, or if the incident did not happen, then he or she may pursue that defence in an appropriate manner relying on relevant evidence. However, the accused should not have, carte blanche, the right to plunder through personal records in search of a defence in the form of impeaching so that the complainant's character or credibility can be intimidated to such an extent that the charges are withdrawn.

Remember that we are talking about personal records which may have been made by third parties — counsellors, teachers, or doctors. Third parties should have no obligation to provide these records to the accused. The legislation deals only with the production of records. Nothing in it prevents the accused from calling as a witness a person who has evidence and from asking relevant questions.

•(1640)

If the accused can establish to the satisfaction of the trial judge that the records do in fact disclose a prior inconsistent statement which is likely to be relevant to an issue at trial, the trial judge may determine that the accused has satisfied the "likely to be relevant" test and that it is necessary in the interests of justice for the trial judge to review the records.

The amendments also guide the trial judge in determining whether to order production of the records by directing the judge to consider, at the initial stage and again at the second stage, the salutary and deleterious effects of production on the accused's right to make full answer and defence, and on the right to privacy and equality of the complainant. Several specific factors must be considered, including the probative value of the record, the nature and extent of the reasonable expectation of privacy in the record, whether production is based on a discriminatory belief or bias, and society's interest in encouraging the reporting of sexual offences. If, after careful consideration, the judge determines that he or she should review the records to determine whether they should be produced to the accused, the judge will conduct such a review in private.

At the second stage, the trial judge will conduct the same exercise: determine if the record is likely to be relevant to ensure a trial or the competence of a witness to testify, and whether production to the accused is necessary in the interest of justice. The judge will be guided by the same factors, including consideration of Charter rights of both the accused and the complainant. This determination is based on the judge's own review of the records. It may be clear after such a review that the records are totally irrelevant. On the other hand, the records or some part of them may, in the judge's view, be likely to be relevant. If so, the relevant parts of the records will be produced to the accused.

Bill C-46 comprehensively deals with the procedural aspects of the application for production, and it provides additional safeguards to protect the privacy and equality of complainants. For example, the application must be in writing and must set out the specific grounds relied upon by the accused for production. Adequate notice, usually seven days, of the application must be provided to the record holder, Crown, complainant or witness, and any person to whom the record relates.

A subpoena, a new form 16.1, must be served on the record holder along with the notice of motion. The hearing to determine whether the record should be produced to the judge for review will be *in camera*. The complainant or witness, the record holder, or any person to whom the record relates may appear at the application hearing to be heard, but they are not compelled witnesses by the Crown or defence. The judge must conduct any review of the records in private. The judge must provide reasons for the determination. Where the judge orders production to the accused, appropriate conditions on production must be considered. A ban on publication applies to the contents of the application and all other information as to the judge's reasons.

Changes to the issuance and form of subpoena are an integral part of this package of amendments. The code already provides a test for determining whether a subpoena should be issued. The test is whether a person is likely to give material evidence. This is an adequate test, and it will remain the test. However, a subpoena which directs the recipient to bring documents or

materials with them will be in a new form. That form will provide essential information to the recipient regarding their obligations. In sexual offence proceedings, where the material requested by the subpoena is a record as defined in the Criminal Code, the recipient of the subpoena will be informed that the determination whether to produce these records must be made by the trial judge at a special hearing, and that they need only provide those records to the judge after the judge has determined they should do so.

Honourable senators, this legislation responds to a situation which threatens the confidence of the people of Canada, particularly women, in our criminal justice system, and it responds in a fair and focused way. The legislation applies only in sexual offence proceedings. It does not sacrifice the rights of the accused to benefit the victim. This is not Parliament's intention, nor is it the desire or the intention of victims. The goal is to ensure that the law protects equally all those who rely upon it.

This legislation does not prohibit the production of records, but it sets a test to determine whether and to what extent production should be ordered and to guide the court in applying that test, requiring the court to consider and balance competing Charter interests at both stages. An accused person who can establish the need for relevant information in the records in accordance with the law on procedure will not be denied the records. The right to full answer and defence has not been sacrificed.

Honourable senators, our laws should protect the people of Canada and reflect fairness and balance, responding to the needs and concerns of Canadians.

I think all honourable senators in the chamber are aware of the fact that this was to be Senator Pearson's speech. She had inadvertently left the chamber for a short period of time, so I responded. However, I wish to add a personal note to this particular piece of legislation.

I was sexually assaulted as a child. I never brought that case to court. I did not believe I could bring it to court. I have had, over the years, great difficulty in resolving my own problems with having been a child victim of sexual assault. If I believed that anyone I had ever spoken to about this assault could have been called into a court of law, there is no way that I would ever have gone to court. There must be protections for the victims, and there must be protections for the accused. Charter rights must always be protected. However, honourable senators, when you are a victim as a child, you live with that for the rest of your life.

On motion of Senator Berntson, debate adjourned.

CRIMINAL CODE
COPYRIGHT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. P. Derek Lewis moved second reading of Bill C-205, to amend the Criminal Code and the Copyright Act (profit from authorship respecting a crime).

He said: Honourable senators, I am pleased to move second reading of Bill C-205, a private member's bill to amend the Criminal Code and the Copyright Act dealing with profit from authorship respecting crime.

Imagine a country where serial killers, child rapists, murderers and violent criminals can, from their jail cells, write the stories of their crimes, sell the books to the citizens of the country in which they wreaked such havoc, and bank the money anywhere in the world.

Imagine a country where these criminals can collaborate with movie producers, sell the stories of their crimes, be technical advisors to the creation of the movies of their infamous activities, and bank their ill-gotten profits anywhere in the world.

•(1650)

It is sad but true that that country is Canada. Lest you think that I am overdramatizing, did you know that a copyright certificate of registration for a dramatic series of videos has been granted to child-killer Clifford Robert Olson? This despite the fact that the common law of our country has held for centuries that a criminal may not profit from his or her crime. That is why a person who murders their spouse cannot collect the victim's life insurance, even as the named beneficiary. Should a murderer write a book about his or her crime, though, and make a profit from its sale? Surely that is as much profiting from the crime as collecting the insurance, yet there is no prohibition of this in Canadian law.

A few might argue that these miscreants have a right, under our Charter, to sell their stories in whatever form and to pocket the profits. The vast majority of Canadians do not share this view.

How can we prevent such a perversion of the most fundamental principles of crime and punishment, indeed, of justice?

This private member's bill, Bill C-205, is an attempt to ensure that no criminal may profit from writing about or selling the story of their sordid activities.

The idea for this bill was born in the summer of 1993 when the Honourable Tom Wappel, member of Parliament for Scarborough West, read a news report that Karla Homolka was reported to be considering selling her story for a profit. If Homolka, why not Paul Bernardo himself, or Clifford Olson, or Denis Lortie, or the torture-murderers of Toronto's shoe-shine boy Emmanuel Jacques?

On what principle is this bill based? There are two principles here really. First, no criminals should ever profit from telling the story of their crimes. Second, criminals need not be prevented from telling their stories provided they do not profit from the telling.

The bill, in a nutshell, includes in the Criminal Code definition of "proceeds of crime" any profit or benefit gained by a person or his family from the creation of a work based on the indictable offence for which the person was convicted. Thus, we would be able to seize such profits under the current Criminal Code provisions dealing with proceeds of crime. This is clearly criminal law jurisdiction under the Constitution.

This alone does not help us if a criminal sells his or her story to a movie producer in the U.S, for example, who deposits the criminal's payment into a Swiss bank account.

In order to capture this possibility, the bill proposes to amend the Copyright Act, which is also clearly a federal jurisdiction under the Constitution as well as the Criminal Code, to provide, first, that the sentence for an indictable offence is deemed to include an order that any work based on the offence is subject to a new section of the Copyright Act, and, second, to provide in the new section that, in such work, the copyright which would otherwise belong to the convicted person becomes and remains the property of the Crown forever.

This would permit Canada to bring an action in any country in the world which is a signatory to the Berne Convention on Copyright, to enforce its rights, including seizure of funds paid to the criminal or injunctions to halt the sale of books, movies, videos, et cetera.

I should like to repeat that the bill would not prevent a criminal from creating a work or collaborating on a work based on the offence, but it would prevent the criminal from profiting from its creation.

This bill is supported by many non-partisan organizations. I have quite a list here which I will not read.

Twenty-three members in the other chamber spoke on this bill at second reading. Twenty-one members spoke in favour and two spoke against this bill. The bill passed second reading on September 24, 1996, virtually unanimously. It was referred to the Justice Committee which heard witnesses on two days, including the assistant deputy minister from the policy sector of the Department of Justice. They accepted two clarification amendments proposed by the originator, Mr. Wappel. They unanimously reported the bill to the House of Commons on April 8 of this year. The bill has had the support of the Bloc Québécois and the Reform Party since its introduction.

On April 10 it received all-party support evidenced by the fact that it passed third reading unanimously, something which is quite rare.

At committee stage, five arguments against the bill were cited. First, it is suggested that the amendments specifically expanding the definition of "proceeds of crime" exceeds the criminal law powers of the government. It is argued that this is so because "proceeds of crime" is expanded to include moneys not derived directly or indirectly from the commission of a crime but derived from a lawful activity, that is, the writing of a book.

The response is that the condition of a crime is a condition precedent to the writing of the book about the crime. Without the crime, there can be no book about the crime. Thus, the link is direct and, if not direct, then certainly indirect.

Similarly, there is no direct link between purchasing life insurance on a relative, which is a legal contractual activity, and then collecting the proceeds upon killing the relative. The common law, however, will not prevent a criminal to benefit financially in this instance. Likewise, purchasing a car, boat, jewellery or art work, for example, are all legal activities. However, if they are purchased with money directly or indirectly linked to a crime, they can be confiscated.

Thus, the argument is that if a hired assassin buys a car with the payment from his crime, his car can be seized as proceeds of crime. However, if he writes a book about the crime and makes even more money, then the law cannot seize this money because it is stretching the powers of criminal law. This flies in the face of common sense.

The second argument suggested that the bill is extremely far-reaching because the proposals extend beyond the incarceration period. The answer is deceptively simple.

The bill provides that, as a mandatory part of the sentence imposed after conviction, any copyright in any work about the crime by the criminal would be subject to new section 12.1 of the Copyright Act. This would be for the life of the convict.

How is this any different from section 100(1) of the Criminal Code which permits a judge, at time of sentence, to prohibit a person from owning firearms or explosives for life? There is no difference intellectually or in law. Indeed, the author of the work has a copyright for the life of the author plus 50 years. The concept of the copyright resting in the Crown for the life of the offender is already an accepted fact on copyright law.

Third, it is argued that because the Minister of Justice is currently working with his provincial colleagues to do part of what this bill proposes, that somehow the bill should not proceed.

I should like to point out that, first, such talks have been going on for quite some time without concrete results and, second, and more important, even if the federal government and all 10 provincial governments pass uniform laws — which is by no means guaranteed — that will not stop a Canadian criminal from profiting from the telling or selling of the story of his crime outside Canada.

We could still see the likes of Bernardo or Olson selling the rights to their stories to a foreign movie producer, having the money deposited in a Swiss bank account and spending it with impunity anywhere in the world except Canada. The passage of this bill will stop such an absurdity.

Fourth, it is argued that the bill creates a problem in international law. This assertion is made without substantiation and without reference to any particular section of any law or international convention. This assertion should be rejected for the following reasons.

The articles of the Berne Convention, in and of themselves, are of no legal effect in Canada but, because our domestic law, our Copyright Act, is derived in part from these articles, the convention serves as an interpretive tool, not a binding tool, to domestic legislation.

•(1700)

The word "author" is not defined in the Berne Convention. Therefore, it is up to domestic legislation to define the word "author." The domestic law of Canada, as well as other Berne signatory countries, provides for deemed authorship in others, other than the actual author, and these deeming provisions have not been opposed by the international community. I would cite specifically Crown Copyright, section 12, and the employer/employee provisions of section 13(3) of the Copyright Act. Section 12 reads:

> Without prejudice to any rights or privileges of the Crown, where any work is, or has been, prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, belong to Her Majesty and in that case shall continue for a period of fifty years from the date of the first publication of the work.

Section 13(3) of the Copyright Act states:

> Where the author of a work was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright...

As you can see, the proposal in Bill C-205 is already being applied to law-abiding Canadian authors in deemed circumstances. What can be wrong with applying similar provisions to criminals?

Honourable senators, the fundamental principle of the Berne Convention requires each member country to extend to authors and works of all other member countries the same copyright protection as it does to its own nationals. Please note that the principle is not to extend a uniform international set of principles somehow codified in the convention, but, rather, to give the same protection to foreigners as to nationals.

The Berne Convention does not define "author," as I said before, but it also does not define "initial ownership." It is up to member countries to define initial ownership according to domestic law. That is exactly what Bill C-205 does.

David Vaver, in his article "Copyright in Foreign Works: Canada's International Obligations" as cited in the *Canadian Bar Review* in 1987, points out that countries often allocate ownership to the employer using legal techniques which vary from vesting the copyright initially in the employer to creating an automatic assignment of rights from the author to the employer.

Bill C-205 proposes to vest ownership of the work in Her Majesty in right of Canada. This is consistent with already established practices in member countries. In any event, L.E. Harris, in her article "Ownership of Employment Creations" in 1985, which is contained in the *Osgoode Hall Law Journal*, points out that many convention countries have employer ownership, and there have been no complaints that employer ownership is against international obligations during the 62-year existence of such provisions.

I would therefore ask, honourable senators, if the true author's work can and is deemed to be owned by the author's employer, how can one object that a criminal author's work about the crime is deemed to be owned by Her Majesty in right of Canada, particularly when such deemed ownership is made for public policy, public safety and peace, order and good government reasons?

The final argument suggests that there is a Charter risk associated with proposed changes and that this risk should somehow disqualify Bill C-205 from becoming law. I ask that honourable senators categorically reject such a proposition, although it may interest Senator Beaudoin at this point.

All legislation that we pass, particularly criminal law legislation, is at risk to a Charter challenge. The Parliament of Canada has passed gun control legislation knowing it was at risk of a Charter challenge. Indeed, that risk is now a reality, as the law has been challenged. That risk did not stop us from passing the bill. Parliament passed the Tobacco Products Control Act knowing it was at risk of a Charter challenge. Indeed, notwithstanding all of the assurances of the Department of Justice that the bill was constitutional, the Supreme Court declared it unconstitutional. Parliament passed the bill despite the "risk."

Remember, the criminal is not prevented in any way from writing a book, collaborating on a movie or any other method of expressing himself. Bill C-205 only prohibits the criminal from profiting from that freedom to express oneself, and only in the limited legal circumstances when the freedom of expression concerns the very crime committed.

In any event, even if there were a Charter violation, I suggest that the Supreme Court could invoke section 1 of the Charter to validate the law as it reaffirms a centuries-old truism of our law, that no criminal may profit from his crime.

I remind honourable senators that the bill passed the House of Commons unanimously. It is rare that such consensus is demonstrated in the House of Commons. The bill makes sense and is a matter of common sense.

I must say that great credit is due to Mr. Wappel for bringing this bill forward in Parliament.

I urge honourable senators to support this bill and give it swift passage.

On motion of Senator Berntson, debate adjourned.

FARM DEBT MEDIATION BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-38, to provide for mediation between insolvent farmers and their creditors, to amend the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Farm Debt Review Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Monday next, April 21, 1997.

BILL CONCERNING AN ORDER UNDER THE INTERNATIONAL DEVELOPMENT (FINANCIAL INSTITUTIONS) ASSISTANCE ACT

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-77, concerning an order under the International Development (Financial Institutions) Assistance Act.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading Monday next, April 21, 1997.

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

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

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, on behalf of Senator Bacon, I give notice that on Monday, April 21, 1997, she will move:

> That the Standing Senate Committee on Transport and Communications have power to sit during sittings of the Senate for the duration of its study of Bill C-44, An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

•(1710)

CODE OF CONDUCT

CONSIDERATION OF FINAL REPORT OF SPECIAL JOINT COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the final report of the Special Joint Committee on a Code of Conduct, entitled: "Code of Official Conduct", tabled in the Senate on March 20, 1997.

Hon. Donald H. Oliver, Co-chairman of the Special Joint Committee on the Code of Conduct, moved the adoption of the report.

He said: Honourable senators, last month the Special Joint Committee on the Code of Conduct tabled its report in each house of Parliament. The committee recommended a code of official conduct for parliamentarians which represents the culmination of over 18 months of study and reflection. I was honoured to be the co-chairman of the committee, and wish to take this opportunity to address the report in this chamber.

The question of conflict of interest has bedevilled federal parliamentarians for over 20 years. The issues are complex ones, involving, as they do, the balancing of a number of competing interests. Others have tried and failed to respond to the gaps in rules at the federal level. For this reason alone, the tabling of the committee's code is a very significant achievement that warrants consideration and positive response.

The code of official conduct which the committee proposes is, I believe, a strong but fair response to the need for clearer rules. It will establish a regime for disclosure of relevant personal interests and provide guidance and assistance to senators and members of the House of Commons. Even more important, it will assure the public that the allegations of improper conduct within the scope of the code will be investigated and breaches dealt with.

The question of the public's perception of politicians, both elected and appointed, formed an ever-present backdrop to the committee's work. There is little doubt that there is currently considerable public cynicism toward politics and politicians. In the wake of Watergate in the 1970s, the media in the United States and in Canada have tended to scrutinize the conduct of public officials much more closely. Allegations of impropriety are front page news and evidence of the misconduct of a few has raised the level of both public concern and the expectations placed on those in public life.

In the process, the public has also become more mistrustful of politicians in general. Whether we as a group are in fact less ethical today than in the past is unclear, and perhaps irrelevant. What is essential is that we respond to the existing climate by making more efforts than in the past to be, and to be seen to be, men and women of integrity. That, in good part, is what the efforts of the committee were all about.

It is undeniable that some have been opposed to developing a code of official conduct, for a variety of reasons. Some fear an undue invasion of personal and family privacy. They point out that parliamentarians already live under intense scrutiny and that enough is enough. Some feel that if an individual is determined to act unethically, the existence of a code will not stop him or her. Others are doubtful that a code will, in fact, increase public trust in politicians. A few of our expert witnesses even agree with that point of view. Others point out that such a small number of parliamentarians cause problems, and so rarely, that it is unfair to impose a comprehensive regime that will affect them all.

I, however, firmly believe that a code of official conduct is a good thing; necessary, even. I do believe that public perception will be improved by a code, but even if this ultimately turns out not to be the case, I believe that we should adopt one.

Before moving into some of the features of the code, I should like to cite for honourable senators what some of the witnesses who came before the committee had to say.

Mr. John Paton, publisher and CEO of the *Ottawa Sun* said:

> I believe you will only be able to go about your work effectively once you have convinced Canadians to trust you again. An effective code of conduct is the first step to achieving the regaining of that trust.

Mr. Russell Mills, publisher and president of the *The Ottawa Citizen* said, among other things:

> The work of your committee takes place at a time of considerable lack of trust in public institutions including government and, I must also admit, the news media. This mistrust appears to be particularly pronounced among younger people who are facing a more difficult future than did people of my generation. In some sense they feel the institutions of their society have failed them, and I believe there are a number of polls that back up this feeling we have.
>
> It is vital for the future of our democracy that this younger generation have confidence that although our society may have failed to deliver them the jobs and lifestyles it provided for their parents, at least the institutions of government are operating ethically. If we want this generation to vote and take part in supporting our democratic political institutions, they must have confidence that those elected will always serve the public interest and not use public positions to serve private interests. They have seen this happen too many times over the last few years.

Later he said:

> I believe there should be two principles guiding the work of this committee if the ultimate objective is to promote public confidence in Parliament and government. These are simplicity and publicity. Rules for conduct that are too complex to be easily understood and procedures that are hidden from public scrutiny will not promote this necessary trust.

I remind you of what Mr. Justice William Parker wrote in 1987 in his report on the conduct of former minister Sinclair Stevens. He said:

> Public disclosure should be the cornerstone of a modern conflict-of-interest code. Public confidence in the integrity of public officials requires a healthy measure of public vigilance.

Hugh Winsor of *The Globe and Mail* said:

> I don't think anything short of full disclosure of financial interests and outside business activities of MPs and senators will any longer be acceptable. Although it may not be politically correct — I plead guilty here — I believe it extends to spouses and significant others.

The Honourable Jean-Jacques Blais, consultant, said:

> First of all, I would like to assure you that, in my view, the task you have undertaken is an essential one. As I was reading the magazine *L'Actualité*, I noticed that, according to a CROP survey, the satisfaction rating for politicians was about 4 per cent. This is not very flattering, although, according to politicians, it doesn't come as a big surprise.

There is a crisis in government:

> All of this encourages a persistent challenge to the credibility of our democratic institutions and those who have been entrusted with their administration. Politicians are being pilloried. While that isn't only because of the perceived degradation of ethical standards, that perception is out there and arguably has a causal connection to the unpopularity of politicians.
>
> Since it is within Parliament's powers to address that perception, your activities are an essential part of the rehabilitation process.

He concluded by saying:

> Might I also suggest that the adoption of a code of ethics that goes beyond the simple requirement to disclose assets and imposes an obligation to "uphold the highest ethical standards," including ensuring the public interest, would communicate a most positive message to the Canadian public.

That is what some of the witnesses had to say to our committee.

•(1720)

One of the key words in democratic politics has become "transparency." In the context of the code of official conduct, this word means that the public should know about any financial interests and any activities that could have an improper influence on parliamentarians' public duties. We are not talking about a public right to know about a politician's purely personal life, nor about the small interests that could not affect anyone's behaviour. Rather, we are talking about relevant and possibly significant financial interests and activities.

Under the proposed code, as in comparable political systems elsewhere, this transparency is achieved by public disclosure of the relevant facts. The preparation of the public disclosure statement is to be overseen by a parliamentary officer called a Jurisconsult. It is a summary of the full confidential statement made to that official with exclusions to protect privacy and delete irrelevant material. Of necessity, it includes the interests of a parliamentarian's spouse and dependent children.

If done properly, public disclosure should both deter legislators from questionable behaviour and assure the public of their integrity. Without a degree of public disclosure, it is impossible for the public to know whether a parliamentarian might be abusing his or her position. For these reasons, public disclosure of relevant financial interests and activities is often described as the cornerstone of a modern conflict of interest regime, and in my view is rightly the centre of the committee's code.

The view that public disclosure is the cornerstone of a modern conduct regime has been repeated so often that it has almost become trite. Nevertheless, that does not make it any less valid. I fear that there are some who may pay only lip service to public disclosure, who would appear to agree in principle but opposed in practice.

I briefly mentioned that the new parliamentary officer is to be called a Jurisconsult. This individual will have a key role under the code. He or she will ideally be a person of the highest integrity, who will handle the tasks under the code and rules with an objective, non-partisan yet practical manner — in short, a person in whom parliamentarians will have confidence, such as a former Supreme Court judge or other eminent citizen. The Jurisconsult will wear several different hats. First, he or she will receive the confidential disclosure statements, discuss them with the parliamentarians, offer advice where needed and prepare the public disclosure statements. Second, upon request, the Jurisconsult will provide principled and consistent opinions relating to parliamentarians' obligations under the code. An opinion would protect the parliamentarian should the matter subsequently be questioned by others.This may be contrasted with the current situation in which the advice of House of Commons or Senate legal counsel does not protect parliamentarians.

In addition to assisting individuals, an annual report providing a summary of the most important questions and answers, edited to protect the individual's privacy, will promote a shared ethical climate in Parliament. In the course of our committee deliberations, I came to realize how important this was — on a number of occasions, what one member of the committee thought was unacceptable was stoutly defended by another. We realized that we currently have no institutional way of sorting out these questions.

Finally, an independent Jurisconsult, supported by a joint committee dedicated to the purpose, will provide a mechanism for dealing with issues of compliance with the code. We have proposed that parliamentarians and members of the public should be able to go to the Jurisconsult if they have reasonable grounds to believe that the code may have been violated. The Jurisconsult may investigate and the matter may be resolved at that point. Certain cases may need to proceed to the committee for resolution. In any event, unlike at the present time, there will be a process by which these issues may be dealt with in a timely and non-partisan fashion. Of course, this includes situations where a parliamentarian's name may be cleared. This is clearly an improvement over the current system of trial by rumour and innuendo.

It is my belief and hope, too, that if the public disclosure system operates as it should, the investigatory role of the Jurisconsult will be his or her least important one. This has indeed proven to be the case in some of the provinces throughout Canada. I welcome the day when the Jurisconsult complains about a lack of work.

While disclosure and the role of the Jurisconsult are the central features of the committee's code, before closing, I wish to briefly mention some of its other main aspects. For the first time, the code will introduce rules regarding the acceptance of gifts and personal benefits, and for senators, rules regarding sponsored travel.

With regard to contracting with government, the Parliament of Canada Act does now contain rules, but it is generally agreed that they are unclear, make outdated distinctions and have antiquated enforcement provisions. The code modernizes and simplifies these rules. It also includes general rules against parliamentarians furthering their own private interests in the exercise of their duties and functions.

To conclude, honourable senators, I would remind you that the federal Parliament has fallen behind in this area. The lead has been taken by most of the Canadian provinces, which already have a code of conduct, and the majority of other democratic countries. The standards have already been set. However, as a committee, we have not made these proposals by leaping on any passing bandwagon. Instead, we have crafted a code that is uniquely tailored to our own circumstances and to the needs of the present day.

I would urge all of you in this chamber to seriously study this official code as proposed by the committee.

On motion of Senator Graham, for Senator Stanbury, debate adjourned.

ENGLISH HEALTH CARE SERVICES IN THE PROVINCE OF QUEBEC

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Wood calling the attention of the Senate to English health care services in the Province of Quebec.—(*Honourable Senator Wood*).

Hon. Dalia Wood: Honourable senators, certain recent social and political developments in Quebec compelled me to study the status of English health care services in that province. The struggle for bilingual signs in a Sherbrooke Hospital, following the merger of two health facilities, the Parti Québécois' recent resolutions regarding health and social services for anglophones, and an anticipated wave of health care and hospital restructuring all contributed to my desire to speak on this issue.

I will begin by tracing the evolution of the right of English-speaking Quebecers to receive health care services in their language. I will review the current political climate in the Province of Quebec. I will speak of Canada's role in the evolution and delivery of health care services in English in Quebec. Finally, I will look at the future of Quebec's English health care services and the need for continued federal support for such services.

Honourable senators, for many years the right of anglophones to receive health care services in their language depended on the goodwill of those providing the services. There was a tradition — at least in certain regions — to render such services without legal obligation. However, many health institutions were funded and built by English-speaking Quebecers themselves, as they could not expect to receive health services in English in existing facilities. It is only in 1986 that such a right was established by amendment to the Province's Act respecting health services and social services. When then Minister of Health and Social Services Thérèse Lavoie-Roux introduced the legislation in the National Assembly on December 8, 1986. She said:

> I think it is important that we construct a legal framework entrenching the rights to services in English, and that within this framework we make this right a reality by designing administrative measures that will truly ensure that people can receive services in their own language.

The legislative framework of which she spoke is now embodied in section 15 of Quebec's Health and Social Services Act, which states:

> English-speaking persons are entitled to receive health services and social services in the English language, in keeping with the organizational structure and human, material and financial resources of the institutions providing such services and to the extent provided by an access program...

•(1730)

Honourable senators, the process of health program determination in Quebec is complex. Let me explain. The Government of Quebec constitutes regional health and social services boards which administer the delivery of health and social services in their given regions. These regional boards plan, organize, implement and evaluate the health and social services rendered, and formulate access programs based on the needs of their population base. Such access programs are submitted to regional assemblies, and then to the Quebec Minister of Health and Social Services who gives final approval to the proposed programs. Each regional board, either on its own or in conjunction with other regional boards, has the obligation to develop access programs for the English-speaking population in its area to ensure that the right to receive services in English may be exercised. The programs developed are to be revised by the Quebec government every three years.

Honourable senators, the exercise of the right to receive health services in English is complicated by the application of Quebec's Charter of the French Language. It would appear that only institutions designated under section 29.1 of this Charter, institutions which: "...provide services to persons who, in the majority, speak a language other than French," must offer services in English, may post bilingual signs within their institutions, may require knowledge of English for certain administrative positions, and may use a bilingual name for the institution. Other institutions offering health and social services must not offer services in English. They may do so in practice, but there is no obligation.

Honourable senators, my concern lies with health care and hospital restructuring and its threat to English language health services in Quebec. Many institutions which met the requirements to operate bilingually have either been closed or merged with other health care facilities. The new institutional patient composition may no longer support a bilingual designation, and the ability to exercise the right to receive health care services in English is therefore lost or greatly diminished.

There have been five incidents of loss of designation in the past year: the Queen Elizabeth, the Reddy Memorial, the Lachine General hospitals in Montreal, the Jeffery Hale Hospital in Quebec, and the Sherbrooke Hospital. Another wave of mergers is expected shortly. How many more institutions will lose their bilingual designation? The loss of services is my concern, and it is a very valid one at that.

The political climate in the Province of Quebec is changing. Premier Lucien Bouchard is under pressure to balance his budget before the next referendum. Health care restructuring is one part of his plan to save the province money. In the name of efficiency, many institutions designated under section 29.1 may find themselves under the knife, right along with the English health care services rights which this designation, in part, guarantees.

The right to English health care services may be in danger from another source as well. Mr. Bouchard must keep his party faithful satisfied, despite the promises he made to English-speaking Quebecers in his famous Centaur Theatre speech on March 11, 1996. At that time, he stated:

> The most painful battle was trying to help francophones who had no access to health services in their own language. Some of these people had to live out their last days in institutions where the staff around them couldn't understand a word they said... I want to say here today, with all the energy I can muster, that never, ever, will there be in Quebec anything remotely resembling that kind of situation. Both the anglo community and the individuals who make it up have rights, they have institutions, dignity, and strength that the Government of Quebec will protect and preserve. Both for its own sake, and as an example for other minorities in North America.
>
> When you go to a hospital, and you're in pain, you may need a blood test; but you certainly don't need a language test.

Honourable senators, with such a promise in hand, English-speaking Quebecers should have nothing to fear. However, Mr. Bouchard's commitment is wavering. At the Parti Québécois annual meeting on January 25 and 26, 1997, the question of access to health services for English-speaking Quebecers became an issue.

The PQ party adopted several resolutions aimed at reducing the level of access to English health care services, or making such access more difficult. Such resolutions include a call for the government to limit the right to receive health services in English so that this right does not diminish the right of French Quebecers to work in their own language.

The Parti Québécois also resolved that the government review the mandate of regional boards in designating institutions which are entitled to provide English services. Such criteria would be tightened so as to avoid so-called institutional bilingualism. The adopted resolution does, however, state that this would be done in a way that would guarantee the right to universal access to services. This remains to be seen.

Finally, the PQ also passed a resolution stating that access plans would be subject to clear directives regarding the Charter of the French Language and would subject these access plans to review by l'Office de la langue française, who would ensure their compliance with the said charter before their adoption.

In light of these resolutions, Premier Bouchard has tried to allay the fears of the English-speaking population regarding the status of their right to health services in their language. In a January 27, 1997 *Montreal Gazette* article entitled "PQ targets anglo services," Premier Bouchard was quoted as having stated:

> If someone comes to the hospital and he doesn't speak French, I understand perfectly well that it is an obligation of the state and of our society to make sure that they will feel comfortable, that they will feel secure and that they will receive the right services for their health.

He went on to say:

> The commitment of the law, of the state, of the government, of the party are not diluted in any way. The right of any English-speaking people to benefit from social services will be respected and they have been until now.

Honourable senators, I can honestly say that the involvement of the Office de la langue française with the approval of access programs makes me very uneasy. The Office has already rendered a decision with regards to the right to English health care services which indicates where its priorities lay. The decision I refer to is *Syndicat des infirmières et infirmiers de l'Est du Québec v. Hôtel-Dieu de Gaspé*. This is a situation where the hospital in question wanted to make knowledge of English a criterion of promotion to the assistant chief nurse position. The nurse's union contested the move and asked the Office to rule on whether or not knowledge of the other language was required to obtain the promotion. The hospital argued that it had an obligation under the Health and Social Services Act to provide English-speaking patients with health services in their language and that its region's access program had recommended that they provide such a service.

The hospital had chosen the position of assistant chief nurse and required only that the applicant have functional knowledge of English to be eligible for promotion to this position. The Office eventually decided in favour of the union. I would like to quote from a translation of the decision and note that references to Bill 142 are references to the Health and Social Services Act. The Office stated:

> Employers have obligations under Bill 142 as it applies to English-speaking people and under other legal provisions for humanizing care and allowing for the linguistic, socio-cultural and ethno-cultural features of different regions... These obligations are part of the general background that the Office must review in determining the need for a linguistic requirement within the meaning of the Charter. The fact that certain requirements are imposed as part of a services plan adopted under Bill 142 is not enough to justify their existence.

I interpret this to mean, honourable senators, that l'Office considers the right to work in French as being more important than the right to receive health care services in English. The right conferred to English-speaking Quebecers becomes part of the general background. Premier Bouchard asks that English-speaking Quebecers trust him and his party, stating:

> ...I think that we should be very careful not to raise emotions, not to provoke anger, not to provoke unjustified worries before the government has had the opportunity to decide. I think that the people should give some confidence to the government's will to respect their rights.

If this were any other party, one might consider this a sustainable position. However, Mr. Bouchard has shown that he also might share the position of l'Office de la langue française regarding the relative importance of the right of English-speaking Quebecers to receive their services in English and the right of francophones to work in French.

In a January 27, 1997 *The Gazette* article entitled , "PQ targets anglo services," he was quoted as saying:

> Both are important and we have to reconcile those two aspects of the question, ... For example, it's quite obvious in my mind that we have to be true to our commitment to make sure that English-speaking people who need services will have them in their own language. But at the same time, it wouldn't make sense to fire people in hospitals because they don't speak English.

•(1740)

Comments such as these do nothing to inspire English-speaking Quebecers to put their faith in a party which was described by journalist Don Macpherson as:

> A party whose members feel threatened, insulted, humiliated by the mere sight of a bilingual sign at a French-language hospital that's supposed to care for anglophones who have no nearby hospital of their own. A party that, ironically, is founded on the very premise that a linguistic minority cannot trust a government it does not control.

The advice he gives at the end of his article rings true. He stated:

> Anglophones would be better advised to trust only themselves, and whatever political pressure they can continue to bring to bear on the government from outside the process. Because this government has shown that pressure is one thing it understands.

Unfortunately, honourable senators, as I stated in my introductory comments on April 8, political support for English-speaking Quebecers and their rights has not been prominent in political circles of late. The Parti Québécois resolutions were passed without much comment coming from either federal or Quebec politicians. No one called for protection of the right of English-speaking Quebecers to services in their language. No one sounded the alarm.

However, recently, alarm bells were sounded by politicians when Ontario's Hospital Restructuring Commission announced that Ontario's only French-language hospital, Ottawa's Montfort Hospital, would be closed in 1999. A flood of support for the institution was received from politicians of every stripe. In a letter to the editor of *The Ottawa Citizen* on March 11, 1997, Mr. Leif Schonberg, a resident of Osgoode, expressed what many Canadians feel about this sudden outpouring of political support. He said:

> None of the Quebec wagon riders are jumping anywhere to support the beleaguered anglophone minority population in the Province of Quebec, a population that, by repressive laws and government direction, cannot freely advertise in the language of their choice, cannot freely do business in the language of their choice, cannot freely opt for education in the language of their choice, cannot get easy access to government services in the language of their choice, and cannot get easy access to health services in the language of their choice.

Mr. Schonberg was responding to an article by Chantal Hébert entitled "Shelter Montfort from storm" which appeared in *The Ottawa Citizen* of March 4, 1997. In this article, Ms Hébert stated:

> In an era of budget restraint, many will argue that it is frivolous to worry about what language medical care is available in.... As they deal with a storm of cutbacks, one would have thought governments in Canada would —

shelter

> — as best they can what is unique so that it is not washed away in the process.
>
> The opposite has been happening. As money gets scarcer, francophone institutions end up first on the chopping block, as if second-best was invariably good enough for French-speaking Canadians in all but the most prosperous of circumstances.

No one has come forward with such arguments in support of English-speaking Quebecers.

Minority rights are minority rights. It should not matter which language the imperiled minority speaks. All that should matter is that acquired rights are in danger. Mr. Bouchard, in this fateful speech at the Centaur Theatre stated:

> ...both my government and I are responsible for each and every Quebecer, regardless of his or her language, religion, origin, color or belief.

Such responsibility begins with providing English-speaking Quebecers with essential health services in their language. A right which can be so easily frustrated, a right which is subject to change at any given moment by a multitude of players, is more in the nature of a privilege allotted by the grace and goodwill of those in power than a right in the true sense of the word.

I realize that the federal government has no jurisdiction when it comes to health services. However, in this case, the federal government has a tool with which it can make a difference.

The Hon. the Acting Speaker: I regret having to advise that the time allotted for Senator Wood's speech has expired. She could continue with agreement.

Hon. Senators: Agreed.

Senator Wood: The federal government has an agreement with the Province of Quebec regarding the promotion of access for English-speaking persons to health and social services in English. This five-year agreement was first signed on May 24, 1989 and was renewed for a subsequent five-year period on October 25, 1993, thereby to remain in effect until March, 1999. The agreement's preamble sets out the federal and Quebec government's commitment to supporting the rights of the anglophone minority language community. Under this agreement, the federal government undertakes to help defray part of the costs of providing English-speaking Quebecers with health services in their language. The Government of Quebec also contributes to this end. The fund created basically goes towards paying the salaries of coordinators who participate with the regional boards in the elaboration of access programs. They also act as liaisons between the English-speaking community, the health institutions, and the regional boards, and ensure that the access programs are properly implemented and that services are being provided to English-speaking Quebecers who request them. Each regional health and social services board has one. Individuals closely linked to the issue of English health care services have convinced me that these coordinators play an essential role in promoting and protecting the rights of English-speaking Quebecers to health services in their language.

The Canada-Quebec agreement has provided for these coordinators since 1989. However, I am told that these positions are now at risk because of cutbacks. Since 1993, yearly federal contribution levels have steadily dropped. Receiving no encouraging signs from the federal government, the Government of Quebec has been dropping its contribution levels as well. As I said before, Premier Bouchard has many other priorities. He not only must implement cost-cutting, but he must please his party members. He has expressed a wish to respect the rights of English-speaking Quebecers regarding health services. The federal government should be using its spending power to encourage the Quebec government to continue with its initiatives in this area.

Nothing is more sacred to Canadians than quality health care. The end purpose of the social and health services system is to improve the population's state of health and welfare by reducing and correcting social and health problems. If the services are not being provided in a language that is understood by those being served, how can we succeed in this goal?

•(1750)

We must not let the opportunity to make a difference in the lives of English-speaking Quebecers slip through our fingers. We must ensure that federal contributions under this Canada-Quebec agreement are stabilized, if not increased. This is a small measure that could go a long way in reassuring English-speaking Quebecers that we have not forgotten them.

On motion of Senator Berntson, debate adjourned.

NORTH ATLANTIC TREATY ORGANIZATION

PROPOSED EXPANSION—INQUIRY—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein rose pursuant to notice of April 15, 1997:

> That he will call the attention of the Senate to the expansion of NATO.

He said: Honourable senators, later this year, NATO, Canada's pre-eminent strategic alliance, is moving towards a fateful decision ripe with significant strategic implications. Led by the Clinton administration, a consensus has been developed for the expansion of NATO eastward by initially adding Poland, the Czech Republic and Hungary as full members. Such accession immediately and dramatically changes the perceived strategic balance of power in Europe and alters the spheres of influence. The Russian bear, weakened in its transition from Communism to a Western-style free-enterprise democracy, is stumbling in its domestic environment. Its vaunted military strength is deteriorating.

This strategic move comes at this crucial moment when the weakened and reeling Russian bear was reaching out to the West. Some strategic thinkers, primarily the U.S. and Europe, decided for different reasons that this was the time to expand NATO eastward towards the Russian border.

NATO was first conceived as a security alliance to offset the palpable Communist threat from the East, essentially the military threat from the USSR at the outset of the Cold War.

In the NATO charter, article V, each member agrees to guarantee the boundaries of each other member state. This now requires Canada, by agreement, to defend the borders of Germany and Turkey, amongst others. Expansion of NATO would move our defence obligations to the very edge of the so-called "military district" of Russia.

If history provides any hard lessons, the hard lesson of the Treaty of Versailles, after World War I, is instructive. Versailles exacted devastating concessions when a defeated Germany was in its weakened, post-war state.

Most historians have attributed the rise of Nazi Germany following Versailles to its humiliating condition provoked by Versailles, the so-called, fabled "knife in the back."

After World War II, Yalta altered the natural balance of power and spheres of influence by redrawing the map of Europe, once again when states were in weakened conditions. They had no leverage to object. The resulting power vacuum allowed the easy ascension of the Russian bear as the overlord of Eastern Europe. Hence NATO, and hence the Warsaw Pact, and the excruciating costs of the Cold War.

Lessons of history teach us that exacting concessions from a weakened state without generosity from its stronger adversary always foments hyper-nationalism and kindles the flames of sterile chauvinism or, worse, fascism.

The Senate Foreign Affairs Committee, in our study of Canada's relations with Europe, recommended caution with respect to NATO expansion for these and other reasons. Yet it appears that Canada is joining the rush led by the U.S. to expand NATO.

What are the consequences for Canada? One, Canada's voice and influence in NATO will be diluted. Two, America's stake in NATO will ultimately be diminished. Three, the NATO command structure will become even more political and more complex and less effective. Four, the NATO civilian leadership will be even more prone to paralysis on crucial strategic decisions. Five, the costs of harmonization, variably now estimated at between $10 billion and $150 billion to bring the new member states up to military parity, will trigger a renewed arms race. Six, crucial negotiations with Russia for the reduction of arms, both conventional and nuclear, will be linked and could be delayed if not derailed. Seven, new strategic divisions will stultify progress to the goal of an expanded NATO, which is a stable, united democratic Europe. Eight, four classes of states will emerge — NATO members, Russia, the left-outs, and the leftovers, the leftovers being the weaker, most vulnerable states, increasing competition, tension and danger. Nine, Russia will do its utmost to hobble NATO's strategic flexibility, particularly in the East. Ten, and most significant, the Russian bear will not sit still.

Prior to the recent Clinton-Yeltsin meeting, Russians threatened by NATO expansion began to resuscitate and renew their strategic alliance with China and then with Belarus and, most recently, just last week, Russia opened strategic talks with Iran.

The Russian bear, even in its weakened state, will not sit still. The object of the post-Cold War was to draw the Russian bear into the arms of Europe, enhancing and romancing her democratic impulses while containing her aggressive inclinations. Was there a better answer to NATO's post-war dilemma? How, strategists ask, could NATO preserve its core defence advantage while expanding its peace management expertise to secure and stabilize the newly-liberated states of central Europe and beyond?

The creative answer was "Partnership for Peace." Partnership for Peace was a scheme to create affiliate states of NATO by bilateral agreements by which 27 or more European states, including Russia and its former satellites, could equally engage in intensive steps of co-ordination including joint military exercises, active exchanges between ambassadors within the NATO context, education and increased awareness of NATO standards, active discussion of mutual political, strategic and military problems, and participation with NATO in peacekeeping missions such as Bosnia.

Members of the Partnership for Peace, while gaining larger access to the wonders of NATO, would continue to be excluded from the mutual defence protection afforded the core states by article V. As one American commentator recently put it:

> The beauty of the PFP was that it preserved NATO's core strength while creating a framework to fill the power vacuum in Central Europe — without threatening Russia or setting up a competition of who gets into NATO and who doesn't.

However, the Clinton administration has sacrificed the idea of the Partnership for Peace in favour of expanding NATO. Where does this leave Ukraine? Where does this leave the Baltic States? Where does it leave the Balkans? Most important, where does it leave restive Russia with its ownership of the second largest strategic, global, nuclear arsenal in its vulnerable, weakened and unsettled political condition?

What does NATO expansion do for Russia? It reinvigorates its far right, its national chauvinist and its neo-fascist tendencies, inviting Russia to explore new, unfortunate, dangerous, strategic, anti-western alliances on all its fronts. Why would one expect Russia to sit still, even in its weakened state, as the balance of power is tilted and spheres of influence are expanded at its expense? Why would Russia want to sit still when the western alliance creeps towards its border for the first time in 300 years?

Thomas Friedman, foreign affairs journalist for the *New York Times*, on April 14, wrote a brilliant article entitled, "Bye Bye NATO." Let me quote just a part:

> Some enterprising Russian p.r. expert recently visited NATO headquarters and suggested a novel way to ease tensions between an expanding NATO and Russia: Just change NATO's name, the Russian suggested, because NATO is a four-letter word for Russians. So how about calling it TOMATO (Trans-Oceanic Military Alliance and Treaty Organization) or POTATO (Peace Organization for Trans-Atlantic Ties and Operations), or maybe VODCA (Vanguard Organization for Defence, Cooperation and Assistance).
>
> NATO's savvy boss, Javier Solana, laughed off the Russian proposal. But discussions with officials here left me convinced that if NATO goes ahead with its expansion, just about everything other than its name will be changing — and that's too bad. I rather liked NATO the way it was — a tightly knit group of like-minded democracies capable of taking on any military foe in the world. Everyone is assuming that NATO can expand that focused identity. Don't believe it. The real truth is NATO is now locked on a path of expansion that will dilute its power every bit as much as baseball expansion diluted Major League pitching and made every 90-pound weakling a home-run threat.
>
> It didn't have to be this way. NATO has always had two core functions. One was defense management — the commitment by each member to defend the others in the event of attack. The other was peace management — the commitment by NATO's 16 members to share their defense plans and budgets so that everyone knew what his neighbor was up to. Mutual defense kept peace between NATO and Russia and peace management kept peace amongst NATO's 16 members.

Canadians now have a difficult choice. We cherish strong bilateral relations with the Czech Republic, Poland and Hungary. Many Canadians have special relations, special affections and special concerns for the security of these states. Who in Canada would wish to see those three countries, which have suffered so much, continue to feel insecure; to be left out of the idea of a new, democratic, stable Europe? An enhanced and invigorated Partnership for Peace was the ideal track allowing each state to harmonize at its own speed without threatening others. But to leave out states while granting full membership to others in NATO may be a catalyst to creating a greater sense of tensions and problems for their peaceful future than it solves. The cure may be worse than the cause.

At its heart, NATO was designed to dissolve aggressive historic divisions within Europe. NATO became the successful anchor for the North American commitment to Europe's peace and stability while, at the same time, burying the historic animosity between France and Germany, allowing Germany to act in concert with democracies rather than exercise unilateral actions which led to World War II.

NATO worked. NATO works. There must be more creative solutions than distorting NATO by expansion at this time. This crucial decision on NATO will define Canada's strategic role in Europe in the next millennium. This is a defining moment for the West. Canada's sacrifices to Europe's peace and stability in the 20th century deserve our very best ideas and our very best thinking.

Will Durant, the popular historian, estimated that our globe has enjoyed only 29 years of peace within the last 3,000 years. War is part of the human condition. Let Canada proceed with care and with caution.

On motion of Senator Berntson debate adjourned.

ADJOURNMENT

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

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

> That when the Senate adjourns today, it do stand adjourned until Monday next, April 21, 1997, at 8:00 p.m.

The Hon. the Acting Speaker: Is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, April 21, 1997 at 8:00 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 35th Parliament)
Thursday, April 17, 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-17	An Act to amend the Criminal Code and certain other Acts	97/04/15	97/04/16	Legal & Constitutional Affairs					
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-23	An Act to establish the Canadian Nuclear Safety Commission and to make consequential amendments to other Acts	97/02/19	97/03/05	Energy, the Environment and Natural Resources	97/03/13	none	97/03/18	97/03/20	9/97
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-27	An Act to amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation)	97/04/15	97/04/16	Legal & Constitutional Affairs	97/04/17	none			
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	97/03/04	none	97/04/09		
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-32	An Act to amend the Copyright Act	97/03/20	97/04/10	Transport & Communications					
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

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-34	An Act to establish programs for the marketing of agricultural products, to repeal the Agricultural Products Board Act, the Agricultural Products Cooperative Marketing Act, the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act and to make consequential amendments to other Acts	97/04/17							
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
C-38	An Act to provide for mediation between insolvent farmers and their creditors, to amend the Agriculture and Agri–Food Administrative Monetary Penalties Act and to repeal the Farm Debt Review Act	97/04/17							
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	97/02/19	1/97
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-44	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/04/16							
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-46	An Act to amend the Criminal Code (production of records in sexual offence proceedings)	97/04/17							
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	97/02/17	97/02/19	2/97
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-55	An Act to amend the Criminal Code (high risk offenders), the Corrections and Conditional Release Act, the Criminal Records Act, the Prisons and Reformatories Act and the Department of the Solicitor General Act	97/04/16	97/04/17	Legal & Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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	97/02/17	none	97/02/18	97/02/19	3/97
C-60	An Act to establish the Canadian Food Inspection Agency and to repeal and amend other Acts as a consequence	97/02/13	97/02/18	Agriculture & Forestry	97/03/05	none	97/03/06	97/03/20	6/97
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-66	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	97/04/10	97/04/15	Social Affairs, Science & Technology					
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	97/02/20	Banking, Trade & Commerce	97/03/11	one	97/03/13	97/03/20	10/97
C-71	An Act to regulate the manufacture, sale, labelling and promotion of tobacco products, to make consequential amendments to another Act and to repeal certain Acts	97/03/10	97/03/13	Legal & Constitutional Affairs	97/04/15	none	97/04/16		
C-77	An Act concerning an order under the International Development (Financial Institutions) Assistance Act	97/04/17							
C-81	An Act to implement the Canada–Chile Free Trade Agreement and related agreements	97/03/20	97/04/10	Foreign Affairs	97/04/16	none	97/04/17		
C-82	An Act to amend certain laws relating to financial institutions	97/04/15	97/04/16	Banking, Trade & Commerce	97/04/17	none			
C-84	An Act to amend the Citizenship Act and the Immigration Act	97/04/17							
C-87	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending Mrach 31, 1997	97/03/13	97/03/13	--	--	--	97/03/13	97/03/20	7/97
C-88	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending Mrach 31, 1998	97/03/13	97/03/13	--	--	--	97/03/13	97/03/20	8/97

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	97/02/19	4/97
C-205	An Act to amend the Criminal Code and the Copyright Act (profit from authorship respecting a crime)	97/04/15							
C-216	An Act to amend the Broadcasting Act (broadcasting policy)	97/04/15	96/12/03	Transport & Communications	97/04/10	one	97/04/16		
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	97/02/17	97/02/19	5/97
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
C-300	An Act respecting the establishment and award of a Canadian Peacekeeping Service Medal for Canadians who have served with an international peacekeeping mission	97/03/20	97/04/08	Social Affairs, Science & Technology					
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	97/03/13	Rec.			
S-11	An Act to amend the Excise Tax Act (Sen. Di Nino)	96/06/20	97/02/19	Social Affairs, Science & Technology					
S-12	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	96/11/25	97/02/18	Aboriginal Peoples					

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
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-16	An Act concerning one Karla Homolka (Sen. Cools)	97/04/16							

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	38/96
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	37/96
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	97/02/18	Legal & Constitutional Affairs	97/03/13	none	97/03/18		

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Thursday, April 17, 1997

ORDERS OF THE DAY