



Debates of the Senate

2nd SESSION

•

35th PARLIAMENT

•

VOLUME 136

•

NUMBER 93

OFFICIAL REPORT
(HANSARD)

Tuesday, April 22, 1997

—

THE HONOURABLE GERALD R. OTTENHEIMER
SPEAKER *PRO TEMPORE*

CONTENTS

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

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

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9, at \$1.75 per copy or \$158 per year.

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Tuesday, April 22, 1997

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

Prayers.

SENATORS' STATEMENTS

EMPLOYMENT INSURANCE

Hon. Orville H. Phillips: Honourable senators, I rise today to bring to your attention five questions I have placed on the Order Paper recording the government's so-called reforms to employment insurance. I ask the government to endeavour to answer these queries before an election is called, because during the election they will certainly be asked these questions by the thousands of working Canadians who are no better off today than they were four years ago.

Sadly, honourable senators, the average Canadian family's disposable income has dropped by more than \$6,000. People are having to work harder for less money. It is clear that the priority of the government in reforming EI was to tax workers in order to meet deficit targets, and not to create real jobs.

DRINKING AND DRIVING

Hon. Marjory LeBreton: Honourable senators, I speak today in support of a call by MADD Canada, Mothers Against Drunk Drivers.

Fifteen months ago last night, I received a telephone call that no one ever believes will come to them. A horrible car crash had occurred involving my daughter and her whole family. There were serious injuries and alcohol was suspected with regard to the driver of the car, who crossed into their path. The result was the instant death of my 12-year-old grandson, Brian LeBreton-Holmes, followed one day later by my daughter Linda LeBreton, in her 36th year.

Within the past month, we as parliamentarians have received a communiqué from MADD Canada. Most of us believe that we are entering an election campaign. During the campaign, and after, MADD will be asking all political parties to address this serious problem. I would urge that we pay special heed to, and support the appeals of, MADD which is asking for a review of the Criminal Code as it relates to people who drink and drive. Ten years have passed since laws were last written on this criminal activity. MADD urges that new action be taken within 18 months of the beginning of the new Parliament.

This is urgent. Four Canadians are killed every day in alcohol-related crashes. Think about it — that is 28 people a week, 122 people a month, 1,460 people a year. Thousands and thousands more are injured and many never fully recover. Rick Hansen was talking about this very issue earlier today in a television interview.

The number of victims affected, directly and indirectly, is overwhelming. The monetary cost to the health care system and to the courts, to name just two jurisdictions, is astronomical.

In order to deal with this dreadful situation, MADD is calling for:

First, lowering the legal blood-alcohol limit from 80 milligrams per decilitre to 50 milligrams per decilitre. Research confirms that a person's ability to perform some complex decision-making operations involved in driving a motor vehicle is impaired at blood alcohol levels much below the current .08 limit. In addition, the risk of being involved in a motor vehicle crash increases significantly with an increase in the blood alcohol level.

Second, more effective and efficient roadside procedures are required. MADD Canada calls for review of the Criminal Code specifically to ensure more efficient and effective law enforcement at a crash site. The review should consider the expansion of reasonable and probable grounds and alter roadside procedures so that laws would be more effectively enforced and breath and blood samples would be obtained in a more efficient manner thereby eliminating the chances of cases being thrown out on technicalities.

Third, the rights of victims of impaired drivers must be established in statute. Victims' rights must parallel the rights of the accused. Victims must have the right to be kept informed of all proceedings and the right to be present and heard at every stage of the judicial process.

As we have sadly noted and experienced, victims have little or no standing in the courts.

MADD Canada's Statement of Beliefs asserts:

...while an individual's decision to consume alcohol is a private matter, driving after consuming alcohol or other drugs is a public matter.

Federal legislators must send a clear message to Canadians that there is zero tolerance for irresponsible drinkers who drive.

ROUTINE PROCEEDINGS

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

BILL TO AMEND—REPORT OF COMMITTEE

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

Tuesday, April 22, 1997

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

TWENTY-SEVENTH REPORT

Your Committee, to which was referred Bill 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, has, in obedience to the Order of Reference of Thursday, April 17, 1997, examined the said Bill and now reports the same without amendment but with the following observation:

Your Committee understands that, due to limited correctional system resources, priority for treatment may be given to those offenders who are approaching parole eligibility. As a result, your Committee is concerned that the treatment of dangerous offenders may be further delayed by Bill C-55 amendments that will extend their parole ineligibility period from three to seven years. Accordingly, your Committee urges the Solicitor General to monitor the effects of Bill C-55 to ensure that there are sufficient resources in place to provide dangerous offenders with adequate and timely access to treatment.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

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

[*Translation*]

INTERNATIONAL COMPETITIVE POSITION IN COMMUNICATIONS

INTERIM REPORT OF TRANSPORT AND COMMUNICATIONS
COMMITTEE ON STUDY TABLED

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, tabled the following report:

Tuesday, April 22, 1997

The Standing Senate Committee on Transport and Communications has the honour to present its

TENTH REPORT

Your Committee, which was authorized by the Senate on May 1, 1996, to examine and report upon Canada's international competitive position in communications, now presents an interim report entitled *Wired to Win*.

Respectfully submitted,

LISE BACON
Chair

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

On motion of Senator Bacon, report placed on Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTEENTH REPORT OF COMMITTEE PRESENTED

Hon. Colin Kenny, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, April 22, 1997

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

EIGHTEENTH REPORT

Your Committee has examined and approved the supplementary budgets presented to it by the following Committees for the proposed expenditures of the said Committees for the fiscal year ending March 31, 1998:

**Legal and Constitutional Affairs Committee
(Legislation)**

Professional and Other Services	\$19,600
Transport and Communications	30,000
All Other Expenditures	<u>1,500</u>
Total	\$51,100

**Banking, Trade and Commerce
(Financial System in Canada)**

Professional and Other Services	\$ 43,000
Transport and Communications	220,612
All Other Expenditures	<u>3,400</u>
Total	\$267,012

**Social Affairs, Science and Technology
(Post-Secondary Education)**

Professional and Other Services	\$3,000
Transport and Communications	15,000
All Other Expenditures	<u>0</u>
Total	\$18,000

**Canadian Airborne Regiment in Somalia
(Special)**

Professional and Other Services	\$246,800
Transport and Communications	15,500
All Other Expenditures	<u>35,700</u>
Total	\$298,000

**Transport and Communications
(Transportation Safety)**

Professional and Other Services	\$33,250
Transport and Communications	39,120
All Other Expenditures	<u>1,500</u>
Total	\$73,870

**Transport and Communications
(Communications)**

Professional and Other Services	\$47,000
Transport and Communications	4,200
All Other Expenditures	<u>500</u>
Total	\$51,700

**Foreign Affairs
(Asia Pacific Regions for Canada)**

Professional and Other Services	\$24,200
Transport and Communications	4,800
All Other Expenditures	<u>1,000</u>
Total	\$30,000

Respectfully submitted,

COLIN KENNY
Chairman

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

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**CANADIAN VOLUNTEER SERVICE MEDAL FOR
UNITED NATIONS PEACEKEEPING BILL**

REPORT OF COMMITTEE

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

Tuesday, April 22, 1997

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

FOURTEENTH REPORT

Your Committee, to which was referred the Bill 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, has, in obedience to the Order of Reference of Tuesday, April 8, 1997, examined the said Bill and now reports the same without amendment but with the following recommendations:

The Committee affirms the recommendations of the National Council of Veteran Associations (as contained in the Subcommittee on Veterans Affairs' report *Keeping the Faith: Into the Future*, and briefs submitted to the Subcommittee on January 20, 1997 and April 21, 1997, respectively) regarding the creation of new awards and medals, with the intention that these recommendations be given effect in such manner as to ensure a timely completion of awards and medals commemorating the end of the Second World War; and

The Committee recommends that the Government of Canada include, in its Honours and Awards Committee, representatives of the major veterans associations in Canada and the Department of Veterans Affairs.

Respectfully submitted,

MABEL M. DeWARE
Chair

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

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

ADJUDICATION OF PENSIONS

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY
COMMITTEE ON STUDY TABLED

Hon. Mabel M. DeWare, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, tabled the following report:

Tuesday, April 22, 1997

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

FIFTEENTH REPORT

Your Committee, which was authorized to examine and report upon the implementation by the Department of Veterans Affairs of measures to expedite the adjudication of pensions, has, in obedience to its Order of Reference of December 10, 1996, proceeded to that inquiry and now presents its final report entitled, *Steadying the Course*.

Respectfully submitted,

MABEL M. DeWARE
Chair

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

On motion of Senator DeWare, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

FISHERIES

PRIVATIZATION AND LICENSING OF QUOTAS IN INDUSTRY—
REPORT OF COMMITTEE REQUESTING AUTHORITY
TO ENGAGE SERVICES

The Hon. Gerald J. Comeau, Chairman of the Standing Senate Committee on Fisheries, presented the following report:

Thursday, April 24, 1997

The Standing Senate Committee on Fisheries has the honour to present its

THIRD REPORT

Your Committee, which was authorized by the Senate on Thursday, February 13, 1997 to examine and report upon the questions of privatization and quota licensing in Canada's fisheries, respectfully requests that the Committee be empowered to retain the services of such professional, technical, and other personnel as deemed advisable by the Committee for the purpose of such study.

Pursuant to Section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted

GERALD J. COMEAU
Chairman

(*For text of report, see Appendix "A" in today's Journals of the Senate.*)

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

On motion of Senator Comeau, report placed on Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

THE ESTIMATES, 1997-98

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE
ON MAIN ESTIMATES PRESENTED AND PRINTED AS APPENDIX

Hon. David Tkachuk: Honourable senators, I have the honour to present the tenth report of the Standing Senate Committee on National Finance concerning the examination of the Main Estimates laid before Parliament for the fiscal year ending March 31, 1998.

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

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed that this report be printed as an appendix?

Hon. Senators: Agreed.

(*For text of report see today's Journals of the Senate, Appendix "B".*)

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

On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until tomorrow, April 23, 1997, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1420)

INFORMATION COMMISSIONER

NOTICE OF MOTION TO REAPPOINT PRESENT INCUMBENT

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, April 23, 1997, I will move:

That, in accordance with subsection 54(3) of the Act to extend the present laws of Canada that provide access to information under the control of the Government of Canada, Chapter A-1, of the Revised Statutes of Canada 1985, the Senate approve the reappointment of John Grace as Information Commissioner, to hold office until December 31, 1997.

[*Translation*]

OTTAWA'S MONTFORT HOSPITAL

PLANNING FOR THE FUTURE—NOTICE OF MOTION

Hon. Jean-Maurice Simard: Honourable senators, I give notice that on Wednesday next, April 23, 1997, I will move:

That the Senate encourage the federal government and the provincial government of Ontario to work together to find a just and generous solution which will ensure that the

Montfort Hospital may continue to serve its local minority-language clientele and French-language communities throughout Canada.

[*English*]

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Dan Hays: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have power to sit at three thirty o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Eric Arthur Berntson: Would the honourable senator explain the purpose of his motion?

Senator Hays: Honourable senators, the reason for the motion is to deal with legislation that we have before us in the most expeditious way possible. Bill C-38 is before the committee at this time. I am not sure whether or not there will be any problems with that bill, but we are anxious to determine that as soon as possible so that we may have the balance of the week to hear other witnesses, if necessary.

Senator Tkachuk: Are we not here until June, senator?

Senator Hays: The speculation — and it is only speculation, but I think it has to be taken seriously — is that we may not be sitting for much longer. If that is the case, this is important legislation that we would like to deal with in the meantime. That is the reason for this request, honourable senators.

Motion agreed to.

QUESTION PERIOD

AUDITOR GENERAL

PROMISED TABLING OF REPORT—GOVERNMENT POSITION

Hon. Duncan J. Jessiman: Honourable senators, on Tuesday next, the Auditor General is to make available his first report for 1997.

It was the excellent initiative of our colleague Senator Jean-Robert Gauthier which ensures that the Auditor General's invaluable service to Canadians and the business of governing is brought forth quarterly, instead of just once a year. Canadians expect that this quarterly report will be tabled in the other place early next week.

The subjects covered by this report will include this government's cuts to the Canadian public service; the essential need for new financial management programs in federal departments; the creative accounting methods of the Liberal government; Environment Canada's record on NAFTA and the World Trade Organization as it relates to management of hazardous waste; and the government's accountability, or non-accountability, to Parliament in disclosing its expenditures. These are all important matters.

Can the Leader of the Government in the Senate tell Canadians whether they can expect to receive this report next week? Will Canadians be given valuable information on this government's record as it pertains to accounting gymnastics, its disdain for open parliamentary debate, and its disastrous record of abrogating the environmental provisions of NAFTA, the breaching of WTO regulations, and its cavalier attitude toward interprovincial trade?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, on the question of the Auditor General's report, I agree with Senator Jessiman. The work that was done by our colleague Senator Gauthier, in his former position as a member of the House of Commons, was extremely valuable in setting out a reporting mechanism throughout the year for the Auditor General. The institution is better for it.

On the question of the tabling of the Auditor General's report, at this point in time I have no reason to tell honourable senators that he will not be able to do so next week. I simply do not know.

Senator Jessiman: Honourable senators, the mandate that the Liberal government received from Canadians in 1993 was for five years. Although the minister is not admitting it, why is her government calling this election — assuming it is called — after only three and a half years? Why is it being called the day before the Auditor General is to release his report on her government's performance in key areas of concern to Canadians?

Senator Fairbairn: Honourable senators, obviously, I cannot comment on my honourable friend's hypothetical question. However, I can say that the government has welcomed the Auditor General's reports as they have been delivered throughout the year, and indeed has taken both the reports and the recommendations of the Auditor General very seriously. From report to report, I think it is acknowledged that the government has listened and has responded to a great number of the Auditor

General's concerns, and would continue to do so, of course, following the release of this imminent report.

[*Translation*]

INTERGOVERNMENTAL AFFAIRS

QUEBEC—AMENDMENT OF SECTION 93 OF CONSTITUTION—
APPEARANCE OF JUSTICE EXPERTS BEFORE
PARLIAMENTARY COMMITTEE—REQUEST FOR ANSWER

Hon. Gérald-A. Beaudoin: Honourable senators, the government has decided to hold public hearings on Quebec's resolution with respect to section 93 of the Constitution. We agree that there must be public hearings.

I understand that the government is of the opinion that the resolution can be agreed to bilaterally. Personally, I am inclined to think that is possible.

As to whether the amendment must be bilateral or trilateral, could the Leader of the Government in the Senate tell us whether the opinion of justice department experts will be made available to the committee to be created in the next few days?

[*English*]

• (1430)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, the government, through its legal advisors — and indeed Senator Beaudoin himself — believes that this constitutional amendment can be proceeded with in a bilateral manner. Regarding Senator Beaudoin's question as to whether legal opinions will be presented to the committee, I cannot answer that, and I am sure my honourable friend knows that, traditionally, the advice of the law officers of the Crown is not normally presented in that way.

While I cannot answer my friend's question directly, the committee, when it is set up, will certainly have the benefit of being able to discuss and question those who have been instrumental in putting this resolution together.

Senator Beaudoin: Honourable senators, of course I understand that if there is no committee, those opinions may be secret, but when there is a committee, the Minister of Justice and the officials of his department will appear before it. Since the point at issue here is important, I hope they will communicate their reasons for coming to that decision.

Senator Fairbairn: Honourable senators, I certainly understand the honourable senator's question. I also know that his views would be of particular interest to the Minister of Justice and the Minister of Intergovernmental Affairs, and I will make sure that each of them has his comments.

JUSTICE

CONSTITUTIONAL CHALLENGE TO FIREARMS ACT— STATUS OF LEGAL ACTION—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. I understand that a number of provincial and territorial governments in Western Canada — Alberta, Saskatchewan, Manitoba, Northwest Territories and Yukon — as well as Ontario are participating in a constitutional challenge of the government's Firearms Act, Bill C-68. The concern is that the registration of firearms may affect civil and property rights of citizens, which are provincial concerns under the Constitution, and that the act may be unconstitutional.

I realize that the government will not comment on the specific details of the legal action currently before the court, but can the Leader of the Government advise the Senate as to the current state and status of this particular legal action?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, that is a good question. I will endeavour to find out exactly at what stage that particular legal action is at the moment. As my honourable friend has acknowledged, we cannot comment on it, but I will certainly try to determine for him just how the process is unfolding.

Senator Oliver: Honourable senators, I have a supplementary question. I know that many Canadian firearms owners are wondering what they should be doing in terms of registering their firearms and would like to have some idea as to when the legal action is likely to be resolved. Can the government provide us with an estimate as to when it expects the court action to result in a decision?

Senator Fairbairn: I will forward that question, Senator Oliver, but I do not know whether the government is in a position to make that kind of a speculative guess. The law has been enacted, and citizens would be advised to adhere to the law. So far as I can obtain any information for the honourable senator, I will, but I am highly doubtful that the government would have a speculative timetable that it could offer to him. However, I will certainly pass his question along.

COSTS INCURRED TO DATE OF ESTABLISHING FIREARMS REGISTER—REQUEST FOR DETAILS

Hon. Terry Stratton: Honourable senators, while the length of the election campaign has been decreased from 49 to 36 days, we all know there is a full-blown election campaign taking place now. As you travel from riding to riding, it is delightful to watch the tussle, particularly in rural and Northern Ontario, and into rural Saskatchewan, Manitoba, Alberta, and British Columbia. All you hear about are guns and Bill C-68, and just how much of a tussle this issue will create in those ridings. The question that keeps coming up is: What are the costs of this bill?

On May 24, 1995, the Minister of Justice wrote to the Attorneys General and Solicitors General regarding the cost of

establishing the firearms registration system proposed by Bill C-68. Accompanying that letter was a financial framework prepared by the Department of Justice on April 24, 1995. At that time, the minister estimated that the cost of setting up the registration system would be \$85 million. Can the Leader of the Government provide us with the details of the costs incurred to date?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Stratton will appreciate that I cannot give him those kinds of details today. I will send his question along with Senator Oliver's to my colleague.

However, from my travels through rural Canada, I can tell the honourable senator that I know there are many other issues of great interest to people in Western Canada than simply this one.

Senator Stratton: Honourable senators, I quite appreciate that there are other issues. I am not suggesting that the whole campaign will be fought on the one issue. However, this is a particularly hot issue, and I think it will remain so throughout the course of the election campaign.

As a supplementary, I note that a number of provincial governments have stated that they are opposed to the universal registration of all firearms. One of those governments was that of the Province of Ontario. The Honourable Bob Runciman said on September 21, 1995, that Bill C-68 emphasizes trivial but politically attractive measures at the expense of realistic and effective gun control. He added that while it may look good on the six o'clock news, it will not work on the streets. Subsequently, a number of provincial governments expressed their objections and are taking legal action.

In light of this, has the government revised its estimate of the total costs, and if so, what is the current projected cost of establishing the firearms registration system?

Senator Fairbairn: Honourable senators, I can assure Senator Stratton that there was nothing trivial in the considerations which went into this particular bill. There are very important considerations about violence and the saving of lives that are part of this legislation, as well as issues such as registration. I do not think anyone in this chamber should forget that.

As far as the financial ramifications are concerned, I will be pleased to forward Senator Stratton's question to my colleagues and try to obtain an answer for him.

NATIONAL DEFENCE

SPECIAL SENATE COMMITTEE ON SOMALIA INQUIRY— BRIEFING OF PROSPECTIVE WITNESSES BY LIAISON TEAM— GOVERNMENT POSITION

Hon. Orville H. Phillips: Honourable senators, I have a question for the Leader of the Government in the Senate. My question today is about SILT — not the dirt that builds up in the river bed, but an acronym for the Somalia Inquiry Liaison Team.

Why did the prospective witnesses before the special Senate committee looking into the Somalia affair have access to extensive briefing materials, and receive briefing sessions from SILT, when senators were asked to enter into the committee hearings with no preparation, outside assistance or briefing in this matter?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have no knowledge whatsoever of the facts pertaining to the question that Senator Phillips is asking, but I will inform myself on it.

Senator Phillips: Honourable senators, would the Leader of the Government in the Senate agree that we should be filtering this SILT instead of the SILT filtering the Senate?

Senator Fairbairn: I will think on that overnight — and probably for days to come, Senator Phillips.

Senator Phillips: I hope it does not disturb your sleep, honourable senator.

SPECIAL SENATE COMMITTEE ON SOMALIA INQUIRY—
REQUEST FOR REPORT

Hon. Orville H. Phillips: Honourable senators, I had hoped to ask a question of the chairman of that committee, but unfortunately he is not present at the moment. Perhaps the Leader of the Government in the Senate would be kind enough to convey my question to him.

• (1440)

After the departure of the members of my caucus from the Somalia inquiry committee meeting last Thursday, the government members moved to report back to the Senate. I would ask the minister if she would inquire of Senator Rompkey when he intends to present that report, and I emphasize the urgency, in view of Senator Hays' announcement this afternoon.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, with the greatest of respect, I think perhaps Honourable Senator Phillips may be putting words in Senator Hays' mouth. In any event, the burden of his remarks certainly was to be prepared to deal with things in an expeditious fashion. I will certainly pass Senator Phillips' question along to our colleague Senator Rompkey and ask him to address it.

DEMISE OF SPECIAL SENATE COMMITTEE ON SOMALIA
INQUIRY—POSITION OF LEADER OF THE GOVERNMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a supplementary question. I would have thought the government leader would have taken more interest in the fate of this committee, since it was her motion which led to its creation. Is she not concerned about the fact that the committee is not meeting, and should she not be putting the right questions in order to get the right answers as to why it is not meeting? A government motion led to the creation of this

committee. The Leader of the Government in the Senate proposed the motion; therefore, it obviously must have received government approval. The Senate committee has now come to a halt, for whatever reason.

Does the Leader of the Government in the Senate not care about the fate of her suggestion that we get on with the phase of the investigation that Minister Young refused the Létourneau commission?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I certainly have taken an interest in the committee. I have done so from the beginning when the motion was first brought forward by Senator Murray. In fact, both sides have worked together to bring the committee about.

To my honourable friend, I regret that the committee has reached a position in its initial deliberations where there is disagreement between the two sides. I will, as I said to Senator Phillips, speak to Senator Rompkey about future possibilities, but I will not, as the Leader of the Government in the Senate, interfere with the workings of the committee and its membership.

Senator Lynch-Staunton: Honourable senators, it is obvious that the committee will not resume its hearings, proving that it was a farce from the beginning. If the government is still interested in obtaining responses to questions which have been left unanswered, and given the interventions of her colleagues on the committee, why does she not urge the government to re-establish the Létourneau commission? Perhaps through that commission we can get the answers we are seeking.

HEALTH

PROGRAMS AND SERVICES FOR SENIORS CUT
BY MINISTER—REQUEST FOR PARTICULARS

Hon. Richard J. Doyle: Honourable senators, my question is for the Leader of the Government in the Senate and has to do with a message we have all received from her colleague the Minister of Health.

The Health minister's department, we are told, is in something of a downsizing phase, during which the stages of man will be somewhat arbitrarily reduced to three from the seven made fashionable by the late William Shakespeare in his stylish piece that ranges from mewling and puking infancy to "second childishness, sans teeth, sans eyes, sans taste, sans everything."

We have no quarrel with the minister's decision to rewrite the Bard. The two authors have much in common. For instance, both have family names with two syllables. Both have a way with words: Shakespeare speaks of "seeking the bubble reputation even in the cannon's mouth." Dingwall, bless him, writes of "inquiring constituents and the sun setting on my Seniors' Strategy."

In fact, we are told that the lamented Seniors' Strategy was laid to rest on March 31, "at which time programs founded under this strategy also concluded."

Fellow Canadians, thus we are already divided into these three stages: childhood and adolescence, early to mid-adulthood, and, shsh — quiet please — later life.

What is missing here in Dingwall, not in Shakespeare, is a list of programs lost, a list of programs gained to propel us through our already galloping divisions and a list of programs dropped to suit our downsized condition.

Could the Leader of the Government provide us with the lists Mr. Dingwall, obviously in the throes of phase three, forgets to include while he rattles on about the "Population Health Clearinghouse," time-lamented innovative projects and initiatives, and, my election season favourite, the Housing Adaptations for Seniors' Independence — HASI, for short, that is.

Would the minister be kind enough to seek information on what this downsizing enhancement of health services will mean in dollar savings to the government and service cuts to the citizenry?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, Senator Doyle always asks such thoughtful questions. However, I do not think he has been as yet as poetic in his approach as he has been today, and I certainly will pass that question on to the minister as well. I will take all of his questions as notice. As one who fits into that third category of later life, I will be interested in the answers as well.

Senator Doyle: I will wait thoughtfully.

JUSTICE

SPECIAL JOINT COMMITTEE ON CUSTODY AND ACCESS— STATUS OF IMPLEMENTATION OF COMMITTEE

Hon. Mabel M. DeWare: Honourable senators, my question is for the Leader of the Government in the Senate. A few weeks ago, I asked about the intention of the Minister of Justice in forming a joint committee to deal with child access and custody. I did receive a reply from him saying that he would be forming the committee in this session of Parliament. My concern is that the session is getting shorter and shorter, and that committee has not been formed.

Does the minister know the status of this committee?

• (1450)

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have been waiting myself with bated breath, and I think I will have news quite soon.

[Senator Doyle]

REFUSAL OF MINISTER TO PAY LEGAL FEES OF FORMER MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT— FURTHER URGENT REQUEST FOR ANSWER

Hon. Eric Arthur Berntson: Honourable senators, my question is for the Leader of the Government in the Senate. While she is following up on the question from Senator DeWare, perhaps at the same time, she could follow up on my question relative to the Munro situation.

You can understand my growing anxiety, I am sure, when our colleague the Chairman of the Standing Senate Committee on Agriculture and Forestry who, wearing one of his other hats as President of the Liberal Party of Canada, has asked his committee to sit early today to deal rather expeditiously with some agricultural legislation before them because it is his view that this Parliament will not be around much longer.

You cannot get much closer to the top of the party than the president. Since he is of that view, and since all the media musing is of that view, and all the corridor talk is of that view, then I would ask the minister to make an extraordinary effort. We talked about accommodating the chairman of the agriculture committee. We have accommodated the Deputy Leader of the Government in moving things along in this house many times. What we would like to see now is a little cooperation in reverse; a little extra effort to have these important questions answered so that we can go about our work.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, first, on the matter of obtaining responses to oral questions, I can assure you that I am working not just daily but several times daily. As far as Senator Berntson's particular question is concerned, I have told him that I agree with him about its importance, and I am pursuing the matter, as I said I would yesterday.

THE ENVIRONMENT

BOW VALLEY STUDY—DECLARATION AS MIGRATORY PROTECTED AREA—PLIGHT OF ARMY CADET TRAINING CAMP— GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I want to refer to the issue of the Bow Valley study, now that Minister Copps has released her department's position and management plan on the Banff National Park, and bearing in mind that I am interested first and foremost in the environment. However, in the environment, the balance between all species is important, including the human use of that space. Bearing in mind, too, that fairness should be a guiding principle for all users of the park, I have the following questions:

Will the government undertake that if there is to be no human activity in the migration paths — which would entail removal of the airport and the army cadet camp and other like facilities — there will also be no random camping or tourist camping through the same area? In other words, all users should be treated equally. If there is to be no human use, then that term should be strictly obeyed.

Second, I am concerned about the valuable role played by the army cadet league in providing leadership to many of our young people. Not only does that league play a leadership role for our country as a military reserve, but it does an excellent job in raising the consciousness of some young people, and providing them with the discipline and leadership skills that they need. Many of those who benefit from this camp come from disadvantaged homes.

I am sorry that Speaker Molgat is not here; he also has an interest in the army cadet league.

If the army cadet training camp is to be removed, I want the government's assurance that its situation will be treated fairly, vis-à-vis other users. More particularly, if the camp is to be moved, it should be furnished with a comparably adequate replacement training facility, the cost of which should be covered by other than the existing budget. If that happens, we all know that the cadets will not get the facilities they need.

This issue hits rural areas across Canada as much as urban areas. The army cadet corps cannot be viewed as being simply a military exercise of some sort. This league performs a very valuable human resource training role in our country. I trust that its fate will not be swept under the carpet — or the green grass.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, on the first question by Senator Andreychuk, I will certainly seek further information on the use of that protected area. On the second question, I share the senator's very strong views about the army cadet league, as does the Minister of National Defence. I believe this issue will be addressed fairly, and that the best possible alternate accommodation will be made for the cadet camp within a similar area.

Senator Andreychuk: I understand there is no such thing as a comparable facility, so I am a bit worried by the terminology of "best possible." In my opinion, it means that a camp must be created to provide the complex kinds of training available in a mountainous region, a lake region and a flat area combined. "Best possible" would not be sufficient. This issue requires top-rate attention and resources in order to create a new facility, rather than simply accepting adaptation of an existing facility.

Senator Fairbairn: Honourable senators, I did not intend through my words to cause Senator Andreychuk any further distress. I was using "best possible" in the best possible way. I will certainly relay her representations to both ministers. In fact, I was talking with the Minister of National Defence on this matter just a few days ago. He, too, has very strong views about this camp.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on March 20, 1997, by the

Honourable Senator Nolin regarding the Employment Insurance Fund, current premiums acting as a disincentive to job creation. I also have a response to a question raised in the Senate on March 20, 1997, by the Honourable Senator Stratton, regarding the budget, C.D. Howe Institute, report indicating more tax paid by taxpayers than revealed.

EMPLOYMENT INSURANCE FUND

CURRENT PREMIUMS ACTING AS DISINCENTIVE TO JOB CREATION—GOVERNMENT POSITION

(Response to question raised by Hon. Pierre Claude Nolin on March 20, 1997)

The activities of the employment insurance program are fully consolidated in the Government's financial statements. This means that when program costs exceed premiums received, the federal deficit rises. Conversely, when premiums exceed program costs, the deficit is reduced accordingly.

Between 1990 and 1993, program costs far exceeded premiums and premium rates were raised from \$2.25 per \$100 of employee insurable earnings to reach \$3.00 in both 1992 and 1993. Although the employee premium rate was increased to \$3.07 in 1994, it has declined every year since. In the last budget, the Minister of Finance indicated that for planning purposes the employee premium rate would be set at \$2.80 for 1998. These declines in premium rates along with the changes to maximum insurable earnings have significantly reduced the costs of the employment insurance program for most employers and workers.

The Minister of Finance has stated that he would continue to reduce the premium rates as quickly as possible.

THE BUDGET

C.D. HOWE INSTITUTE—REPORT INDICATING MORE TAX PAID BY TAXPAYERS THAN REVEALED—GOVERNMENT POSITION

(Response to question raised by Hon. Terry Stratton on March 20, 1997)

The C.D. Howe Institute in its Backgrounder entitled "Ottawa's Incredible Disappearing Act" gives the impression that the federal government is deliberately understating its revenues. However, the article fails to note that revenues and program spending are presented on both a gross and net basis in both the Annual Financial Report and the Public Accounts of Canada. For 1995-96, the difference was \$12.2 billion. The Government is not trying to hide anything.

When there is a significant impact regarding the netting of revenues and spending, such changes are described in budget documents. For example, the impact of the Child Tax Benefit on budgetary revenues was described in detail in the 1994 budget. In the "Tax Fairness" annex contained in the 1997 budget, adjustments were explicitly made to show the distribution of the income tax burden, before and after the Child Tax Benefit. Furthermore, the Backgrounder claims that the Air Transport Tax is netted against program spending. However, since April 1996, these revenues are included as part of budgetary revenues. This change was highlighted in the 1996-97 Main Estimates, the monthly Fiscal Monitors as well as the 1997 budget. Finally, in doing international comparisons on tax burdens and level of program spending, the government has always used fiscal statistics based on the system of national accounts. Here, revenues and spending are presented on a gross basis.

On a net basis, revenues as a per cent of gross domestic product (GDP) are projected to fall from 18 per cent in 1991-92 to 16.5 per cent by 1997-98 — decline of 1.5 percentage points. On a gross basis, revenues were 19.4 per cent of GDP in 1991-92 and are projected to fall to 18.0 per cent by 1997-98 — a decline of 1.4 percentage points. Although the ratios are somewhat higher on a gross basis, the trends in the two series are quite similar. And these trends are similar even though the Child Tax Benefit was introduced in 1993. In this context, a statement such as "a rate of decrease that, if maintained, would see the federal government's share of the economy shrink to zero" is misleading.

The same holds true for program spending. Between 1991-92 and 1997-98, program spending on a net basis, as a per cent of GDP, is projected to decline by 4.3 percentage points. On a gross basis, the decline is 4.2 percentage points. Furthermore, program spending still declines in absolute terms to 1998-99, regardless of whether it is reported on a net or gross basis.

The Backgrounder claims that Canadians pay almost 20 cents on the dollar more GST than reported in the budget is also very misleading. The low-income GST credit was explicitly designed so that modest- and lower-income Canadians would pay roughly the same under the GST as under the old sales tax system. By netting it out, the "true" GST burden is presented.

The government's accounting concepts are continually under review. In recent budgets, the government has indicated that it would be moving to full accrual accounting for tax revenues and capital assets. The classification of various tax credits and revenues currently netted against program spending is also under review. Any such changes, however, must be made at the appropriate time, with ample public discussion. It is important that accounting changes not be viewed as a way to achieve specific fiscal targets.

BUSINESS OF THE SENATE

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed with the Orders of the Day, since we have a rather busy Order Paper, I thought it would be helpful to give honourable senators some idea of how we might proceed this afternoon. We are doing so in order to accommodate those standing committees which have scheduled meetings to deal with particular pieces of legislation.

Accordingly, we will be calling government bills in the following order: Bill C-44, the Canada Marine bill; Bill C-77, the bill concerning an order under the International Development Assistance Act; Bill C-34, the Agricultural Marketing Programs bill; Bill C-46, to amend the Criminal Code, which will go to the Legal and Constitutional Affairs Committee; and Bill C-32 for third reading, the bill to amend the Copyright Act.

However, there are several other bills currently in the other place which will be voted on at approximately 5:45 p.m. this afternoon. According to my information, they include Bills C-93, C-37, C-39, C-40, and possibly Bill C-75.

• (1500)

There has been discussion with the leadership on both sides of this chamber, and it has been agreed that if we reach the end of the Order Paper before six o'clock, we will suspend the sitting to the call of the Chair in order to receive those bills from the other place for first reading in this chamber this evening. We would then have a 15-minute bell as soon as those bills are received. If I were asked to guess when that bell might begin, I would say at approximately 6:30 p.m. I wish to emphasize that we would sit for a very short period of time, just for the purposes of receiving those bills at first reading.

Accordingly, honourable senators, I should like to call Bill C-44.

ORDERS OF THE DAY

CANADA MARINE BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Pépin, seconded by the Honourable Senator Moore, for the second reading of Bill C-44, 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.

Hon. Ethel Cochrane: Honourable senators, I rise to speak on Bill C-44, an bill intended to make our system of ports competitive, efficient and commercially oriented. This proposed legislation would dissolve the Canada Port Corporation. It would establish new structures for the operation of ports and harbours, commercialize the operation of the Seaway system and ferry services and change the operation of pilotage authorities.

This is broad, wide-ranging legislation affecting communities and industries throughout Atlantic Canada, in British Columbia, along the St. Lawrence, and through the Great Lakes. It would affect shipping companies, fishermen, and others who use our ports and harbours. It would affect the livelihoods of many thousands of people who are employed in many different capacities at these installations. This is significant legislation which seeks to accomplish some important and desirable goals, but this is also legislation which should not be considered in haste.

Bill C-44 has been some two years in the making. I understand that it is the product of substantial consultations with interested parties and a considerable amount of committee work in the other place. Along the way, this bill has been substantially amended at various stages, although many more proposed amendments have been rejected by the government. This lengthy process has left many questions unanswered and many concerns unaddressed. We on this side of the chamber have the sense that, despite all the time and effort that has gone into Bill C-44, this legislation is still an unfinished product.

One of my concerns is that we in the Senate need time to sort through the many objections that have been made to this bill and the many changes that have been made to see which of these objections have been met and which objections have not been met. It is clear that at least some serious issues remain unresolved. I have time today to mention a few of them.

Is sufficient protection provided in the bill to maintain service in regional and local ports and harbours? I cannot state too strongly, honourable senators, how important this concern is to a province like mine, Newfoundland and Labrador. Our docks and wharves are the lifeblood of our communities. With this legislation, the government would establish a \$125-million fund to ease the divesting of regional boards. Is that enough, or will that leave the future of the docks in doubt in many communities? I am particularly concerned about my own community, as you can appreciate.

The issue of policing has not been resolved. The government seems content to leave policing of harbours up to local municipalities. My question is: Are they up to the task? Will local taxes have to be raised in order to provide that service?

Bill C-44 restricts the ability of ports authorities to raise funding for upgrading or expansion of facilities. How will this affect the future of a port like Halifax, which is considering

major expansion to compete with major port facilities on the east coast of the United States?

This legislation will pave the way for commercialization of the St. Lawrence Seaway, but the nature of that commercialization is rather hazy. While the administration and the powers of port authorities elsewhere are spelled out in detail, provisions for the Seaway are left to be sorted out later. The financial operations of port authorities will be stabilized somewhat by authorizing them to pay grants in lieu of taxes to local municipalities, but elsewhere the existing harbour commissions will face a difficult transition. While they now pay no fees, grants or taxes, they will soon have to pay grants like other ports, with no provision for phasing in that financial jolt.

There have been complaints about the lack of any dispute settlement mechanism for shipper fee charges. Without a dispute settlement process, will we see long and costly court cases? That is a strong possibility.

In short, honourable senators, there seems to be much that Bill C-44 leaves unsettled and unresolved. This is precisely the sort of legislation that can be improved with the benefit of some serious consideration by our Senate committee. I know that the government members will argue that this legislation is overdue and that we should pass it quickly before the election, despite its flaws and shortcomings. I am not comfortable with that argument. If there was a hurry to pass this bill, then why has the government left it sitting in legislative limbo since last fall? Why was it not brought forward in the House of Commons until this month? There was no reason to send this to the Senate at the last minute, before an election, and expect it to be passed without any examination in committee. The bill was ready in the fall and had gone through committee in the House of Commons. It could have come to us for consideration many months ago.

There is no reason for us to deal with this bill in haste. If an election is called, so be it. The ports will not go away over the summer. They will still be there in the fall when Parliament resumes. Legislation to reorganize our ports system can then be given due and proper consideration. In the meantime, I urge you to send this bill to the Standing Senate Committee on Transport and Communications for a thorough study and public hearings. In fact, the committee may find it necessary to travel to gather evidence.

Motion agreed to and bill read second time.

• (1510)

REFERRED TO COMMITTEE

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

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

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

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Stewart, seconded by the Honourable Senator Bacon, for the second reading of Bill C-77, concerning an order under the International Development (Financial Institutions) Assistance Act.

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to speak to Bill C-77, which is probably the shortest bill to come before us in some time. In my opinion, it is also one of the most curious bills that we have had for some time.

In February 1994, cabinet agreed to provide financial support to the Global Environment Facility and to the Multilateral Fund for the Implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer. In order to implement this decision, it was necessary to add these institutions to the International Development (Financial Institutions) Assistance Act.

To that end, an order in council was approved on November 15, 1994 and published in *The Canada Gazette*, I understand, on November 30, 1994. However, pursuant to the act, it is necessary for the order in council to be laid before Parliament within 15 sitting days after which the order is made. This requirement was not met. As Senator Stewart characterized it, this was an oversight by the government. However, it was caught by the Standing Joint Committee of the Senate and House of Commons for the Scrutiny of Regulations whose members, in turn, advised the Department of Foreign Affairs that this requirement had not been met.

In my opinion, the Global Environment Facility and the Montreal Protocol are two of the most significant environmental initiatives that Canada has undertaken. I could not think of anything more worthy of financial support by Canadians than these two initiatives. Therefore, I wish it to go on record that we support these two initiatives.

We also understand that no new moneys will be allocated since the International Development (Financial Institutions) Assistance Act is already in place and budgetary approval for the act was also in place. These two new initiatives were simply not put under the umbrella of this act.

What is curious and unsettling to me is that there seems to be a growing frequency of oversight by government officials. Not so long ago we had to deal with an act to allow Madam Justice Arbour to participate in war criminal prosecutions for the United

Nations. Justice Arbour was sent with the full knowledge and consent of all of those working in the Department of Foreign Affairs and the Minister of Justice. However, again, there was an oversight in that they did not come to Parliament to obtain the proper and adequate authorities to send her there.

There was an oversight when it came time to change the Judges Act. Two appointments were made, overlooking the fact that an amendment was necessary.

There is a growing trend in government to put substantive legislation into regulation. In my opinion, this is a clear signal that we are turning to an executive form of government and away from a parliamentary form of government. While I believe that these two initiatives should be included in the fund, and while I believe that they should now be deemed to have come into force in 1994, I have a growing worry that this kind of action is not an isolated, inadvertent action but that it is a growing tendency of disrespect for the parliamentary process.

While one may say that appointing a judge whose compliance in British Columbia has a different base than that of other judges and it was an oversight, how could the Department of Justice, the Department of Foreign Affairs and all those in and around the cabinet table not have taken due diligence to ensure that Parliament was advised, as it should be and as the law states it must be? Surely, it is time to signal that it is time for a review of how these processes occur. In fact, perhaps some sort of quasi-judicial review should be conducted.

I go one step further to say that it is the responsibility of the government of the day to ensure that the processes are in place so as to prevent these oversights from being repeated. These two initiatives in the realm of the environment were most important initiatives and should have commanded the attention of the most senior parliamentary officers.

I believe this matter was looked upon as a superficial act as opposed to a substantive one.

We on this side will support Bill C-77 because of the environmental initiatives. However, it is time to send the signal that parliamentary democracy is something to be respected. We urge the government to put the issue high on its priority list, not only with regard to passing this bill but to reviewing its practices and procedures to ensure that they are not giving signals to bureaucrats to cause them to deal with such matters as if they are merely superficial, when they are matters of substantive importance to our democracy.

Hon. John B. Stewart: Honourable senators —

The Hon. the Speaker pro tempore: Honourable senators, I must inform the Senate that if the Honourable Senator Stewart speaks now, his speech will have the effect of closing the debate on this bill.

Senator Stewart: Honourable senators, I should like to thank Senator Andreychuk for the speech which she has just given. I agree with her when she says that the matter she has discussed is of great importance. When Parliament confers authority on the Governor in Council to make orders, regulations or other statutory instruments and legislates that certain procedures are to be followed relative to those instruments, those procedures should be observed meticulously.

Senator Andreychuk has asked some good questions. I hope that we will get the answers when the bill is before the committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Stewart, bill referred to the Standing Senate Committee on Foreign Affairs.

AGRICULTURAL MARKETING PROGRAMS BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Mercier, for the 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.

Hon. Eileen Rossiter: Honourable senators, concerning Bill C-34, I should like to draw your attention to the fact that this bill was first introduced in May of last year and, like Bill C-38, it was also aided with the House's version of pre-study. I was under the impression that pre-study indicated that the bill was a priority and needed the immediate attention of parliamentarians so that people concerned could benefit from its provisions. I suppose I was wrong.

• (1520)

Bill C-34 was introduced in Parliament just before the summer recess in 1996, and has finally made its way to us — almost 12 months later. I note as well that the Minister of Agriculture did not see fit to appear before the committee in the other place to describe the provisions of this bill; neither did he speak to the bill at third reading. Rather, the Minister of Indian Affairs and Northern Development was charged with the responsibility of introducing the bill for third reading debate.

Some might question the apparent delay in making the presumed benefits of this legislation available at the earliest

opportunity to the people who need the help. Last week in the other place, the Parliamentary Secretary for Agriculture, Jerry Pickard, said:

Although the cash advances were re-implemented each year on an ad hoc basis by cabinet, cash-strapped producers could never be sure in advance whether the provisions would be renewed, or whether farmers would be left high and dry.

If the government had delayed any further, this bill might also have been left high and dry.

The proposed Agricultural Marketing Programs Act would combine four pieces of legislation and one program now in effect. Those are the Advance Payment for Crops Act, the Prairie Grain Advance Payments Act, the Agricultural Products Cooperative Marketing Act and the Agricultural Products Board Act, as well as the Cash Flow Enhancement Program.

Advance payments give producers cash flow in order to meet expenses incurred between the harvest and the actual sale of their crops. Historically, advance payments were interest free until, in 1989, this aspect of the legislation was eliminated.

In its February 1995 budget, the present government announced its intention of reintroducing interest free advance payments while, at the same time, taking the opportunity to improve the operation of marketing programs for agricultural products by creating a common legislative basis, reducing administration inconsistencies, and lowering costs.

In order to make the new legislation more effective, it was divided into three programs: the Advance Payments Program, the Price Pooling Program and the Government Purchases Program. The maximum allowable advance payment per producer would be \$250,000, which would be interest-bearing except for the first \$50,000. If abnormal weather conditions harmed a crop, an emergency advance payment of \$25,000 could be paid, but in such a case the minister would not be liable for the interest.

One avowed objective of the bill is to reduce defaults on repayments which cost taxpayers heavily. For example, defaults on repayments have reached \$100 million. The bill provides that producers who default on repayments must pay all recovery costs and interest on outstanding advance payments. As well, of course, they cannot obtain other advance payments or avoid repayment by setting up another business.

In some sectors of agriculture, particularly horticulture, many products are difficult to store in their unprocessed form, or are required immediately after being harvested. This is the problem faced by some Ontario corn producers, and some producers in Quebec whose crops are subject to a price pooling system once harvested. One wonders if all producer concerns have been addressed in this and other matters pertaining to advance payments. I hope that the Standing Senate Committee on Agriculture and Forestry can give this bill its immediate attention.

By reintroducing interest-free advance payments, Bill C-34 would allow producers to know their true situation when they are incurring expenses between the harvest and the actual sale of their crops. As well, combining various pieces of legislation with similar objectives should allow the legislation to be administered more flexibly, and thus better serve producers' interests.

The principle of this bill is good and fair. My only regret is that it has taken so long for this principle to see legislative life.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hays, bill referred to Standing Senate Committee on Agriculture and Forestry.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-46, to amend the Criminal Code (production of records in sexual offence proceedings).

Hon. Anne C. Cools: Honourable senators, I rise today to speak to second reading of Bill C-46, an Act to Amend the Criminal Code, production of records in sexual offence proceedings.

Bill C-46 is a very complex bill, and the issues are troubling. The timetable enforced by the pending election call only adds to the potential that these difficult issues may not be properly studied, as dissolution of Parliament is imminent.

The preamble to Bill C-46 employs drama and appeals to human pathos much more than to reason and law, and consequently overstates the case. For example, the words "women and children" as victims is used in the preamble but, as we know, women, too, can be predators of children, as was Karla Homolka, and that men can also be victims. Sexual assault is a very serious and terrible offence and results in much anguish for its victims. The consequences are deserving of study by the Senate.

All senators agree on the painful consequences of these tragedies. We know that there is profound pain. Precisely because we understand the troubling nature of these issues, it becomes even more important that the legislation should proceed cautiously, carefully and thoroughly.

Honourable senators, I have been concerned that these issues have been obfuscated, even confounded, with the importation of feminist ideology into this sad matter of sexual assault and sexual violation. In the 1980s, the Liberal government, under then Minister of Justice Jean Chrétien, attempted to bring the Criminal Code's language of these offences into the modern era. He removed words like "rape" from the Criminal Code, and substituted words like "sexual assault" so that the law would be more attentive, and directed towards the actual assault and violation rather than intercourse and penetration. Feminist ideology, however, was reluctant to follow this new trend and insisted on the sexual emphasis, even to the extreme view that every act of sexual intercourse is a form of rape; that is, between a man and a woman. I have always had difficulty with ideological trends and have always insisted that ideology has no place in the formulation of law or the Criminal Code.

Sexual assaults have permanent consequences for victims, and leave enduring and abiding emotional damage that is sometimes insuperable, and healing is elusive to the victims.

Honourable senators, I thank Senator Carstairs, as an earnest Chair of the Standing Senate Committee on Legal and Constitutional Affairs, for sponsoring this bill at second reading in Senator Pearson's place. On April 17, 1997 she made a reference to her own personal tragedy. She said:

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.

The senator has repeated this fact on several occasions in debate in this chamber, yet I do not believe that she wants this matter debated. Her assault was obviously a matter of great suffering for her, and a great wounding to her psyche and her person. I have much compassion for her, and admiration for her conquest in overcoming this tragedy.

• (1530)

I would add that such personal wounding and such personal anguish is an insufficient and unsound base on which to found legislation and public policy. I would submit that she be cautious, because such wounding creates an interest in a bill such as this that could be as potent and as compelling as the interest of senators in the financial aspects of any bill that we might be considering. Such personal interest born of such terrible tragedy is so overwhelming and so consuming as oftentimes to defeat

objectivity, and sometimes even reason. I have heard Senator Carstairs raise her personal tragedy three times now on the floor of this chamber, usually at poignant moments of debate. The result is usually silence and the pained, sometimes even embarrassed, acquiescence on the part of senators. This is a powerful instrument with a powerful result, and one that I feel compelled to resist.

Honourable senators, the other side of the issue of sexual assault is the equally painful acceptance and understanding of human frailty, that human beings sometimes tell lies and that the issue of sexual assault is plagued by falsehood and ghost riders who misdirect precious and scarce resources that are needed by the true victims. In addition, there are the corollary and related issues of false memory syndrome and recovered memories and the overwhelming concern of the psychiatric community that, currently, psychiatry has been marshalled towards claims in lawsuits rather than as an instrument for healing the wounds of the psychologically and mentally damaged and as an instrument of therapy, which psychiatry is, first and foremost.

Dr. Harold Merskey, a psychiatrist at the London Psychiatric Hospital, has written extensively on the issue of false memory, repression, personality disorders, and the use of psychiatry in the courts. I would ask the Senate committee to invite Dr. Merskey to share his experience, his scholarship, and his views on Bill C-46.

Honourable senators, there are many cases of false reporting and false accusations of sexual abuse. The most famous case of a woman's falsehoods and lies about a sexual assault was the famous flagship American case on abortion rights, the case known as *Roe v. Wade*. In order to obtain an abortion, Norma McCorvey, the Jane Roe in *Roe v. Wade*, claimed that she had been raped. After fourteen years, she recanted and now has acknowledged publicly that she had lied about the sexual assault in order to facilitate having an abortion. That is an astounding admission, honourable senators, and not uncommon.

I would like to share some interesting information on sexual assault false reporting that Dr. John Fekete, a Professor at Trent University, wrote about in his 1995 book *Moral Panic*, second edition. About the incidence of false reporting, he said:

But it is *not* really rare, and it is *not* the same as for any other crime. According to Statistics Canada's UCR figures, 14% of sexual assault complaints are determined by the police to have been *not* committed or attempted, as compared to 8% for ordinary assault (*Juristat*, 14.7,10). False claims of lesser offences, like thefts, tend to be even lower. Beyond this, of course, there are no statistics on how many cases that go through to the courts are found to be based on false accusations.

Dr. Fekete went on to say about these troubling matters:

As for rape, where we have to turn to U.S. records, a recent report by well-known U.S. sociologist Eugene Kanin states that 40% of rape charges investigated by city police and half

of those investigated by (female) campus officials turned out to be false, according to a demanding test of falsehood: a recantation by the accuser, backed by other evidence (*Archives of Sexual Behaviour*, February 1994). Meanwhile, a U.S. Air Force investigation by Dr. Charles P. McDowell of 556 cases of alleged rape found that 27% of the women admitted that they had lied (Farrell 322). Three independent investigators then reviewed the other cases, developed 25 criteria for assessing evidence, and unanimously found 60% of the original accusations to be false.

Dr. Fekete concluded that:

According to various sources, including the Air Force study, which had the benefit of 75 false accusers volunteering their motivations, women lie most frequently for spite, revenge, compensation for guilt, or shame, and to account for pregnancy or to conceal an affair. This makes up two thirds of false accusations. The rest have to do with testing someone's love, avoiding personal responsibility, extortion, or some kind of mental/emotional disorder (Farrell 325).

Honourable senators, I urge the Senate committee to study Bill C-46 carefully and to give this bill the time and attention these complex issues need. I would also urge the committee to pay special attention to my problems with this bill: First, the definition of "records", I believe, as do many others, is too wide. Second, this bill will allow Crown prosecutors to have information which they will not be obliged to disclose to the accused and to the accused's lawyers. Third, Bill C-46 creates a privilege and an immunity that is questionable and undesirable in today's democratic community, particularly when common law has agreed that no new privileges be created. Finally, Bill C-46 gives an unpleasant message that judges cannot be trusted to examine third-party records.

My last point is best described by Bruce Durno, President of the Criminal Lawyers Association of Canada, who, before the House of Commons Justice Committee on March 13, 1997, said:

Yet, among the most troubling aspects of Bill C-46 is an implicit message that the judiciary cannot be trusted to examine third-party records. They can't be trusted to examine the records upon a showing of likely relevance and then reach a proper determination. It's a sad day to see legislation that provides this message.

Honourable senators, some persons at the sexual assault centres, which centres are quite renowned for their lack of professionalism, have claimed that they would destroy their records. That any professional should destroy records is abhorrent, unprofessional, and should be condemned.

As we go forward in our crush, if not rush, to get the business of the government completed, I urge honourable senators to remember that many of these sexual offences were formerly called "rape." Rape was a capital offence, and decades ago governments had to retreat from that capital position because of the complications and the difficulties inherent in prosecuting

sexual assault cases. I submit that the difficulties which existed then still exist today, and that is troubling. Somehow, we must balance our understanding that some human beings violate others sexually, while other human beings violate others by using false accusations. That, I submit, is as pressing a problem today as it was 150 years ago. Therein rests the entire problem.

I thank honourable senators for their attention to this matter and repeat my special plea that perhaps Dr. Merskey be allowed to appear, and that the committee give this matter as able and detailed a study as it can.

Hon. Landon Pearson: Honourable senators, as the sponsor of this bill — the second reading debate being introduced by Senator Carstairs due to my inadvertent absence — I move that this bill be sent to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker *pro tempore*: Honourable senators, had I realized that, I would have informed the house that if the honourable senator spoke, her speech would have the effect of closing the debate.

If no other senators wish to speak, we will proceed with the motion for second reading.

Motion agreed to and bill read second time.

• (1540)

REFERRED TO COMMITTEE

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

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

COPYRIGHT ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Philippe Deane Gigantès, moved third reading of Bill C-32, to amend the Copyright Act.

He said: Honourable senators, while we may strive for perfection, we all know it is impossible to achieve. The best we can hope for is that we achieve our highest potential in everything we do. After reflection, I am convinced the proposed amendments to Canada's Copyright Act fully satisfy that criterion.

[*Translation*]

The senators have heard the various spokespersons at the hearings of the Standing Senate Committee on Transport and

Communications. To all those who felt the bill did not go far enough, others countered that it went too far. Throughout the hearings, the senators heard conflicting and controversial testimony.

The rights of artists, performers and record producers pitted right holders against broadcasters and bar and restaurant owners. On the subject of private copying, the interests of consumers and manufacturers of blank audio tapes differed from those of sound recording makers.

The creators oppose the exceptions made for educational institutions, archives, libraries and broadcasters. Bookstores are concerned about the provisions pertaining to parallel importation of books intended to protect the rights of book distributors on the Canadian market. This bill engendered the same sort of opposition between creators and users in the area of statutory damages and other aspects of the bill.

[*English*]

As a result of this debate among producers and users, the legislation has undergone considerable fine-tuning. Bill C-32 strikes a fair and reasonable balance between the rights of creators to be paid for their work and the need for users to have access to copyrighted materials.

[*Translation*]

The bill is sensitive to the concerns of broadcasters. Two thirds of radio stations will pay no more than \$100 annually for the rights of recording artists and record producers.

Radio and television stations will be authorized to make ephemeral copies of sound recordings.

In order to help schools, libraries and archives to better fulfil their mandates, exceptions have been provided to permit easier and less costly access to copyrighted works. Research in Canadian history will be facilitated through easier access to archival works.

And, for the first time, a bill on copyright recognizes the needs of people with visual, hearing and other disabilities. The amendments proposed to the Copyright Act will facilitate the transfer of works in formats better adapted to the needs of such people.

[*English*]

Exclusive book distributors will be able to protect their market rights. Photographers will benefit from the same term of protection currently offered to illustrators, artists, sculptors, writers and composers. This is only fair.

[*Translation*]

Artists and creators have waited over 60 years for an initial revision. The revision in this bill took nearly a decade.

In the meantime, other countries have established provisions to enable their cultural industries to benefit from the new options provided by information technology.

We must speed up the process so that our cultural industries can compete on an equal footing with the G-7 and other industrialized countries, most of which are direct competitors.

[*English*]

It is only once these necessary changes have been adopted that we can advance the government's long-term strategy of addressing issues related to a digital environment and securing Canada's competitive position in the development of the information highway.

For all these reasons, we need Bill C-32 and we need it now. We cannot allow nearly 10 years of genuine effort to be lost.

Honourable senators, let me also remind you that 900,000 cultural workers, some of them among the most poorly paid people in the country, depend on copyright protection to ensure their livelihoods. Even show business is still business. Canada's cultural workers represent one of the fastest growing segments of the workforce. Since the early 1980s, the total cultural labour force has grown at almost three times the rate of the general working population.

As Brian Robertson of the Canadian Recording Industry Association said earlier this month:

Given the narrow window that is now available to effect the passage into law of Bill C-32, we urge senators to acknowledge the journey the legislation has taken, and support it — as it is — with no further delay.

The contributions to the cultural community are as critical to nation-building today as the railway was to the past and the information highway will be to our future. Culture is the essence of a country's sovereignty and identity. It is the tie that binds our sometimes fractious nation — a mirror image of our lives and histories, of who we are, of what we hope to be as people. It is the very soul of our nation.

[*Translation*]

The amendments to the Copyright Act in this bill will enable us to enrich our community and strengthen the economic base of our cultural sector.

The artisans of Canada's culture are counting on us to put to an end nearly 10 years of negotiations and hard work. We must not disappoint them.

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

[*English*]

CRIMINAL CODE COPYRIGHT ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Lewis, seconded by the Honourable Senator Berntson, for the second reading of Bill C-205, to amend the Criminal Code and the Copyright Act (profit from authorship respecting a crime).—(*Honourable Senator Berntson*).

Hon. Michel Cogger: Honourable senators, I want to say a few words about Bill C-205, which is of a particular nature inasmuch as, contrary to custom, it was adopted by the House of Commons as a private bill. This initiative came from a Liberal member of Parliament from Toronto who ought to be commended for his initiative.

The objective of the bill is to ensure that criminals never benefit from their crimes. Too often in the past, crimes of the most horrendous nature have excited public interest, resulting in books, TV documentaries, movies, serials, et cetera, sometimes, unfortunately, making their authors wealthy.

Under Bill C-205, copyright emanating from a story about a crime would immediately revert to the Crown upon a person being convicted of the crime. I want to be clear that this bill does not suggest that it is right to make money from crime or that it is good or moral to cater to the lurid interests of the masses. However, if money is made, that money will revert to a special fund of the Crown to be administered for the benefit of the victims.

Once copyright reverts to the Crown, because the Crown is a signatory to various international agreements, it would be possible to prevent schemes whereby moneys would be diverted to foreign jurisdictions for the benefit of the guilty person.

Bill C-205 was passed by the House of Commons unanimously last week. It is worthy legislation. The members of Parliament whose initiatives resulted in the adoption of Bill C-205 ought to be commended for their efforts. I invite colleagues to join them in securing speedy passage of this bill.

We are at the tail end of a session. Both Houses of Parliament have now become like sausage factories, churning out legislation. Some may be faulty but, if in the overall effort we can produce some worthy and valid legislation, let us work to that end in the non-partisan spirit for which we are well known.

I spoke with the chairman of the Standing Senate Committee on Legal and Constitutional Affairs. I realize that that committee has a tremendous work load at this time. However, I believe they could find the bit of time necessary to hear the sponsor of the bill in the House of Commons, who is probably the best person to speak to it.

Victims of Violence, which represents families of victims of crimes, encourage the speedy passage of the bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

CODE OF CONDUCT

CONSIDERATION OF FINAL REPORT
OF SPECIAL JOINT COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Doyle, for the adoption 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.—(Honourable Senator Stanbury)

Hon. Richard J. Stanbury: Honourable senators, I rise to join the debate on the report of the Special Joint Committee on a Code of Conduct which was presented by Senator Oliver, as co-chairman of the committee, to the Senate last week.

A code of conduct to guide senators and members of Parliament is long overdue. We all know the scepticism with which politicians are viewed by many Canadians. After serving in the Senate for almost 30 years, I can state with confidence that the vast majority of Canadians who represent their fellow citizens in Parliament do so with honesty and integrity, and hold themselves to the very highest ethical standards.

• (1600)

It is no longer enough that Canadian politicians act in the public interest. The Canadian public must be able to see that their representatives are using their positions only for the public interest, not for personal gain. I believe that the code of conduct proposed by the special joint committee would go a long way to achieving this goal.

Honourable senators, I had the honour of co-chairing a special joint committee which studied these same issues in the last Parliament. After lengthy hearings and extensive deliberation, we arrived at a proposed regime that we believed reflected the political culture of Canada.

Our committee was unusually large, with 21 members from the two Houses of Parliament, representing three political parties. Nevertheless, our recommendations were passed unanimously in committee, a highly unusual degree of consensus for so sensitive a topic.

I am pleased to see that the recommendations in the report before us today are virtually identical in many respects to those passed by our committee in 1992. I believed then that the proposed regime would work and I believe today that this proposed code will work. Let me elaborate, honourable senators.

This code, like its 1992 predecessor, rests on three pillars: the appointment of an independent officer of Parliament named the Jurisconsult to advise and guide members of both houses as to what is and is not proper conduct, and as to any steps that should be taken to ensure that every member conforms to the code; full public disclosure of all interests, assets and liabilities of each member and of his or her spouse and dependants; and the establishment of clear rules stating what is and what is not proper in various circumstances and the procedures to be followed when potential problems arise.

The office of the Jurisconsult is of signal importance. Right now, as we all know, there is no one to whom we can turn for authoritative guidance when issues of possible conflict arise. The Law Clerk and Parliamentary Counsel to the Senate has always done his best to fill that role, but he can only recommend what he believes the rules to require. Essentially, his advice is like any legal opinion and, as Mr. Audcent told our committee in 1992 in his then status of Assistant Law Clerk and Parliamentary Counsel to the Senate, such advice can be cold comfort to a senator if the matter later goes to court and the judges disagree. This situation would change under the proposed code. Members of both houses could turn to the Jurisconsult for advice, knowing that by following that advice the member would be in compliance with the code.

The Jurisconsult would have an unusual role. He or she would serve as confidential advisor to members of both houses on their obligations under the code, and the Jurisconsult would also be the person to review and to investigate complaints about members' conduct.

While one might wonder whether this dual role could undermine the confidence members would have in the Jurisconsult as confidential advisor, in fact this system has worked effectively in several provinces. Where a member consults the Jurisconsult in advance about a particular issue and follows the advice received, the member will know with certainty that he or she has fulfilled the duties under the code. The Jurisconsult would be bound by opinions he or she gave members, assuming that all the relevant facts were disclosed.

The Jurisconsult would be an officer of Parliament, selected after consultation with the leaders of the recognized parties in the Senate and the House of Commons. He or she would hold office for seven years. In other words, honourable senators, this is someone who would be above the political fray.

This code would also establish a standing joint committee of the Senate and House of Commons on official conduct to whom the Jurisconsult would report findings when there had been complaints. The report carefully outlines the powers of the joint committee in the event of various findings by the Jurisconsult. For example, where the Jurisconsult decides that no further action is required on a complaint, the joint committee would be advised but could not question or change the Jurisconsult's findings. In this way, the independence of the Jurisconsult is ensured.

There are certain circumstances outlined in the report when the joint committee would itself hold an inquiry into a complaint about a member. While I am uncomfortable with the idea of members sitting in judgment of other members, there is no question that Parliament must remain master of its members without delegating away that authority. The idea of a standing joint committee is a good way to deal with this difficult situation.

The second pillar of this code is public disclosure of financial interests of members, their spouses and close family members. In 1992, this was an issue of some controversy. I believe that today members, and especially their spouses, have come to recognize that this is necessary.

Chief Justice William D. Parker, in the report of the Commission of Inquiry into the Facts of Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens, wrote that public disclosure should be the "cornerstone of a modern conflict of interest code."

Indeed, virtually every province and territory now requires public disclosure of the pecuniary interests of members of the legislatures and their spouses. We are sadly out of step in this matter. I am pleased to see that the joint committee has recommended a regime of public disclosure for members, their spouses and dependants.

I was particularly gratified to learn, when reading the joint committee proceedings, that the Parliamentary Spouses Association accepts the principle of spousal disclosure. Without question, it is an intrusion into the privacy of members' spouses and dependants. However, past history has shown us that it is a necessary element in regaining public confidence in the ethics and integrity of politicians.

As proposed in this report, the code would strike a careful balance between the needs of the public to know the private interests that could affect a member's actions and the rights to privacy of those members and their families.

As set out in the code, parliamentarians would be responsible to provide a full statement of their private interests and those of defined close family members to the Jurisconsult. That statement would be complete, identifying all private interests and stating

the value of the assets and liabilities. The Jurisconsult would then review those statements and discuss with the member whether any steps should be taken to ensure that the member could fulfil his or her obligations under the code, for example, whether any assets should be placed in trust or, perhaps, even sold.

The Jurisconsult would then prepare the public disclosure statement. That statement would identify the source and nature of income, assets and liabilities of each member and of his or her family but without quantifying the value of those interests. In this way, the public can know when a member is interested in the matter before Parliament, but members' privacy is protected in terms of the magnitude of the holdings.

There are exceptions to this. In particular, the Jurisconsult may decide a particular holding should be described in the public statement as nominal, significant or controlling.

The final pillar of this code involves the rules of conduct themselves. Right now, there are no clear rules in place that reflect the realities facing parliamentarians today. The provisions in the Criminal Code, the Parliament of Canada Act and the standing rules of each House of Parliament have existed in substantially their current form for more than 75 years. They simply failed to provide any assistance to members who wanted to know what they could or could not do in particular situations.

This code would remedy that situation. It would establish rules setting out what senators and members of Parliament could and could not do when there is an opportunity to further private interests. It addresses the use of insider information, the use of one's position to influence another's decisions so as to further private interests, and the taking of actions or making decisions to further private interests, contracting with the government and the acceptance of gifts — each of the ways in which parliamentarians could find themselves in a conflict between their private interests and their public duties.

• (1610)

I have a few concerns arising out of the drafting of some of the rules. Rule A is the fundamental rule, the one called in some provincial statutes the "conflict of interest" provision. As drafted, that rule prohibits parliamentarians from taking actions or participating in making decisions in which they know, or should reasonably know, that there is the opportunity to further, directly or indirectly, their own private interests or those of a member of their family. The rule goes on to prohibit also such actions or decisions in which the member knows "or should reasonably know" there is the "opportunity, improperly, to further another person's private interest." While I understand and agree with the objective, I am concerned that as drafted this rule is vague and open-ended. The problem is compounded since the private interest in question could be anyone's, for, as drafted, there is no need for any relationship to exist between the member and the person in question.

The other rule I want to mention concerns what happens when someone has a private interest in a matter before Parliament. In 1992, we decided that any time a member has reasonable grounds to believe that he or she or his or her family has a private interest in a matter before either house of Parliament or a committee, then whenever the member was at a meeting considering the matter, he or she would have to declare the interest and withdraw from the meeting without voting or participating in the discussion.

This code is rather different. It would require the parliamentarian to declare the interest and have that declaration recorded by the clerk and filed with the Jurisconsult, who is to make the information publicly available. The parliamentarian would then be allowed to participate in the discussion, knowing, of course, that his or her interest is a matter of public record. The member would then be prohibited from voting "on any question in which they have a direct pecuniary interest."

I think this is a positive change from the 1992 recommendation. We were concerned that by requiring members to withdraw from the discussion of such issues, we would be depriving Parliament and parliamentary committees of useful insights, as well as depriving the members' constituents of their rightful voice in Parliament. This formulation avoids these problems while ensuring that everyone knows, including the public and the Jurisconsult, that the member is not perfectly disinterested.

I was also surprised to see in this new code, as drafted, that a parliamentarian does not have to make any declaration where his or her spouse or other family member has a private interest in a matter that is before the member either in committee or the house. I hope that we have the opportunity to hear from Senator Oliver or another member of the committee and learn the reason behind this drafting. A private interest of one's spouse should be treated the same for these purposes as one's private interests. Certainly, from the public's point of view, this could be seen as an easy way to circumvent the requirements of the code.

With the exception of these few drafting issues, I want to congratulate Senator Oliver and his colleagues for the excellent job they have done in preparing the code.

Some members in the other place have criticized the code for not addressing all issues of ethics in government, funding of political parties and lobbying in particular. Honourable senators, as many of us are intimately aware, it has taken many years to get this far and, in fact, other issues have been addressed by this government as well.

With respect to lobbying, this government has made significant advances. The Lobbyists Registration Act was strengthened and, indeed, we in the Senate heard first hand how the role of lobbyists has been reduced under this government.

A senior public servant told a Senate committee in July 1995 of a change in the atmosphere in Ottawa that took place when the

Liberal government came to power. He said that there has been a reduction in the number of lobbyists who approach people like me, and there has also been a reduction in the number of times people like me say, "I will arrange a special meeting with you."

Criticism also was levied in the other place because this code would not replace the code that applies to public office holders, cabinet ministers, deputy ministers and so on. This code would be of and for parliamentarians. It would not and it should not replace the Prime Minister's code for his cabinet members and other public office holders. Of course, insofar as cabinet ministers are also members of Parliament, they would be bound by this code. That is clear from the definition of "parliamentarian" and from the "Application" provisions. The Prime Minister always can, as he does now, insist that his cabinet ministers be held to an even higher standard.

Honourable senators, this code can go a long way to helping to restore public confidence in the integrity of parliamentarians and Parliament as an institution. We know the high ethical standards against which each of us as individuals measure our conduct. It is time that we set down these standards in a code and allow Canadians to see for themselves the integrity and commitment with which they are served by their representatives.

On motion of Senator Berntson, debate adjourned.

The Hon. the Speaker *pro tempore*: Honourable senators, pursuant to the agreement reached earlier this session, we will now adjourn to the call of the Chair.

The Senate was adjourned to the call of the Chair.

• (1900)

The sitting of the Senate was resumed.

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 1997

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-93, to implement certain provisions of the budget tabled in Parliament on February 18, 1997.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday next, April 24, 1997.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1996

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-37, to implement an agreement between Canada and the Russian Federation, a convention between Canada and the Republic of South Africa, an agreement between Canada and the United Republic of Tanzania, an agreement between Canada and the Republic of India and a convention between Canada and Ukraine, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Bill read first time.

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

On motion of Senator Graham, bill placed on the Orders of the Day for second reading on Thursday next, April 24, 1997.

YORK FACTORY FIRST NATION FLOODED LAND BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-39, respecting the York Factory First Nation and the settlement of matters arising from an agreement relating to the flooding of land.

Bill read first time.

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

On motion of Senator Graham, bill placed on Orders of the Day for second reading on Thursday next, April 24, 1997.

NELSON HOUSE FIRST NATION FLOODED LAND BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-40, respecting the Nelson House First Nation and the settlement of matters arising from an agreement relating to the flooding of land.

Bill read first time.

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

On motion of Senator Graham, bill placed on Orders of the Day for second reading on Thursday next, April 24, 1997.

JUSTICE

NOTICE OF MOTION TO APPOINT SPECIAL JOINT COMMITTEE ON CUSTODY AND ACCESS

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

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I give notice, pursuant to rule 57(1)(d), that on Thursday next, I will move:

That a special joint Committee of the Senate and the House of Commons be appointed to examine and analyze issues relating to parenting arrangements after separation and divorce, and in particular, to assess the need for a more child-centred approach to family law policies and practices that would emphasize parental responsibilities rather than parental rights and child-focused parenting arrangements based on children's needs and best interests;

That 5 Members of the Senate and 10 Members of the House of Commons be the Members of the Committee with two Joint Chairpersons;

That changes in the membership, on the part of the House of Commons of the Committee be effective immediately after a notification signed by the member acting as the chief Whip of any recognized party has been filed with the clerk of the Committee;

That the Committee be directed to consult broadly, examine relevant research studies and literature and review models being used or developed in other jurisdictions;

That the Committee have the power to sit during sittings and adjournments of the House;

That the Committee have the power to report from time to time, to send for persons, papers and records, and to print such papers and evidence as may be ordered by the Committee;

That the Committee have the power to retain the services of expert, professional, technical and clerical staff, including legal counsel;

That a quorum of the Committee be 8 members whenever a vote, resolution or other decision is taken, so long as both Houses are represented and the Joint Chairpersons will be authorized to hold meetings, to receive evidence and authorize the printing thereof, whenever 4 Members are present, so long as both Houses are represented;

That the Committee be empowered to appoint, from among its Members, such subcommittees as may be deemed advisable, and to delegate to such subcommittees, all or any of its power except the power to report to the Senate and House of Commons;

That the Committee be empowered to authorize television and radio broadcasting of any or all of its proceedings; and

That the Committee make its final report no later than May 31, 1998.

AGRICULTURE AND FORESTRY

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

Leave having been given to revert to Notices of Motions:

Hon. Doris M. Anderson: Honourable senators, I give notice that, on Wednesday next, April 23, 1997, I will move:

That the Subcommittee on Boreal Forest of the Standing Senate Committee on Agriculture and Forestry have power to sit at four thirty o'clock in the afternoon, Thursday, April 24, 1997, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.

The Senate adjourned until Wednesday, April 23, 1997, at 1:30 p.m.

CONTENTS

Tuesday, April 22, 1997

	PAGE		PAGE
SENATORS' STATEMENTS		Senator Berntson	2038
<hr/>			
Employment Insurance			
Senator Phillips	2034		
Drinking and Driving			
Senator LeBreton	2034		
<hr/>			
ROUTINE PROCEEDINGS			
Criminal Code			
Corrections and Conditional Release Act			
Criminal Records Act			
Prisons and Reformatories Act			
Department of the Solicitor General Act (Bill C-55)			
Bill to Amend—Report of Committee. Senator Carstairs	2035		
International Competitive Position in Communications			
Interim Report of Transport and Communications Committee on Study Tabled. Senator Bacon	2035		
Internal Economy, Budgets and Administration			
Eighteenth Report of Committee Presented. Senator Kenny	2035		
Canadian Volunteer Service Medal for United Nations Peacekeeping Bill (Bill C-300)			
Report of Committee. Senator DeWare	2036		
Adjudication of Pensions			
Report of Social Affairs, Science and Technology Committee on Study Tabled. Senator DeWare	2037		
Fisheries			
Privatization and Licensing of Quotas in Industry— Report of Committee Requesting Authority to Engage Services. Senator Comeau	2037		
The Estimates, 1997-98			
Interim Report of National Finance Committee on Main Estimates Presented and Printed as Appendix. Senator Tkachuk	2037		
Adjournment			
Senator Graham	2038		
Information Commissioner			
Notice of Motion to Reappoint Present Incumbent. Senator Graham	2038		
Ottawa's Montfort Hospital			
Planning for the Future—Notice of Motion. Senator Simard	2038		
Agriculture and Forestry			
Committee Authorized to Meet During Sitting of the Senate. Senator Hays	2038		
		QUESTION PERIOD	
		Auditor General	
		Promised Tabling of Report—Government Position.	
		Senator Jessiman	2038
		Senator Fairbairn	2039
		Intergovernmental Affairs	
		Quebec—Amendment of Section 93 of Constitution— Appearance of Justice Experts Before Parliamentary Committee—Request for Answer. Senator Beaudoin	2039
		Senator Fairbairn	2039
		Justice	
		Constitutional Challenge to Firearms Act— Status of Legal Action—Government Position.	
		Senator Oliver	2040
		Senator Fairbairn	2040
		Costs Incurred to Date of Establishing Firearms Register— Request for Details. Senator Stratton	2040
		Senator Fairbairn	2040
		National Defence	
		Special Senate Committee on Somalia Inquiry— Briefing of Prospective Witnesses by Liaison Team— Government Position. Senator Phillips	2040
		Senator Fairbairn	2041
		Special Senate Committee on Somalia Inquiry— Request for Report. Senator Phillips	2041
		Senator Fairbairn	2041
		Demise of Special Senate Committee on Somalia Inquiry— Position of Leader of the Government.	
		Senator Lynch-Staunton	2041
		Senator Fairbairn	2041
		Health	
		Programs and Services for Seniors Cut by Minister— Request for Particulars. Senator Doyle	2041
		Senator Fairbairn	2042
		Justice	
		Special Joint Committee on Custody and Access— Status of Implementation of Committee. Senator DeWare	2042
		Senator Fairbairn	2042
		Refusal of Minister to Pay Legal Fees of Former Minister of Indian Affairs and Northern Development— Further Urgent Request for Answer. Senator Berntson	2042
		Senator Fairbairn	2042
		The Environment	
		Bow Valley Study—Declaration as Migratory Protected Area—Plight of Army Cadet Training Camp— Government Position. Senator Andreychuk	2042
		Senator Fairbairn	2043

	PAGE		PAGE
Delayed Answers to Oral Questions		Referred to Committee.	2050
Senator Graham	2043	Copyright Act (Bill C-32)	
Employment Insurance Fund		Bill to Amend—Third Reading—Debate Adjourned.	
Current Premiums Acting as Disincentive to Job Creation—		Senator Gigantès	2050
Government Position.		Criminal Code	
Question by Senator Nolin.		Copyright Act (Bill C-205)	
Delayed Answer. Senator Graham	2043	Bill to Amend—Second Reading. Senator Cogger	2051
The Budget		Referred to Committee.	2052
C.D. Howe Institute—Report Indicating More Tax		Code of Conduct	
Paid by Taxpayers than Revealed—Government Position.		Consideration of Final Report of Special Joint Committee—	
Question by Senator Stratton.		Debate Continued. Senator Stanbury	2052
Delayed Answer. Senator Graham	2043		
Business of the Senate			
Senator Graham	2044		
		<hr/>	
ORDERS OF THE DAY		ROUTINE PROCEEDINGS	
Canada Marine Bill (Bill C-44)		Budget Implementation Bill, 1997 (Bill C-93)	
Second Reading. Senator Cochrane	2045	First Reading.	2054
Referred to Committee.	2045	Income Tax Conventions	
A Bill Concerning an Order Under the International		Implementation Bill, 1996 (Bill C-37)	
Development (Financial Institutions) Assistance Act (Bill C-77)		First Reading.	2055
Second Reading. Senator Andreychuk	2046	York Factory First Nation Flooded Land Bill (Bill C-39)	
Senator Stewart	2046	First Reading.	2055
Referred to Committee.	2047	Nelson House First Nation Flooded Land Bill (Bill C-40)	
Agricultural Marketing Programs Act (Bill C-34)		First Reading.	2055
Second Reading. Senator Rossiter	2047	Justice	
Referred to Committee.	2048	Notice of Motion to Appoint Special Joint Committee	
Criminal Code (Bill C-46)		on Custody and Access. Senator Graham	2055
Bill to Amend—Second Reading. Senator Cools	2048	Agriculture and Forestry	
Senator Pearson	2050	Notice of Motion to Authorize Committee to Meet	
		During Sitting of the Senate. Senator Anderson	2056



If undelivered, return COVER ONLY to:
Canada Communication Group — Publishing
Ottawa, Canada K1A 0S9