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OFFICIAL REPORT
(HANSARD)

Thursday, April 24, 1997

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, April 24, 1997

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

GENOCIDE OF ARMENIAN PEOPLE

COMMEMORATION OF EIGHTY-SECOND ANNIVERSARY

Hon. Thérèse Lavoie-Roux: Honourable senators, I would ask you to join me in commemorating the 82nd anniversary of the Armenian genocide perpetrated by Turkey in 1915-17, when about 1.5 million Armenians were massacred or forced to flee.

Courageous as ever, they are found today in communities throughout the world. Earlier, thousands of them were here on Parliament Hill to commemorate this anniversary.

It is important to draw attention today to this anniversary. It is perhaps even more important to realize that, for years, Armenians have been fighting for recognition of that genocide.

In fact, it was recognized as such by the Permanent People's Tribune in 1984, by the European Parliament in 1987, by the Quebec National Assembly in 1980 and by the Government of Ontario. I may add that last year, the House of Commons recognized the Armenian tragedy, but not the genocide as such, probably for political reasons, perhaps under pressure from the Turkish government. It is a step in the right direction, but sooner or later, Canada will have to recognize the Armenian genocide.

For years, Armenians have fought for this recognition, not so much for themselves but to ensure that history does not forget this genocide that was perpetrated in the 20th century. And there is always the threat of a similar genocide. Unfortunately, there have been subsequent genocides, and I am thinking of Cambodia and Rwanda, to name just two.

At this time, our thoughts should be with all our fellow citizens of Armenian descent who are so well integrated across Canada, especially in Montreal where I came to know them. They are an industrious and creative people with lasting traditions and a long history. Today, I welcome this opportunity to say that I believe, and I cannot do so without your leave, that my Senate colleagues will join me in commemorating this very sad event. We must do everything we can to prevent similar tragedies or massacres from occurring.

[*English*]

CULTIVATION OF HEMP

Hon. Lorna Milne: Honourable senators, I rise to share with you today an exciting development which occurred in the Standing Senate Committee on National Finance last evening.

First, let me acknowledge the excellent chairmanship of Senator Tkachuk, who was very accommodating in assisting me to pursue my inquiry. I also thank the other members of the committee for their support.

Honourable senators, as part of the study of the Main Estimates, 1997-98, the Standing Senate Committee on National Finance inquired into the implementation of Bill C-8 which contains provisions authorizing the cultivation of hemp in Canada. Bill C-8 received Royal Assent on June 20, 1996, nearly a year ago. The hemp provisions are still not in force because the regulations are not ready. We asked for an explanation of the delay.

The committee received a written response from Health Canada last week. That response indicated that regulations would not be ready until August of 1998. That would be too late for next year's growing season. In other words, Canada's first commercial hemp crop could not be sown before 1999 — three years after Bill C-8 became law.

• (1410)

Obviously, I was quite disappointed with the answer. Therefore, I asked the committee to call departmental witnesses to appear to explain their lack of progress. I am delighted to report that the officials made a new undertaking last night during their testimony before the committee. Health Canada is now committed to allowing Canadian farmers to grow hemp next year. Officials indicated last night that the regulations may be in force as early as mid-January.

You see, my honourable friends, the Senate's analysis of government policy and expenditures does not fall on deaf ears. In this case, we have made quite an impression on the department and a year's difference for farmers who want to grow hemp.

[*Translation*]

SPEECH DEFECTS

Hon. Joseph P. Landry: Honourable senators, in my remarks to you, I want to help give a voice to Canadians handicapped primarily because their voice is not strong enough.

[*English*]

I refer to Canadians who are affected by a condition known as stammering and stuttering.

Stammering is a condition in which the smooth flow of speech is interrupted or certain sounds or syllables are repeated. Stammering can be devastating for people. The child who stammers often finds it very difficult to participate in class activities. Many teens abandon school early, no longer able to cope with their continual frustration and shame at not being able to communicate in a highly verbal environment.

Self-confidence and self-esteem are constantly challenged. As a consequence, people who stammer often choose careers that they believe have fewer verbal demands rather than careers based on their real interest. How many potential Jim Careys, Céline Dions, John A. Macdonalds or Pierre Trudeaus did Canada lose because of the effects of untreated stammering?

[*Translation*]

We will never know. It is, however, important to know that approximately 1 per cent of Canadians are affected by this handicap. That means 300,000 people — almost the number of people living in the national capital. It translates into enormous human potential. A little like a gold mine that is just beyond reach.

[*English*]

I can tell you that my life has been a constant fight, overcoming challenges related to stammering every day. I had to fight to make friends. I had to work hard to sell myself and to succeed in business. I can tell you that I am now fighting hard to make this speech in the Senate. However, not all Canadian children have the good fortune of being as pig-headed as I am. I know that with the necessary help and counselling, many of my challenges would have been easier to overcome.

It is very important to make effective, quality treatment programs available to all Canadians affected by stammering. There is a need to further develop research to evaluate and to improve the effectiveness of stuttering treatment, to train clinicians and to provide proven treatment to patients.

We must also raise the awareness of Canadians about this condition. To the best of my knowledge, there is no government assistance for Canadians affected by this handicap.

[*Translation*]

I therefore urge my colleagues to see to it that our governments help these Canadians.

At the dawn of the 21st century, Canada must get to work on reducing its human deficit.

[*English*]

Reducing the terrible effects of stammering and stuttering would be a step in that direction.

Hon. Senators: Hear, hear!

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

TRIBUTE TO MEMBERSHIP AND STAFF

Hon. Sharon Carstairs: Honourable senators, it has been my great privilege to chair the Standing Senate Committee on Legal and Constitutional Affairs during the Second Session of the 35th Parliament.

Senators on the other side have, on occasion, been most gracious in complimenting me on my chairmanship. However, I want to tell this chamber that the success of the Standing Senate Committee on Legal and Constitutional Affairs depends not on the Chair but on the dedication and hard work of the membership of this committee.

Senators Beaudoin, Doyle, Jessiman and Nolin on the other side, and Senators Gigantès, Lewis, Losier-Cool, Milne and Pearson are rarely, if ever, absent. If they are, it is because they are sitting in another committee of the Senate.

Senator Moore joined our committee after his appointment. He replaced Senator Bryden who, in turn, had replaced Senator Corbin, who has moved on to other committees.

This committee has held 85 meetings. As of this morning, it has sat for 173 hours. We have heard from 373 witnesses. Later today, I will present its twenty-ninth and thirtieth reports.

I would be remiss in not thanking our extremely able clerk, Dr. Heather Lank, and her capable assistant Ms Colette Charlebois, whose dedication has made the operation of this committee both efficient and genial. Cathy Piccinin was invaluable in her help during the hearings on Term 17 of the Constitution.

The reporters and interpreters have been tried, on occasion, as witnesses spoke very quickly in order not to go over their time, thereby making the very best use of the skills of both professional groups.

I must also thank my personal staff because I had no idea when I accepted the chairmanship of the additional duties I would be asking of them. Michelle MacDonald, my researcher, has prepared briefing books on each and every bill that has come before this committee. Sylvie Lalande, my administrative assistant, has looked after the phone calls and the correspondence that flow between a committee chair, her clerk and other members of the Senate.

However, I reserve my very special thanks for the members of this committee. It has been my real privilege to serve you all.

GENOCIDE OF ARMENIAN PEOPLE

COMMEMORATION OF EIGHTY-SECOND ANNIVERSARY

Hon. Shirley Maheu: Honourable senators, our Armenian community was here today to commemorate a time in history that we should not and cannot forget. I refer to the Armenian genocide.

The systematic destruction of a people is the most heinous of crimes against humanity. The attack and slaughter of Armenians by the Ottoman Turks is an event that none of us, nor our children, must ever forget. It is a dark mark on our collective history from which we must learn.

It is by learning from our past that we can hope to avoid the same tragedies. Unfortunately, conflicts still abound in this world, and hideous phrases such as "ethnic cleansing" are entering our everyday vocabulary. We must remember what the world has tried to teach us. The terrible events of April 24, 1915 should have taught humanity a lesson. We must learn from this history that human life is fragile and precious. We must learn that violence and retribution is a cycle that is difficult to break. It is a cycle which must not be allowed to continue for our children's and our grandchildren's sake.

[*Translation*]

Today, we call to mind all the men, women and children who lost their lives. Today, we must work toward developing a new era of harmony between human beings. The Armenian genocide shows us how fragile human beings are. It is an example of what ethnic tensions can lead to.

The lesson humanity must learn is that we have to accept our differences. History has taught us that life is precious, and it is our job to protect it.

Our past is an important part of our present day reality. Our Armenian fellow citizens are part of our reality as well. It is part of our heritage to be informed citizens.

• (1420)

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

APPLICATION OF OFFICIAL LANGUAGES ACT IN NATIONAL CAPITAL REGION—REPORT OF STANDING JOINT COMMITTEE TABLED

Hon. Shirley Maheu: Honourable senators, I have the honour to table the third report of the Standing Joint Committee on Official Languages dealing with the implementation of the Official Languages Act in the National Capital Region.

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

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

[*English*]

• (1420)

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, April 24, 1997

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

TWENTY-NINTH REPORT

Your Committee, to which was referred Bill C-46, An Act to amend the Criminal Code (production of records in sexual offence proceedings), has, in obedience to the Order of Reference of Tuesday, April 22, 1997, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

Senator Carstairs: With leave, later today.

The Hon. the Speaker: Is leave granted?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Leave is not granted.

Senator Carstairs: At the next sitting, then.

Motion agreed to and bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, April 24, 1997

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

THIRTIETH REPORT

Your Committee, to which was referred Bill C-95, An Act to amend the Criminal Code (criminal organizations) and to amend other Acts in consequence, has, in obedience to the Order of Reference of Wednesday, April 23, 1997, examined the said Bill and now reports the same without amendment, but with the following recommendation:

Your Committee is aware of the establishment of a foundation at Osgoode Hall Law School for the study of organized crime in Canada. It is your Committee's recommendation that the federal government become an active participant in this study, including giving its support to public forums and international studies to increase understanding of organized crime.

Respectfully submitted,

SHARON CARSTAIRS
Chair

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

Hon. Richard J. Stanbury: With leave, later this day.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

On motion of Senator Stanbury, bill placed on Orders of the Day for third reading later this day.

INCOME TAX BUDGET AMENDMENTS BILL, 1996

REPORT OF COMMITTEE

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

Thursday, April 24, 1997

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

SIXTEENTH REPORT

Your Committee, to which was referred the Bill C-92, An Act to amend the Income Tax Act, the Income Tax Application Rules and another Act related to the Income Tax Act, has examined the said Bill in obedience to its Order of Reference dated Wednesday, April 23, 1997, and now reports the same without amendment.

Respectfully submitted,

MICHAEL J.L. KIRBY
Chairman

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

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

[*Translation*]

CANADA MARINE BILL

REPORT OF COMMITTEE

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

THURSDAY, April 24, 1997

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

ELEVENTH REPORT

Your Committee to which was referred Bill C–44, An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence, has, in obedience to the Order of Reference of Tuesday, April 22, 1997, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON
Chair

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

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

[*English*]

POST-SECONDARY EDUCATION

INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

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

Thursday, April 24, 1997

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

EIGHTEENTH REPORT

Your Committee, which was authorized to examine and report upon the serious state of post-secondary education in Canada, has, in obedience to its Order of Reference of Wednesday, June 19, 1996, proceeded to that inquiry and now presents its interim report.

Respectfully submitted,

MABEL M. DeWARE
Chair

The Hon. the Speaker: 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.

• (1430)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NINETEENTH REPORT OF COMMITTEE PRESENTED

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

Thursday, April 24, 1997

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

NINETEENTH REPORT

Your Committee has examined and approved the budget presented to it by the Standing Joint Committee on Scrutiny of Regulations for the proposed expenditures of the said Committee for the fiscal year ending March 31, 1998:

Professional and Other Services	$94,781
Miscellaneous	5,400
Total	$100,181

Respectfully submitted,

COLIN KENNY
Chairman

The Hon. the Speaker: 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.

ADJOURNMENT

NOTICE OF MOTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, April 25, 1997, I will move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Saturday, April 26, 1997, at 10 a.m.

JUSTICE

PARLIAMENT'S INTENTION REGARDING JUDGE'S ACT— NOTICE OF MOTION PROPOSING THE ESTABLISHMENT OF SPECIAL SENATE COMMITTEE

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1) and (2) and 57(1), I give notice that two days hence I will move:

Whereas on November 7, 1996, the Senate of Canada amended and passed Bill C-42, *An Act to amend the Judges Act and to make consequential amendments to another Act*, which rejected the expressed wishes of certain judges to participate in international activities and limited the bill to Madam Justice Louise Arbour solely, and which received Royal Assent on November 28, 1996; and

Whereas the Senate considered, deliberated, voted upon, and settled the question of Parliament's will and intention in the *Judges Act,* and resolved that judges' international activities, as proposed in the pre-amended Bill C-42, were unacceptable to Parliament and amended the bill accordingly; and

Whereas on December 9, 1996, 11 days after Bill C-42 received Royal Assent, in an interview aired on the Canadian Public Affairs Channel, seen by myself only a few days ago, the Rt. Honourable Justice Antonio Lamer, Chief Justice of the Supreme Court of Canada, publicly discussed Canada's foreign policy, his personal political views of the international role for Canada's judges, and opined on the Senate's amendment to Bill C-42, saying, in verbatim transcript:

". . .seem to want only Canadian judges and uh this is why I was a little disappointed when Parliament uh amended, when when the Senate uh amended this Arbour amendment because in there, there was uh it was made general for the purpose of enabling uh judges who are supernumerary judges uh to uh uh , supernumerary judges who are judge who who has 50 per cent of his time to his own his or her time to herself and and and and I was at my invitation we had over 80 responses of judges who were willing to give their own time instead of playing golf to go into to countries that are not necessarily the most comfortable countries. And that amendment would have made it um, would have made it more easy to uh to uh uh meet the expenses because judges as you know were supposed to receive money only under the Judges act and its a little dicey there and that when that when that amendment was made to bring back down to just Madame Justice Arbour,. I was a little disappointed but I found I found another way and aah I'll be going to have lunch today with Madame Huguette Labelle, the head of CIDA then I think we're going to go through CIDA. Well, where there's a will, there's a way and I will be very proud to see 20, 30, 40, judges of Canada at no Canadian judges' expense except that Canadian judges' free time go around the world a bit like *Medecins sans Frontieres*, you know, *Doctors without frontiers*, in other words in other words uh uh what happened to Canada about a few years ago is that they said our policy used to be here's a hundred million dollars buy our tractors. Today we say here's the money buy our tractors but about your human rights, you better clean up your act, but you're not going to send an engineer to teach human liberties if you're talking human liberties, you're talking about judges and you're talking about lawyers and uh these uh judges that are available, ready to go, uh these judges uh uh will be going. I'm speaking to Madame Labelle as I said, I'm having lunch with her today then I will be speaking to the Commissioner of Judicial Affairs Friday. I'll have lunch with him Friday and I think we'll get the ball rolling very soon."

Whereas these statements are political statements and are not appropriate for the Chief Justice of Canada, and have the consequence of undermining and defeating the will of Parliament, as expressed in Bill C-42, so as to impose the will of Chief Justice Lamer and certain judges; therefore

Be it resolved that the Senate should constitute a Special Senate Committee to examine these activities of Chief Justice Lamer, the Commissioner of Federal Judicial Affairs, Guy Goulard, the President of the Canadian International Development Agency, Huguette Labelle, and the "20, 30, or 40" judges, under the leadership of Chief Justice Lamer, in respect of their disobedience to the will of Parliament whose express wish was that Canadian judges not engage in international activities.

SPEAKER'S RULING

The Hon. the Speaker: Honourable Senator Cools, I did not interrupt you during the recital of your notice of motion on a matter which I know is of great importance to you, but I should point out that under rule 29:

> A motion or inquiry prefaced by a written preamble shall not be received by the Senate.

I would also refer you to *Beauchesne's Parliamentary Rules and Forms*, 6th Edition, citation 565:

> A motion should be neither argumentative, nor in the style of a speech, nor contain unnecessary provisions or objectionable words.

For the time being, I let you proceed, but I will be unable to accept further motions of that nature.

Hon. Anne C. Cools: I am sorry, Your Honour, I did not understand most of what you said. I was having difficulty hearing.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at six o'clock today, Thursday, April 24, 1997, to consider Bills C-37 and C-93, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

ABORIGINAL PEOPLES

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

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

> That the Standing Senate Committee on Aboriginal Peoples have power to sit at 4:30 p.m. today, Thursday, April 24, 1997, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted?

Senator Berntson: No.

Senator Lynch-Staunton: No.

• (1440)

The Hon. the Speaker: Honourable Senator Pearson, leave is not granted.

Senator Pearson: I presume, then, that the committee can sit when the Senate rises.

QUESTION PERIOD

JUSTICE

REFUSAL OF MINISTER TO PAY LEGAL FEES OF FORMER MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT— DIFFERENCE IN TREATMENT OF OTHER ACCUSED— GOVERNMENT POSITION

Hon. Eric Arthur Berntson: Honourable senators, my question is to the Leader of the Government in the Senate. It deals with a rather distressing inconsistency in the application of discretion, who gets treated how and when and why. I go back to the John Munro situation, in which we have seen families ruined; we have seen friendships shaken; we have seen personalities absolutely destroyed; reputations have become dust; we have seen financial ruin. All this is because the Crown laid upwards of 75 charges against this man for allegations made against him by the Crown during his duties as a minister of the Crown.

After a very lengthy investigation and something like an eight-month period for the Crown to put its case to the court, the court, without calling one defence witness, threw out every charge. The court said there was simply no evidence to support the theory of the Crown.

The Crown has destroyed this man, destroyed his family. He is on the brink of bankruptcy, as I understand it. Yet the Minister of Justice says two things: He says that, within his political discretion, his decision is not to pay the legal fees of Mr. Munro. He also says that the Department of Indian Affairs has told him that they do not want to pay those costs, so they will not.

That sounds to me like the tail wagging the dog. Nevertheless, there has been a decision taken by the Government of Canada that Mr. Munro will get nothing from the Government of Canada. Although he was falsely accused and the court threw out all charges, the government, in its callous way, has said, "Sorry, Mr. Munro."

Compare that, if you like, to Susan Nelles who was also wrongly accused. The court indicated as much. The government said that it ought not to have happened, so she was given $600,000 to cover her legal costs.

More recently, we have an exercise, now wrapping up, called the Somalia inquiry. It has been a very important and very useful exercise. It would have been more useful had it been allowed to continue to its conclusion. However, people who are neither charged nor implicated in any suggestion of wrongdoing have been granted, for whatever reason, status before the hearing. I do not know if charges are anticipated, but, thus far, without any charges, these people are served by government-paid lawyers. The most expensive of those lawyers to date has billed $400,000. There is no question that they will get paid. Those lawyers will be paid. The government has said so. It is part of the cost of the inquiry.

Compare that to the treatment that Mr. Munro is receiving from this same government. It is shameful. It is absolutely shameful. Since December 4, I have been trying to get just a hint, anything, from the Department of Justice that could justify this kind of treatment. I have been stonewalled every step of the way. It is despicable treatment of this individual. It is despicable treatment of this chamber that the Department of Justice, on such an uncomplicated and simple matter, cannot give the Leader of the Government the answer.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I have listened to my honourable friend with great respect from December 4 on. I have told him I was seeking information so that I could give him an answer.

Senator Berntson: I was not blaming you.

Senator Fairbairn: I take responsibility for the efforts to get a full answer that would respond to my honourable friend's concerns. I have not received that answer yet. I continue to seek it. I say to my friend again, until I have further information, I cannot answer his question, but I have not ceased in my efforts to do so.

FISHERIES AND OCEANS

DEPARTMENTAL ADVICE OFFERED ON AVOIDANCE OF ENVIRONMENTAL ASSESSMENT—GOVERNMENT POSITION

Hon. Mira Spivak: Honourable senators, in a recent report on the failure of environmental assessments in Canada, called "The Nasty Game," the Department of Fisheries and Oceans is named as a prime "avoider" of federal law. To avoid triggering an environmental assessment under the Fisheries Act, DFO is issuing letters of advice to companies and government agencies, instead of legal authorizations under the act, for projects which might harm fish habitat or have other harmful environmental consequences.

In 1991, DFO issued 12,000 authorizations that had the potential to trigger assessments, at the very least, to ensure the pre-screening of projects. Last year, it issued fewer than 250 authorizations. This DFO policy is being challenged in a case before the Federal Court and in a complaint laid before a NAFTA tribunal. This week, that tribunal, a watchdog group, rejected the complaint but invited its resubmission if it is not dealt with satisfactorily in the courts.

I should like the Leader of the Government in the Senate to convey the following question to the Minister of Fisheries and Oceans: Does he support this policy which, in fact, is detrimental to fish and fish habitat?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I will be pleased to do so.

THE ENVIRONMENT

UNNECESSARY DUPLICATION IN ASSESSMENT PROCESS

Hon. Mira Spivak: Honourable senators, that same report, called "The Nasty Game," shows exactly how industries are forced to spend millions needlessly because of the government's erratic, unpredictable application of the Canadian Environmental Assessment Act or CEAA. One diamond mine developer in the central Arctic, for example, spent $14 million on their impact statement alone. Another has spent $20 million and counting.

• (1450)

The Canadian Environmental Assessment Act was supposed to bring order and avoid unnecessary duplication in the environmental assessment process. Instead, according to the report, the government prefers to reinvent the wheel with every project, inflate costs, and exercise its political discretion.

Has this report been considered, along with its many positive suggestions for improving how the law is applied, as well as the CEAA itself, before its five-year mandatory review? I would appreciate the minister passing that question along as well.

Hon. Joyce Fairbairn (Leader of the Government): I will forward them both on together.

[*Translation*]

INTERGOVERNMENTAL AFFAIRS

QUEBEC—PROPOSED AMENDMENT TO SECTION 93 OF CONSTITUTION—ESTABLISHMENT OF JOINT PARLIAMENTARY COMMITTEE—GOVERNMENT POSITION

Hon. Jean-Maurice Simard: Honourable senators, I have a question for the Leader of the Government in the Senate. My question concerns the resolution that was put before the other place two days ago by Minister Dion regarding the proposed amendment to section 93 of the Constitution Act, 1867, with respect to the Quebec school system.

In response to a question asked by Pierrette Venne, Minister Dion made the following statement, which strikes me as odd. It reads in part as follows:

> However, speaking of books on parliamentary procedure, the Canadian Constitution makes it quite clear it is not up to the Senate to decide. The House of Commons, not the Senate, will make the decision.

Strange statement indeed, in contrast to sections 38 and 43 of the Constitution, as reviewed in 1982.

My question is this: It is my understanding that, of the two motions tabled by Stéphane Dion on behalf of the federal government, the first one deals with the amendment to the Constitution.

As for the second motion — I do not know whether it has been tabled yet — it provides for the establishment of a special joint committee of the Senate and the House of Commons to look into related issues.

To reassure this house, do you expect both these motions to be tabled in the other place by the government, the first one concerning the resolution per se and the second one establishing a special joint committee?

[*English*]

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, my honourable friend has indicated to the house that, as we all know, the minister, Mr. Dion, made a statement in the House of Commons last Tuesday and tabled the resolutions. Those will be debated by the House of Commons.

The Senate, of course, has a role to play. I know my honourable friend read the answer from Hansard, but the Senate does have a role to play. Those resolutions will also be tabled and debated here. A six-month suspensive veto applies to the Senate, and the Senate has an opportunity to play its role in that period of time, which it has exercised on occasion, as in the case of the Newfoundland bilateral resolution on amending Term 17 of the Constitution. In other cases, such as that of New Brunswick, the Senate moved rather quickly. This house certainly has a role to play, and assuredly we will play it.

[*Translation*]

Senator Simard: Honourable senators, I find the honourable leader's answer very encouraging. Based on the legislative calendar, there is a possibility an election might be called this weekend. Could the Leader of the Government give us the assurance that the government will refer both motions, the main motion and the one providing for the establishment of a special joint committee, to the Senate this week, today, tomorrow or even Saturday?

I understand from my reading of the motion to establish a special joint committee of the Senate and the House of Commons that, under a provision of its mandate, the committee might have to report by May 31.

[*English*]

Senator Fairbairn: Honourable senators, my honourable friend's question, as I am sure he appreciates, is hypothetical. I am not able to give him any indication of when the House of Commons will have dealt with these resolutions. To my knowledge, it has been the practice that when that is done, those resolutions then come to the Senate, and the Senate deals with them, and we get on with our business.

With respect to deadlines being imposed on such a committee, such deadlines are often imposed when we set up a committee. However, they are not immutable. Mr. Dion made it clear that he would wish to see full committee hearings, which would enable those with views on either side of the question to have the opportunity to be heard by that committee.

One way or the other, I can give an assurance to the honourable senator that this house will deal with these resolutions, in its place. We will be part of a joint committee permitting people to come forward and be heard, in the process of dealing with what is, as everyone knows, an extremely important subject.

QUEBEC—PROPOSED AMENDMENT TO SECTION 93 OF CONSTITUTION—DIFFERENCE IN TREATMENT OF PROVINCIAL RESOLUTIONS—GOVERNMENT POSITION

Hon. Marcel Prud'homme: On a supplementary question, honourable senators, I do not know what happened to suddenly convert Mr. Dion. He refused, or did not make any effort to have hearings in the House of Commons concerning the same kind of situation for Newfoundland, as was repeated here many times. The House of Commons, on a Friday, with no quorum in attendance, rushed through its concurrence with that resolution. They held no hearings, and the minorities were not consulted.

• (1500)

Thank God we did our constitutional duty here in the Senate.

I will not take credit for having been one of the first senators to get up and fight vigorously, but I am glad that other senators followed up. I stepped aside to let the fight take place between the official opposition and the government.

The Senate held hearings in Ottawa and Newfoundland, and I was happy about that. That is exactly what the Senate is all about.

Now, honourable senators, comes the question from Quebec. The precedent has been established. The Minister of Education for Ontario has said he may take steps concerning Catholic education in Ontario, as we said during the debate relating to Newfoundland.

What has happened that Mr. Dion has suddenly given us the kind of hearing he refused for Newfoundland? Was the Senate consulted and asked to join with the House of Commons? It seems as if the MPs in the House of Commons suddenly allowed the senators, in a minority way, to be part of a joint committee of the Senate and the House of Commons.

Honourable senators, if we are to be part of a joint committee with the House of Commons, of course the House of Commons will have a majority and will run the show. The House can overrule the wishes of senators who may want to hear from more witnesses in Ottawa and in Quebec.

My question is this: Was the Senate consulted prior to the announcement? I was not consulted. Were senators on the government side consulted and, if not, why? If yes, what was our attitude?

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I agree with Senator Prud'homme on the value of these studies. I know our friend Senator Beaudoin has been the co-chair of constitutional studies and committees of the House of Commons and the Senate over the years, which have always been useful.

On this very important issue, it was felt by my colleague Mr. Dion and by the government that it would be useful to have committee hearings by a joint committee on which both houses would be represented.

The consultation with the Senate obviously will be through the motion to accept that resolution. I cannot speak for my friend Senator Beaudoin, but I believe that there is great value in joint parliamentary committees in terms of the House of Commons being able to sit around the table with senators of great capacity, skill and experience. I think it is a forward move. It will, of course, be up to the Senate to decide whether to approve the motion when it is introduced here.

Honourable senators, I think it is a positive, good and necessary step to hold parliamentary hearings on this issue so that people can join this level of debate in this bilateral process. I think it is good for the Senate and the House of Commons to study these important issues together.

Senator Prud'homme: Honourable senators, I do not disagree fundamentally with what the minister has said because I love to compete with the House of Commons in these areas. If the hearings are televised, Canadians will realize the value of the Senate and the quality of the senators sitting on that committee. We can match members of the House of Commons in these deliberations. On that point, I agree with my honourable friend.

My only question is: Why was it not good for the Newfoundland issue and is good now? Why did we not do it for Newfoundland? We had to fight tooth and nail in the Senate to obtain permission to hold hearings on the same issue in Newfoundland.

I do not know which one of the two Mr. Dions we will see. Will it be the Dion of today or the Dion of yesterday? If another debate of that kind comes along, what will it be? Should it not be established that there be the same treatment for everyone?

Senator Fairbairn: Honourable senators, I would not want to anticipate anything that may come in the future, from any other source. However, one of the persuasive points in the case of the Quebec resolution is the fact that there were no public hearings at any stage of that development. Certainly, one respects the decisions and the views of those who participate in any legislative body in this country; one also respects the opportunity of having individual Canadians affected by these issues participate in a forum where they can put forward their views. That is one persuasive reason that this initiative was put forward. As one goes through the process in these situations, one learns the value of having participation from the public. As I said, honourable senators, I welcome this initiative.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, if the government shares the enthusiasm of the Leader of the Government in the Senate about having a joint committee on this important resolution, why has she not, on behalf of the government, introduced a motion to form the joint committee? What are we waiting for? I can assure my honourable friend that we have urged hearings on this item for a long time, and we do not have to wait until Saturday to formally accept that we will be part of the joint committee. Why not introduce a motion and let us get on with it?

Senator Fairbairn: Honourable senators, I thank my honourable friend for his support. The plan that we have been following is to move on this matter when it is dealt with by the House of Commons. I can certainly give consideration to my honourable friend's suggestion.

Senator Lynch-Staunton: Not consideration. Perhaps I can move the motion myself, then. Can I give notice of a motion today that we will form a joint committee? I would be very happy to do so with the unanimous consent of this house.

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 February 4, 1997, by the Honourable Senator Tkachuk regarding Africa — dispatch of Canadian peacekeepers to Rwanda-Burundi-Zaire region — source of payment for mission; and I have a response to a question raised in the Senate on April 8, 1997, by the Honourable Senator Simard regarding HRD — prospective infrastructure projects for New Brunswick.

AFRICA

DISPATCH OF CANADIAN PEACEKEEPERS TO RWANDA-BURUNDI-ZAIRE REGION—SOURCE OF PAYMENT FOR MISSION—GOVERNMENT POSITION

(Response to question raised by Hon. David Tkachuk on February 4, 1997.)

When, on November 9, 1996, the UN Security Council failed to agree on a multi-national intervention proposal which had been put before it and instead called on all Member States for further proposals on how to proceed, the Prime Minister began to call world leaders to try to mobilize an effective international response to the humanitarian crisis.

During the following 72 hours he called 17 leaders. In light of the positive initial response to his appeals for solidarity, the Prime Minister asked whether Canadian leadership of the force would help to break the logjam. This suggestion met with very strong support.

On November 10, the Prime Minister and ministers met and agreed that, if UN leadership of the mission was not possible, Canada would offer to lead the proposed force provided a number of questions with respect to mandate, adequacy of the force, control and command requirements, and the breadth and quality of international support could be resolved satisfactorily.

On November 11, the leaders of the two main opposition parties were briefed on the decision. The House of Commons was invited to take note of the matter on November 18 and provided broad non-partisan support.

The Prime Minister's initiative on the November 9-11 weekend was crucial to mobilizing the international community to respond to the humanitarian crisis in Eastern Zaire. Only such leadership from a country with Canada's credentials of impartiality and disinterest could break the logjam of political will which then prevailed.

The Canadian-led Multinational Force had a salutary political impact in the region. Its formation triggered a massive return of refugees from Eastern Zaire to Rwanda in mid-November, as well as further repatriations over the following weeks.

The reconnaissance visits to Eastern Zaire by General Baril and other Canadian officers provided the humanitarian agencies with access to remaining pockets of refugees, and with intelligence as to numbers of refugees, their location and their condition.

The Canadian force also delivered food and relief supplies to new refugee concentrations in northern Tanzania.

The costs incurred were found from within the resources of the Department of National Defence, and thus all expenditures were authorized by the Minister responsible.

HUMAN RESOURCES DEVELOPMENT

PROSPECTIVE INFRASTRUCTURE PROJECTS
FOR NEW BRUNSWICK—GOVERNMENT POSITION

(Response to question raised by Hon. Jean-Maurice Simard on April 8, 1997.)

This government's number one priority has been and continues to be Jobs. The Jobs Strategy is a plan of action, a step by step approach to help Canadians get back to work. The government is working in partnership with provincial and municipal governments and the private sector to strengthen the environment for job creation.

The government is staying the course to restore Canada's fiscal health, investing in immediate and long-term job creation and growth in such areas as youth, international trade, technology, small- and medium-sized businesses and infrastructure.

The government has undertaken a series of measures. For the 1997-98 fiscal year, the **Youth Employment Strategy** consolidates over $2 billion in new and existing funding for the programs and services for our young people. It is helping youth to find jobs and build careers through improved access, through skills development and through work experience.

Team Canada missions have led to $22 billion in new investment for Canadian companies which has created or sustained thousands of jobs. New **free-trade agreements with Chile and Israel** and improved financing for the **Export Development Corporation** have boosted the volume of the country's exports by almost 50% since 1992.

Technology Partnerships Canada invests $250 million annually in R&D in key growth sectors such as aerospace, biotechnology and environmental technologies.

Tourism creates employment — the government injected $15 million worth of additional funding in the **Canadian Tourism Commission** and a further equity injection of $50 million in the **Business Development Bank** to help finance private-sector tourism infrastructure.

Since 1994, the **Canada Infrastructure Works Program** has invested more than $6.7 billion creating over 100,000 jobs in communities across Canada. The Program is a clear example of a sustained working partnership between all levels of government and the private sector to enhance the competitiveness of our communities and create jobs.

Private sector forecasters are predicting some 300,000 jobs will be created this year.

While the government is deeply committed to getting Canadians back to work, there is still a long way to go. The government must continue to take action — to create a strong environment for job creation and economic growth.

In New Brunswick, there have been a number of key initiatives under the Jobs Strategy:

From April 1996 to April 1997, **Atlantic Canada Opportunities Agency** enabled projects in the Restigouche region totalling $5.8 million while in the Madawaska region it enabled totalling some $3 million investment which created and maintained jobs.

The **Canada-New Brunswick Infrastructure Works Program** has been so successful that the provincial government has signed an agreement with the federal to extend it until 1998. Since 1994, the program has supported 231 projects for an total investment of $164,264 million and creating some 2,400 jobs.

In December 1996, the federal government signed a **Labour Market Development Agreement** with N.B. During 1997-2000, the government will contribute more than $228 million from the Employment Insurance Account to the provincial government to support active employment benefits and measures. By working together to stimulate job creation, federal and provincial governments are working more effectively.

Small Business InfoFairs are being held across the country to promote access to government's programs and services. In February, some 1,410 local entrepreneurs attended an InfoFair in Moncton.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

DEFENCE—PURCHASE OF EH-101 HELICOPTERS
TO REPLACE SEA KINGS AND LABRADORS

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 136 on the Order Paper—by Senator Forrestall.

DEFENCE—STATUS OF FLEET OF CRAFT CURRENTLY IN SERVICE
THAT WOULD HAVE BEEN REPLACED BY THE EH-101 PURCHASE

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 137 on the Order Paper—by Senator Forrestall.

ABORIGINAL PEOPLES—COST OF PRINTING REPORT OF THE
ROYAL COMMISSION ON ABORIGINAL PEOPLES

Hon. B. Alasdair Graham (Deputy Leader of the Government) tabled the answer to Question No. 161 on the Order Paper—by Senator Tkachuk.

[*Translation*]

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1997

SECOND READING

Hon. Dan Hays moved second reading of Bill C-93, to implement certain provisions of the budget tabled in Parliament on February 18, 1997.

He said: Honourable senators, it is a pleasure to have an opportunity to speak in support of Bill C-93, the omnibus 1997 budget bill. The purpose of this bill, as we know, is to implement a whole series of measures proposed in the February 1997 budget.

Today I will look briefly at the principal measures in the bill under consideration.

This bill will make it possible to translate into concrete action a budget that, in addition to consolidating the progress made by the government in putting its fiscal house in order, will also make strategic investments vital to Canada and to Canadians. I am, of course, speaking about investments in short- and long-term job creation, and investments to strengthen our social infrastructure.

[*English*]

• (1510)

I shall begin with investments in social infrastructure.

One of the key measures in Bill C-93 will benefit the children of Canada, and in particular those children who are not getting everything they need for a proper start in life. There is no more worthy purpose. Bill C-93 will pave the way for a national child benefit system by launching the Canada Child Tax Benefit, a measure that will enable provinces and territories to redirect some of their spending into better services and benefits for low-income working families.

The transformation of the current $5.1-billion Child Tax Benefit into a new $6-billion Canada Child Tax Benefit will take place in two stages. First, effective this July, the working income supplement will be enriched by $195 million, which is $70 million more than was proposed in the 1996 budget. This will mean an increase in the maximum working income supplement from $500 per family, regardless of size, to $605 for families with one child, $1,010 for those with two children and $1,440 for those with three children. A further $330 will be paid for each additional child. The second stage will occur in July 1998, when the working income supplement will be combined with the new Child Tax Benefit to form the Canada Child Tax Benefit. The maximum benefit for low-income families will be $1,625 to one-child families, $3,050 to two-child families and will increase by $1,425 for each additional child. Over all, more than 1.4 million Canadian families with 2.5 million children will see an increase in federal child benefit payments by July, 1998.

While it is true, honourable senators, that the government must do more for our children in the long run, and it will, it is my hope that none of my honourable colleagues will object to the important proposals that Bill C-93 offers in the short term.

Bill C-93 proposes other forward-looking investments, as well. It includes an absolutely essential initiative for long-term jobs and growth in the Canada Foundation for Innovation. We know, honourable senators, that knowledge and innovation play an increasingly vital role in our economy. However, if knowledge and innovation are to be more than words, we have to make a serious commitment to research. Canada's granting councils play an important role in this respect. However, they fund mainly the operating costs of research. The Canada Foundation for Innovation will fill an important gap by providing much-needed financial support for research infrastructure.

In fact, the $800-million federal investment provided for in Bill C-93 could lead, through partnerships with research institutions, the private sector or the provinces, to as much as $2 billion being made available for research infrastructure at Canadian post-secondary education institutions and research hospitals. This infrastructure will provide the basis for research in the critical areas of health, the environment, science and engineering. In addition to their intrinsic importance, these areas will be key to Canada's longer term prospects for jobs and growth.

Bill C-93 also includes initiatives that will help Canadians who want and need jobs today. For example, the "New Hires" program will provide Employment Insurance premium relief to small firms that create new jobs this year and in 1998. Together with the 1997 Employment Insurance premium rate reductions, this measure is expected to generate as many as 20,000 new jobs.

Bill C-93 also includes a range of measures to discourage tobacco consumption. These measures include an increase in the excise tax for tobacco products, an extension of the surtax on tobacco manufacturers, change in the excise tax on exported tobacco products and reductions in the amounts of tobacco products that may be brought into Canada on a duty-free and tax-free basis. These tax changes are consistent with the government's policy of disciplined and gradual increases that will discourage consumption while minimizing the risk of renewed contraband activity.

Another measure in Bill C-93 will provide for greater self-reliance and autonomy over taxation to First Nation bands. Specifically, two First Nation bands, the Cowichan Tribes and the Westbank First Nation, will be authorized to levy sales taxes on tobacco products. These provisions, made at the request of the bands concerned, demonstrate clearly the government's willingness to reach practical tax agreements with First Nations which indicate an interest in exercising taxation powers. The proposed initiative has minimal revenue implications for the federal government.

Bill C-93 includes a number of additional measures which I will not expand upon at length but will mention briefly. These measures include an aviation fuel tax rebate to Canadian Airlines International. The rebate is conditional on the airline surrendering the right to use certain tax losses and will help Canadian Airlines to help itself, while being fiscally responsible and fair to its competitors.

Additionally, Bill C-93 includes a measure to ensure that fuel volume is measured in a fair and consistent way for excise tax purposes. It includes measures to formalize the process for the government's participation in bridge loans to countries receiving International Monetary Fund or World Bank assistance.

In conclusion, honourable senators, Bill C-93 is a diverse and clearly beneficial piece of legislation that merits expeditious approval. It will promote the well-being of Canadian children, it will help small business create jobs and it will support the knowledge base that Canada needs to be successful in the 21st century.

I encourage all honourable senators to join me in supporting early passage of this bill.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, Bill C-93, of which our colleague has just given us an overview, at first blush looks like a reasonable initiative on the part of the government. However, when one lifts the covers, one finds that the bill will put into law several financial measures. While the proposed legislation is called the Budget Implementation Bill, 1997, many of its provisions were, in fact, announced in the months leading up to the budget. For example, among its other measures, Bill C-93 establishes the Canada Foundation for Innovation. Let us pause and reflect upon that for a moment. What is the Canada Foundation for Innovation? The bill, in setting out its structure and its means of governance, describes its mandate which is to pay grants aimed at modernizing and enhancing infrastructure research. Clearly, that is a laudable objective. However, where are those dollar resources to fund the Canada Foundation for Innovation coming from? Will they be new dollars or will they be dollars that are taken from some other area?

• (1520)

Honourable senators, are you prepared, for example, to have the National Science and Engineering Research Council, NSERC, take a reduction in its funding for research in those fields? Are you prepared to see a reduction in the research funds that are made available for the Medical Research Council?

Senator Andreychuk: They have occurred already.

Senator Kinsella: As my colleague Senator Andreychuk has just said, we have seen reductions in those areas already. Will this proposal solidify the reduction that has occurred in the medical research area, in the natural sciences areas and in the engineering research areas?

Honourable senators, I know that many of our colleagues on the other side of the aisle are interested in the social sciences and the humanities. However, what is the priority of this present government? What has been its priority, when it comes to supporting research in the social sciences and the humanities? We have seen cuts in that area as well. Perhaps, honourable senators, the Canada Foundation for Innovation will pick up the slack there. Unfortunately, we hear that the social sciences and the humanities are not a priority for innovation.

Clearly, we recognize that the future lies in jobs in the knowledge sector, in information and technology. In my own province, the provincial government has, over the past few years, shown some leadership in the information technology sector from a human resources development standpoint. If this federal government's approach is to simply repackage existing grant programs and slap on a partnership or investment label and pretend to have a strategy, we will want to be very observant and cautious of what we are being delivered in this Bill C-93.

With science and technology spending down by more than $500 million since this present neo-conservative government was elected in 1993, it is clear that there is a shell game going on. The government plans to allocate the entire $800-million cost of this institute to last year's books, even though the money will not go out until the current fiscal year. Perhaps the Auditor General was right when he said that he will look into this accounting manoeuvre.

Honourable senators, as Senator Hays pointed out, the bill also increases tobacco taxes, and touches upon tobacco sales on reserves and the working income supplement. In that area, the government says that this is the first step toward a Canada Child Tax Benefit that will replace the current Child Tax Benefit and working income supplement, with more funding to come later. Well, that is a laudable initiative. I salute the government for that proposed initiative, but what are we to think when we consider that this is the same government that promised to scrap the GST, to tear up NAFTA and make jobs a priority? To the parents of Canada who are sitting on the edge of their chairs waiting for the Canada Child Tax Benefit to come on line, I hope it will not be a long and arduous sit. However, we will want to delve into that matter in the committee hearings.

The government says that provinces may choose to reduce welfare payments by a similar amount to fund other priorities for low income earners such as pharmacare, dental care or child care. This initiative follows an $8-billion cut in the money Ottawa sends to the provinces for health, education and social assistance.

Honourable senators, it has taken three years and an impending election for the present government to discover that there are 1.5 million children living below the poverty line in Canada. For colleagues who have read the excellent study undertaken by Senator Cohen on child poverty, it is high time that all of us take a very serious look at child poverty in a country as wonderful and as wealthy as Canada. It is a national disgrace that for the past three years child poverty has not been on the front burner of the present government. Children are poor because their parents are poor. Parents are poor because they cannot find work and because their disposable incomes are falling.

Honourable senators, at this stage of our debate at second reading we are supposed to examine the principle of the bill. In principle, I agree with the bill. However, when it comes to the detail, it will be important for the committee to determine whether the principle is backed by any programmatic initiatives worthy of our support at the committee level and at third reading.

The Hon. the Speaker: Honourable senators, if Honourable Senator Hays speaks now, his speech will have the effect of closing debate on second reading of the bill. Do any other honourable senators wish to speak?

Senator Hays: Honourable senators, if there are no other interveners, I move second reading of the bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hays, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[*Translation*]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1996

SECOND READING

Hon. Céline Hervieux-Payette moved second reading of 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.

She said: Honourable senators, I am pleased to rise today in support of Bill C-37, which implements reciprocal tax treaties between Canada and five other countries: Russia, Ukraine, South Africa, Tanzania and India.

These five new tax treaties, like those Canada has already concluded with other countries, are intended to deal with two major problems of international taxation: double taxation and tax evasion.

Bill C-37 should be seen in the perspective of Canada's sustained efforts to expand and update its network of tax conventions, starting in 1971 with the major reform of our income tax legislation.

That being said, this bill is nothing out of the ordinary. However, that should not diminish its importance.

In fact, conventions like these are essential to ensure tax equity and good international trade relations, especially considering the upheavals on the international scene in recent years.

In the case of Russia and Ukraine, it is clear that the 1985 tax convention between Canada and the USSR had become inoperative as a result of subsequent events. In our opinion, it is also clear that we should adjust our tax relations with these countries so we can take advantage of opportunities as they arise.

I would like to review the main elements of this bill.

As I said before, Bill C-37 has two main objectives: to reduce or eliminate double taxation so that a taxpayer is not taxed on the same income by more than one tax authority, and to prevent tax evasion on international operations.

Generally speaking, the conventions provide that dividends may be taxed in the source country at varying maximum rates: 15 per cent in Russia, Ukraine and South Africa, and 25 per cent in the United Republic of Tanzania.

In India, the 1985 agreement with Canada set maximum rates of 15 per cent on direct dividends and interest and 25 per cent on other dividends. These rates remain unchanged.

In the case of intercorporate dividends, the rate is often reduced if the company receiving the dividends holds a certain equity interest in the company paying the dividends. Such a reduced rate has been set at 5 per cent in South Africa and Ukraine, 10 per cent in Russia and 20 per cent in Tanzania.

Part of the main thrust behind the treaties is to ensure companies are unable to lower taxes by merely establishing branches in Canada or other countries. To accomplish this, branch tax rates are identical to the rates for intercorporate dividends.

As regards interest paid by a resident of one country to a resident of another, the bill provides taxation rates of 10 per cent in Russia, Ukraine and South Africa and of 15 per cent in Tanzania.

There are, however, certain exceptions.

The maximum rate of taxation on interest paid under a bond or similar obligation by the government of one of the participating countries will be reduced to zero. Furthermore, these treaties provide for no taxation on interest paid on loans or credits granted, guaranteed or insured by certain institutions of the government of the originating country. They also cover the taxation of royalties. They provide for a general rate of taxation at source of 10 per cent in Russia, Ukraine and South Africa and 20 per cent in Tanzania. In India, the rate of taxation will be reduced over 5 years to 10 or 15 per cent according to the type of royalties.

The treaties with Russia, Ukraine and South Africa go further by recognizing the increasing importance of information technology. South Africa has reduced to 6 per cent the amount of tax withheld on software royalties, whereas Russia and Ukraine have abolished it.

These conventions also deal with pensions. In the case of Russia, Ukraine and India, pension benefits and similar payments will be taxed only in the country of origin. The treaty with South Africa is slightly different. Pension benefits will be taxable without restriction in the country of origin. The country of residence of the recipient will provide a credit for the amount of tax paid in the country of origin.

In Tanzania, pensions and similar payments from one country paid to residents of another may be taxed by both countries. However, as a general rule the tax rate applied by the originating country will be lowered to 15 per cent.

I would like to point out that these conventions should not result in any loss of revenues for the Government of Canada. In fact, Canada will benefit from both the reduction in the rate of tax withheld and other concessions agreed to by our partners and the increase in trade and investment with these countries.

In short, Bill C-37 implements tax treaties that will strengthen the fairness and effectiveness of the international tax system. At the same time, they will improve our ties and trading and investment opportunities in the signatory countries. Treaties of this type are common in international relations in a modern economy, and expanding them is one of the ongoing activities of responsible governments.

That said, I invite my colleagues in this house to give this bill their full support.

[*English*]

Hon. James F. Kelleher: Honourable senators, I rise to speak to Bill C-37, which, as my honourable colleague has told us, is a bill to implement tax agreements between Canada and five other countries — Russia, South Africa, Tanzania, India, and Ukraine — for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

While Canada has a relatively long history in the area of tax agreements, the motivation lies in the increased mobility of capital — what has become known as "globalization." Globalization has clearly made business decisions, such as investment and financing, more sensitive to tax differential. Increased liberalization of financial markets improves the international allocations of savings and capital, reducing the cost of capital to firms. This has clearly benefited the world economy.

The reality of liberalized capital markets has, however, increased the scope of tax planning, avoidance and evasion. This increases the potential for conflict between different countries' tax authorities and between administrations and taxpayers.

Individuals can now transfer their savings abroad, at little or no cost, into untaxed accounts or tax-exempt securities. Personal income taxes in their home countries are escaped. Companies, too, are often perceived as exploiting the differences in tax systems, sometimes changing organizational form to minimize their world-wide tax liabilities.

As globalization leads to a more integrated world economy, governments must cooperate to ensure that the tax system works, and works in a fair way. Cross-border investment would be seriously impaired and impeded if there was a danger that the returns were taxed twice, both where the money was invested and by the investor's own country. It is for this reason, honourable senators, that countries such as Canada use tax agreements to avoid double taxation and to prevent fiscal evasion. By providing clear, basic rules for taxing income and capital, Canada is encouraging the free flow of investment.

For most types of income, especially investment income, double taxation is avoided in treaties by allocating taxing rights between the resident and source countries, and by requiring the former to eliminate double taxation where there are competing taxing rights. Currently, there are over 225 treaties between OECD member countries and over 1,400, world-wide.

• (1540)

Bill C-37, as has already been stated, contains five new tax agreements. First, let us deal with Tanzania. There is no double taxation agreement in force between Canada and the United Republic of Tanzania at this time. With mining interests becoming the primary Canadian commercial interest in Tanzania, and with the potentially largest investment involving TransCanada Pipelines in the $400-million Songo Songo natural gas project, Bill C-37 is clearly important to Canada's commercial interests in that country.

The agreement between Canada and the Russian federation is a modernization of the old Canada-U.S.S.R. tax agreement signed in 1986 which reflected existing tax policies in both countries at that time. With significant new investment opportunities emerging in the Russian federation, a new agreement is indeed mutually beneficial.

This chamber is all too aware that Canada terminated its 1956 agreement with the Republic of South Africa in the early 1980s as part of the government's policy on apartheid. With apartheid now ended, and the emergence of South Africa as an important export market, the tax convention between Canada and the Republic of South Africa contained here in Bill C-37 is another example of advancing Canada–South Africa relations.

The agreement struck between Canada and the Republic of India is a revision to the existing 1985 double taxation agreement. In particular, the agreement relates to the rate of withholding tax applicable to fees for technical services, an important sector to Canada. This agreement reduces the rate from 30 per cent to 15 per cent and goes a long way to ensuring that Canada remains a large source of foreign direct investment in India. Currently, Canada is the fourth largest investor in that country.

Last, as a result of its independence, Ukraine indicated that it wanted to conclude a new convention with Canada to replace the existing 1986 Canada-U.S.S.R. tax agreement governing tax relations between the two countries. As Ukraine moves to reconstruct its economy and industrial infrastructure, Canada will be active in a range of sectors from agriculture to technology. The new tax convention will ensure that our trade relations are strengthened.

To conclude, honourable senators, the five new tax agreements contained in Bill C-37 will go far in ensuring that Canadian individuals and companies doing business abroad will be treated fairly. Therefore, Canada can continue to reap the benefits of globalization. As my colleague has done, I encourage all honourable senators to support the passage of Bill C-37.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the second reading motion.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hervieux-Payette, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

YORK FACTORY FIRST NATION FLOODED LAND BILL

SECOND READING

Hon. Nicholas W. Taylor moved second reading of Bill C-39, respecting the York Factory First Nation and the settlement of matters arising from an agreement relating to the flooding of land.

He said: Honourable senators, thank you for allowing me to sponsor this bill. It is a bill which has been a long time in coming. The process started about 20 years ago, in December 1977, when we first signed an agreement with Manitoba natives, the Northern Flood Agreement.

This is the appropriate legislation required to facilitate the implementation of the York Factory Implementation Agreement and the Nelson House agreement, which will follow later today in Bill C-40. In my speech today, I will cover both items at the same time. When Bill C-40 is called, I will ask everyone to apply to that bill the comments that I made on Bill C-39.

The Manitoba Northern Flood Agreement, or NFA, was signed in December 1977 by Canada, the Province of Manitoba, Manitoba Hydro and the Northern Flood Committee on behalf of Cross Lake, York Factory, Nelson House, Norway House and Split Lake Cree nations. The purpose of the Northern Flood Agreement was to address the adverse impacts of the Lake Winnipeg Regulation and Churchill/Nelson River Diversion Projects which resulted in the flooding of 11,861 acres of reserve land.

Although the NFA identified programs and compensation to address adverse impacts, the roles and responsibilities of the parties were not clearly delineated. The lack of clarity resulted in little to no progress on implementation of shared obligations such as additions to reserve lands, provisions to promote employment opportunities for community members, and environmental monitoring. Limited progress on implementation activities led to extensive use of the dispute resolution mechanisms rather than a coordinated, cooperative approach to implementation. As this process was both costly and inefficient, the four parties negotiated the proposed basis of settlement as a means of addressing outstanding claims and obligations, and to provide a basis for First Nations specific negotiations.

Based on the proposed basis of settlement, the Split Lake Cree First Nations Settlement Agreement was signed in June 1992. That looked as though it would be the end of things, but it was not. The remaining First Nations subsequently elected to negotiate implementation agreements. Members of York Factory voted in favour of the Nelson House agreement in December of 1995. These agreements were signed by the Minister of Indian Affairs and Northern Development in January of 1996 and in March of 1996, clearly defining areas of responsibility and funding obligations for each of the parties.

• (1550)

Legislation is necessary to fully implement certain provisions of both the York Factory implementation agreement and the Nelson House implementation agreement, which I will address later. The objectives of the legislation are as follows: The agreements provide that lands in fee simple title — that is, lands which are outside the Indian reserve — are not subject to becoming special reserves under sections 35 and 36 of the Indian Act. They also provide that moneys owed under the York Factory agreement and the Nelson House agreement are not payable to the Crown as Indian moneys, as described in section 35(4) of the Indian Act, but are administered by First Nation trusts.

Bills C-39 and C-40 also provide that claims made under either the Northern Flood Agreement, the Nelson House Implementation Agreement or the York Factory Implementation Agreement be administered according to the terms of the applicable implementation agreement. They also enable Canada to utilize the Manitoba Arbitration Act when dealing with any dispute between the parties submitted to an arbitration under the terms of the York Factory and Nelson House agreements.

The provisions of the legislation are solely for the purpose of implementing provisions relating to either York Factory or Nelson House and will not affect other First Nations.

I should also like to read the press release issued in May 1996 because it is a fairly good report on how things have progressed, bearing in mind that it took 20 years to get this far.

This press release was issued nearly a year ago, yet we are still dealing with this matter. The press release reads:

> "I'm very pleased with the progress that has been made on these two similar, but separate Agreements. The Agreements will accomplish several things for members of these two First Nations," said Minister Irwin. "It will allow some of the Crown land acquired under the proposed legislation to have fee simple title. This means that the land can be used for economic development purposes. It also allows First Nations to exercise greater control over their financial affairs as any money received under these Agreements will be administered by First Nation trusts, rather than by the Crown under the *Indian Act*.
>
> The Minister continued, "While this legislation is similar to the 1994 Split Lake Cree First Nation Flooded Land Act, it applies only to the York Factory and Nelson House First Nations. It will not affect any other First Nations and allows Canada to use the Manitoba Arbitration Act to resolve disputes between parties."
>
> Under the Implementation Agreements, to compensate these two First Nations for loss of reserve land, the federal government will contribute about $6.25 million to York Factory First Nation and about $15.25 million to Nelson House First Nation. Both Manitoba and Manitoba Hydro will make additional contributions of land and money.
>
> In the 1970s, hydro-related projects on the Nelson/Churchill Rivers, along with the Lake Winnipeg Regulation Project flooded almost 4,800 hectares of reserve land belonging to five First Nations in Northern Manitoba.

That was back in the 1970s, and we are still talking about paying compensation.

> In addition, more than 208,000 hectares of non-reserve land traditionally used by the First Nation members for hunting and trapping were flooded.

I wonder whether, if this were a non-native request for compensation for flooded lands, we would be waiting this long.

> To address the negative impacts of flooding, the Manitoba Northern Flood Agreement was signed by Canada, Manitoba, Manitoba Hydro and the Northern Flood Committee, made up of the five Manitoba First Nations.... The agreement included financial compensation, community infrastructure programs and new land acquisitions.
>
> Over the intervening years, implementation of the Northern Flood Agreement broke down, because the roles and responsibilities of the parties were not clearly defined, and the Agreement did not anticipates all the issues that have subsequently arisen. In July 1990, the parties of the Northern Flood Agreement negotiated a Proposed Basis of Settlement. The Proposed Basis of Settlement has provided the foundation for negotiating implementation agreements with individual bands such as York Factory and Nelson House.

Honourable senators, after a delay that should make our governments ashamed, I am honoured to present this bill for second reading.

Hon. Janis Johnson: Honourable senators, I rise today to speak to Bill C-39, the York Factory First Nation Flooded Land Act, and to Bill C-40, the Nelson House First Nation Flooded Land Act.

These two pieces of legislation deal with the settlement of matters arising from agreements relating to the flooding of land in Manitoba. Legislation is required to facilitate the implementation of certain provisions of the York Factory Implementation Agreement and the Nelson House Implementation Agreement. The legislation will help redress injustices suffered by these First Nations in Manitoba as a result of severe flooding.

Bill C-39 and Bill C-40 are the second and third in a series of five bills dealing with the reserve land of five First Nations which were flooded in Manitoba in the late 1960s and early 1970s. The first in the series of bills was Bill C-36 which dealt with the Split Lake Cree First Nation of Manitoba.

Bill C-36 was first read in the House of Commons in June 1994. It finally reached the Senate in November of that year and did not become law until sometime in December 1994. Now, more than two years later, we are receiving in the Senate the second and third of this series of bills to be passed.

Honourable senators, a considerable amount of time has gone by since the first bill was passed, perhaps reflecting some difficulties or delays with respect to negotiations, or perhaps reflecting the fact that aboriginal peoples do not rate high on the government's priority list. The government's failure to respond to

the report of the Royal Commission on Aboriginal Peoples and the Prime Minister's refusal to meet with aboriginal leaders to discuss the report are two indications that aboriginal peoples are not receiving the high priority that they should receive from the federal government.

I have already mentioned in the Senate that the required provincial legislation relating to the two agreements dealt with in Bills C-39 and C-40 was passed quite some time ago by Manitoba's Progressive Conservative government. Yet, the Liberals have delayed, unnecessarily, passage of these two bills. This has been disappointing to Manitoba aboriginals.

It seems to me that these five First Nations have had to wait a very long time to be properly compensated for flooding which took place many years ago. I was informed a few months ago that negotiations with both Norway House First Nation and Cross Lake First Nation were ongoing. However, it has been difficult to find out just when we can expect legislation dealing with these two First Nations to come before the Senate. I hope this will happen soon, and that the outcome of all these negotiations will be fair to the First Nations affected by the flooding in Manitoba.

Honourable senators, in the 1970s, hydro-related projects on Nelson River and Churchill River, along with the Lake Winnipeg Regulation Project, flooded almost 12,000 acres of reserve land in Northern Manitoba belonging to the Split Lake, Cross Lake, Nelson House, Norway House and York Factory First Nations. In addition, more than 525,000 acres of non-reserve land traditionally used by First Nation members for hunting and trapping were flooded.

In 1977, the Manitoba Northern Flood Agreement was signed by Canada, the Province of Manitoba, Manitoba Hydro, and the Northern Flood Committee on behalf of the five First Nations. The purpose of the agreement was to address the adverse impacts of the Lake Winnipeg Regulation Project and the Churchill/Nelson River Diversion Project. The agreement identified programs and compensations to address the adverse impacts. However, the roles and responsibilities of the parties involved were not clearly delineated. This lack of clarity resulted in little or no progress on implementation of shared obligations such as additions to reserve lands, provisions to provide employment opportunities for community members and environmental monitoring.

In July of 1990, parties to the original agreement agreed on a proposed basis of settlement that would address outstanding claims and obligations and provide a basis for band-specific negotiations. In the case of the York Factory First Nation, extensive community consultations on the York Factory Implementation Agreement were carried out between the Government of Canada, the Government of Manitoba, Manitoba Hydro, and the York Factory First Nation.

Following community ratification, the parties formally signed the current York Factory agreement on December 8, 1995, more than 16 months ago. To compensate for the loss of reserve land, it was agreed that the federal government would contribute approximately $6.25 million to the York Factory First Nation, that Manitoba would provide $4.45 million, and that Manitoba Hydro would make additional contributions of $225,000 in cash and $14 million in hydro bonds.

• (1600)

The Nelson House First Nation ratified their agreement in a referendum held in December of 1995. Compensation for the Nelson House First Nation was set at $15.25 million from the federal government, $5.5 million from the Manitoba government, and it was agreed that Manitoba Hydro would pay $1.9 million in cash and $40 million in hydro bonds.

Both agreements called for compensation lands to be awarded to the first nations. York Factory First Nation will receive approximately 19,000 acres of land, and Nelson House First Nation some 53,000 acres.

Bill C-39 and Bill C-40 are required to fully implement certain provisions of both the York Factory Implementation Agreement and the Nelson House Implementation Agreement. The legislation achieves the following objectives: Bill C-39 and Bill C-40 ensure that disputes between parties will be settled in compliance with the arbitration laws of Manitoba, and Bill C-39 and Bill C-40 ensure any lands provided to these first nations in fee simple title will not become special reserves under section 36 of the Indian Act. This means that the First Nations will not be able to use these lands for economic development purposes. Bill C-39 and Bill C-40 provide that moneys owed under the York Factory Implementation Agreement and the Nelson House Implementation Agreement respectively are not payable to the Crown as Indian moneys as defined in section 35(4) of the Indian Act but are administered by First Nation trusts. Bill C-39 and Bill C-40 provide that the claims that may be made under either the Northern Flood Agreement, the York Factory Implementation Agreement, or the Nelson House Implementation Agreement be administered according to the terms of the applicable implementation agreement.

Honourable senators, the York Factory First Nation and the Nelson House First Nation have waited over two decades to be fairly compensated for flood damages. The Churchill/Nelson River Diversion Projects and the resulting regulation of Lake Winnipeg substantially altered the surrounding environment and led to adverse effects in the communities along the waterways. As one who has a summer home on Lake Winnipeg, I can attest to what has happened in these areas. The projects caused a radical change in water levels, including flooding in various areas of Northern Manitoba, and created problems for all five Indian bands represented in the Northern Flood Agreement. As a result of flooding, fishing was and still is affected. There was a drop in the quality and number of fish caught in some lakes, and in some lakes fishing ceased. In addition, transportation became difficult in the north because of fluctuating water levels. Hunting was also adversely affected. The habitat and location of game was altered, and, in some areas, trap-lines became inaccessible. As a result of flooding, most of the reserves experienced a drop in water quality and availability.

The need back in the 1960s to increase the availability of hydroelectric power in Manitoba led to undertakings which resulted in severe flood damage in Northern Manitoba. Bill C-39, the York Factory First Nation Flooded Land Act, and Bill C-40, the Nelson House First Nation Flooded Land Act, will help redress the injustices done to these two First Nations. I support the intent of both these bills and trust that all honourable senators will as well.

Motion agreed to and bill read second time.

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

Hon. Nicholas W. Taylor: I move that the bill be read the third time at the next sitting of the Senate.

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

Some Hon. Senators: No.

The Hon. the Acting Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. the Acting Speaker: Call in the senators.

Senator Taylor: Let the record show that they are holding up a bill that —

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Senator Taylor says that these bills have been around for 10 years. He can wait another 10 minutes and follow the proper procedure.

Senator Taylor: It is not a matter of 10 minutes; you are asking us to wait another day. Your own committee wants — I have the floor. You should listen —

The Hon. the Acting Speaker: I am afraid, Senator Taylor, that you do not have the floor. When the Speaker stands, no one has the floor. That is the rule.

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, if there were unanimous agreement, could we back up just a bit and have the bill referred to the Standing Senate Committee on Aboriginal Peoples?

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

POINT OF ORDER

Hon. Nicholas W. Taylor: I rise on a point of order, honourable senators. I knew full well what I was doing when I moved third reading. The Aboriginal Peoples Committee has studied this legislation and looked at it. I am sure that Senator Johnson will support me. We see no reason to send it back to committee, and we are quite prepared to dispense with committee. The rules state that it is not necessary to go to committee on anything except a private bill. I notice that Senator Anderson is not here, but we made that decision in committee because these people have waited for up to 10 years.

The Honourable Leader of the Opposition says that it will only be 10 minutes. Why should he care, sitting in his lovely cabin in the woods in Northern Quebec, whether or not the people of Northern Manitoba have to wait another day?

Honourable senators, I knew full well what I was doing. I think we can dispense with going to committee, and I would like to hear Senator Johnson's remarks.

The Hon. the Acting Speaker: The Chair is in a conundrum. A motion was put before the house, and the result of that process was that the "nays" carried the day. Members on my right rose, and the Chair had no choice at that point but to say, "Call in the senators." At that point, Senator Graham rose and suggested that I put to the house that the matter be referred to the Standing Senate Committee on Aboriginal Peoples. I will put that question to the house.

Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Senator Taylor: On division.

Senator Lynch-Staunton: Honourable senators, now where are we? I would like to know the status of these two bills at the moment. I heard one senator on the other side say, "On division," which means there is not unanimous consent. If a bill does not follow the usual procedure, it is by agreement on both sides. There is no agreement that this bill be given special treatment. There is certainly no inclination on our side to delay unduly, but bills must follow their proper procedure.

The committee can meet this evening or tomorrow morning or next week, or next month, for that matter, and we will pass it accordingly. The government decides the agenda; we do not. Certainly we will not short-circuit basic procedure.

Senator Taylor: Honourable senators, it is not basic procedure. I would think the opposition leader has been here long enough to know that only a Private Member's bill must go to committee. On any other government bill, we can short-circuit the committee if we want to do so. When the committee met, it was all in favour of the bill.

• (1610)

Honourable senators, in the interests of trying to "unscrew the unscrewable," I will withdraw my motion that we proceed to third reading. It has been clearly put forward by the opposition leader that he is opposed to letting this bill go forward without going to committee. If he wants to delay it, I am satisfied.

The Hon. the Acting Speaker: Honourable senators, I do not think we should further debate this point.

The question was that the bill be referred to the Standing Senate Committee on Aboriginal Peoples.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Donald H. Oliver: The honourable senator said no, so it is not unanimous.

The Hon. the Acting Speaker: He has withdrawn his opposition.

Senator Oliver: He has no leave to withdraw.

Senator Lynch-Staunton: Did he have leave to withdraw? Maybe he could withdraw his insinuations at the same time.

The Hon. the Acting Speaker: Honourable senators, I recognize Senator Kinsella on the point of order.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, my point of order is that the whole procedure we are now immersed in is totally out of order. Working backwards, the vote which the Speaker put to the chamber required unanimous consent. Senator Taylor refused it and has been hoist three times in the last five minutes with his own petard. Given the remarks he addressed towards this side, I do not think we are overly disposed to grant him unanimous consent to withdraw his motion.

Senator Taylor: Honourable senators, can I not withdraw the referral to third reading?

Senator Lynch-Staunton: That was voted down.

Senator Taylor: That was voted down, yes.

Senator Lynch-Staunton: You voted down Senator Graham's motion to send it to committee.

Senator Taylor: I will check Hansard. I have not made a motion referring the bill to committee as yet.

Senator Lynch-Staunton: You said third reading.

Senator Taylor: The only motion I withdrew was the one for third reading.

Senator Lynch-Staunton: You cannot withdraw it. It was voted down.

The Hon. the Acting Speaker: Honourable senators, the task of the Chair is always facilitated when it knows there is a will in the house to proceed in a certain fashion. I detected a will and a decision to send the bill to committee. Questions were put to that effect and, I understand, agreed upon. Senator Taylor, just previous to the placing of that question, withdrew his opposition to doing otherwise.

Senator Oliver: He said no to sending the bill to committee. The record will show that.

The Hon. the Acting Speaker: I suppose an honourable senator can say no, but the will of the house is clearly expressed. The bill is going to committee.

Senator Oliver: No, it must be unanimous.

The Hon. the Acting Speaker: I did not see any senator rising or asking for a decision on that matter. The majority has carried the day.

Senator Lynch-Staunton: Where is the bill now? Are you sending it to committee? Will you read the motion to send the bill to committee or has that been done?

REFERRED TO COMMITTEE

On motion of Senator Graham, bill referred to the Standing Senate Committee on Aboriginal Peoples.

NELSON HOUSE FIRST NATION FLOODED LAND BILL

SECOND READING

Hon. Nicholas W. Taylor moved second reading of Bill C-40, respecting the Nelson House First Nation and the settlement of matters arising from an agreement relating to the flooding of land.

He said: Honourable senators, I know some of my honourable friends opposite enjoyed the first bill so much that I will give them the second bill, and if they enjoyed the first bill, they will be overjoyed at the second.

The second bill, of course, is the same bill again which was universally supported by senators opposite when it was in committee. They wanted it passed as fast as possible. They apparently do not coordinate with their leaders. Their leaders are digging in their feet and saying that this bill must be held up some more yet.

The only thing I can add on this bill is that perhaps my friends opposite should be given a chance to caucus in order to determine where they are going. It was interesting to see the fountains of truth squirting at each other rather than coming up with a decision.

Honourable senators, the speech I gave on Bill C-39 applies to this bill, Bill C-40. The aboriginal peoples of Northern Manitoba and the Nelson House First Nation Agreement have been waiting nearly 20 years, and, of course, in the last year there were refinements to the agreement, to get their money. Here we have the opposition stalling the bills so they can run them through until next fall, if possible, despite the fact that members of their own caucus want them passed. Obviously the leadership over there could not care less what their members say and could not care less about what will happen to the people affected by the Nelson House First Nation Agreement.

Everyone watching TV today will think this particular flood was an act of God. This was not an act of God. The flooding here was done by the non-native majority of Manitoba who wanted cheap electricity, a large part of which they wanted to export. They built the dams and the flood system. The First Nations hunting land is just as important to them as any farmer's land but, nonetheless, they put it under water. After all these years, all the aboriginal people of Northern Manitoba are asking for is: Take your pen and put it to paper. Get it over with. Do not play games and hope like the dickens that you can stall this bill for another year, hoping an election is called early. Let the bill go ahead.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, would the Honourable Senator Taylor entertain some questions?

Senator Taylor: Certainly. I am sure it will be entertaining.

Senator Kinsella: In his second reading address on Bill C-40, the honourable senator alluded to the committee having studied this bill. Could the honourable senator explain to this chamber whether he had an instruction from the Senate to do a pre-study of this bill in committee?

Senator Taylor: No, we did not have any instruction from the Senate for a pre-study, as far as I know. There might have been one, but I did not see anything in writing. My honourable friend might be better to ask some of his own colleagues whether they saw one. I did not see one, but we did talk about these pieces of legislation quite a bit. Whether we did it with the permission of the Senate, I do not know.

Senator Kinsella: Honourable senators, colleagues on this side of the house are very much in favour of the technique of pre-study. We would like to see it utilized more often. Indeed, I think this is the kind of bill where pre-study would have been appropriate. It is a particular procedure that flows from a decision of this house.

If your committee was not studying this bill by virtue of an instruction for pre-study, under what authority was your committee studying this bill?

• (1620)

Senator Taylor: Honourable senators know that in committee we discuss problems and issues as they arise. Sometimes they are on the agenda, sometimes not. This bill has a high profile because of the act-of-God flooding and also because native peoples themselves wish the bill to be enacted as soon as possible.

I am not sure what triggered the bill, if that is what you are asking. Perhaps Senator Anderson or Senator Johnson could explain how the discussion came about.

Senator Kinsella: Honourable senators, this is becoming more serious as we proceed.

Senator Stewart: We do not need an inquiry.

Senator Kinsella: We are dealing with a government bill that received first reading in this chamber. We are at the stage of giving the bill second reading consideration. We are advised by the sponsor of the bill, the Honourable Senator Taylor, during his second reading speech where we are focusing on the principle of the bill, that his committee has already considered the matter with no reference from the Senate.

Chaos will ensue if committees are studying legislation with no order of reference, unless there is a particular procedure such as pre-study. Even pre-study is done by way of instruction from this chamber.

Senator Taylor has raised a very serious question. Perhaps he wants to reflect upon this. Others may wish to comment on it.

My other question is this: If Senator Taylor is telling us that the committee of which he is a member has had hearings, will he tell us who were the witnesses?

Senator Taylor: You put two questions to which the chair may wish to respond.

It is my understanding that a committee is master of its own agenda and discussions. Committees were invented to allow for loose discussions of various topics. In fact, if leadership on the opposite side was so keen to ensure that their members only discuss what they want them to discuss, one of them should have attended. As far as I know, we did not see either the senator who just rose or the house leader or the former deputy house leader appearing at these meetings in the last while.

There were no witnesses called specifically on this issue. A committee does not require a witness to make a ruling on a subject. I did not attend every meeting. If honourable senators on the other side can recall a witness, then I would be happy to be so informed.

Senator Kinsella: Honourable senators, is Senator Taylor suggesting that the committee to which he belongs does not require a reference from the Senate and does not need to send notice of meetings? Is he further suggesting that whether opposition members are notified and attend is irrelevant, and that witnesses need not be called?

Senator Lynch-Staunton: Before getting the bill.

Senator Taylor: Honourable senators, this honourable senator is a very frisky horse indeed. All I wanted to do was to open the corral and feed him one bundle, and he is running all around the pasture talking about who we can call, when we can call them and what we can do.

The fact of the matter is that this legislation was under study in the House of Commons. All committees discuss possible business coming down the pike and they plan for the future workload. This issue did not come out of the blue, though it might seem so in his mind. The bill has been on the informal agenda for quite a while, and the committee was simply discussing possible future agendas. Whether there was necessity or whether there were witnesses, discussions occurred.

The point is that committee members from the opposite side of this chamber saw no point in referring this bill to committee. If Senator Kinsella has managed to bulldoze them and get them to agree to send this bill to committee, I will agree, too. It does not bother me.

Hon. Janis Johnson: Senator Taylor, could you repeat your last comment about the committee? I am sorry, I did not hear it.

Senator Taylor: I am not sure if I can remember my last statement. I am trying to think ahead to what I need to say on the next one. I said that I did not recall any evidence about leadership on the other side having bulldozed their members on the committee to hold a committee hearing on this bill, at the time that we discussed the future handling of the bill. I do not recall that. I recall that the members opposite were quite keen to get on with matters. We did not foresee the necessity of calling witnesses.

Senator Johnson: Honourable senators, every member of the committee agreed that this is much-needed legislation. That is not the issue. The issue is the procedure. Every bill has to go through three readings. We cannot sit in committee and agree that we will simply pass it at second reading. That is the issue, Senator Taylor. I believe that is what we are debating right now.

Senator Taylor: I have already said that if honourable senators want this bill to go to committee, I agree. I would move to dispense with referral to the committee if there was agreement. There is no agreement, so let us refer the bill to the Aboriginal Peoples Committee. This decision will apply in the next case, too, when we reach second reading.

The Hon. the Speaker: Does any other honourable senator wish to speak?

Senator Lynch-Staunton: Yes, but we will resist temptation.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Taylor, bill referred to the Standing Senate Committee on Aboriginal Peoples.

CRIMINAL LAW IMPROVEMENT BILL, 1996

THIRD READING

Hon. Wilfred P. Moore moved third reading of Bill C-17, to amend the Criminal Code and certain other Acts.

Motion agreed to and bill read third time and passed.

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

THIRD READING

Hon. John Stewart moved third reading of Bill C-77, concerning an order under the International Development (Financial Institutions) Assistance Act.

Motion agreed to and bill read third time and passed.

AGRICULTURAL MARKETING PROGRAMS BILL

THIRD READING

Hon. Sharon Carstairs moved third 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.

Motion agreed to and bill read third time and passed.

FARM DEBT MEDIATION BILL

THIRD READING

Hon. Nicholas W. Taylor moved third reading of Bill C-38, to provide for mediation between insolvent farmers and their creditors, to amend the Agriculture and Agri-Food Administration Monetary Penalties Act and to repeal the Farm Debt Review Act.

Motion agreed to and bill read third time and passed.

CITIZENSHIP ACT
IMMIGRATION ACT

BILL TO AMEND—THIRD READING

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

Motion agreed to and bill read third time and passed.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Richard J. Stanbury moved third reading of Bill C-95, to amend the Criminal Code (criminal organizations) and to amend other Acts in consequence.

He said: Honourable senators, I will defer to Senator Roberge.

Hon. Fernand Roberge: Honourable senators, thank God for elections!

Some Hon. Senators: Hear, hear!

Senator Roberge: This government has produced more important and apparently urgent legislation in the last few weeks than in the previous three and one-half years. Obviously, that English writer was correct when he wrote that nothing focuses the mind more than a hanging in the morning.

Among this slew of new laws, I must say I was pleased to see Bill C-95, to amend the Criminal Code. This bill was overdue and should have been introduced earlier to allow for a more thorough discussion on the phenomenon of organized crime in Canada. Had the government given itself more time, I believe the legislation could have been improved.

The bill was introduced last Thursday in the other place and it is already before us today. A reporter with *The Ottawa Citizen* wrote that "the bill went through the Commons faster than a zooming Harley." We are seeing a lot of "zooming Harleys" in the House these days.

[*Translation*]

Even if we deplore the slowness with which the Minister of Justice took action, his haste in drafting the bill and, finally, the speed with which he is trying to rush it through, we support his initiative and recognize that the principles and measures contained in the bill are a step in the right direction. It is only a beginning, as the minister himself said, but it is a good one.

I myself introduced a bill in this house last October 29, the purpose of which was to add a definition to the notion of "organized crime." This bill would make it illegal to live on proceeds from a criminal organization, would make it easier to seize these proceeds, and would provide for serious penalties for those engaging in criminal activities through an organization created for that purpose.

I am glad to see that a number of my bill's objectives come up, in one form or another, in Bill C-95.

In introducing Bill S-10, I had also hoped that discussion of new organized crime legislation would provide an opportunity to hold the broadest possible public hearings on the whole phenomenon of criminal organizations. I continue to believe this is an essential step in the fight we must wage against organized crime.

One of the most effective ways of thwarting the actions of criminal groups is to identify them publicly and expose their methods for all to see.

The minister said he held broad consultations. He gives as an example his meetings with police officials and representatives of the legal community in what he somewhat pompously referred to as forums. The word is particularly ill-chosen. A forum is, by definition, a public place for open discussion. The meetings organized by the Minister of Justice were held behind closed doors, and only those selected and invited by the minister could attend.

At the minister's private meeting in September, stakeholders urged him, moreover, to take action as quickly as possible; unfortunately, it took pressure from the media and the public to get him to fulfil his responsibilities.

I therefore hope that the next Minister of Justice, in the next Canadian government, will have the wisdom to hold public hearings on organized crime so that we can hear from experts in countries that have taken steps to understand this phenomenon, which is unfortunately common throughout the world.

Organized crime is international in scope. Large criminal organizations are actually crime multinationals. To combat them with any success we must therefore encourage better coordination of the efforts being made in other countries.

For now, I would like to comment very briefly on the main reasons why I think we should support Bill C-95. First of all, this bill will finally add to the Criminal Code a definition of what constitutes a criminal organization. In the bill, such an organization is defined as consisting of at least five members, and as having as one of its primary activities the commission of an indictable offence, its members having already engaged in the commission of a series of serious offences.

The minister himself admits that it will not be easy for lawyers to prove that one of the principal activities of the associations in question is criminal in nature. It seems to me that this difficulty might have been at least lessened, if not eliminated, had the definition been more precise. We shall see over time if the definition will work.

I also find it very useful that the new legislation will make it easier to use electronic surveillance, and to access income information concerning persons suspecting of living off the proceeds of crime. We approve as well of the principle of harsher sentences for members of criminal associations who have committed crimes, particularly those involving explosives.

I am pleased also with the clauses on seizure of items acquired by, or used in, criminal activities, including real property modified or fortified in order to facilitate criminal activity. I trust that the courts and the law enforcement agencies will be able to use these new clauses to their advantage in meeting their commitment as guardians of the peace.

I have already stated in this house that organized crime requires a well organized justice system to counteract it. This bill constitutes the start of an organized justice system to deal with organized crime. For that reason, I will support it, and I ask my colleagues to do the same.

I would have preferred to see us discuss it more extensively in a true forum, with the possibility of proposing amendments in order to improve the bill. That will come next time, unless the Prime Minister comes up with another surprise and announces, tomorrow or the next day, that he intends to change it.

Hon. Philippe Deane Gigantès: Honourable senators, in the interest of respecting the French language, I would like to point out to Senator Roberge that page 813 of *Le Petit Robert* gives "symposium" and "colloque" as synonyms of the word "forum." Thus, the minister's use of the word was correct, as was yours. But there is more than one definition.

Senator Roberge: I will look into that.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I too rise to speak to this bill and to echo some of the comments made by my honourable friend. We in Canada must be conscious that organized crime is hitting our society more than many citizens are aware.

While I commend both the government's services and other watchdog services which track organized crime in Canada, I think it is time that the public be made aware of the menace. We must all understand that it is not limited to one city, one province or one region in Canada.

With respect to organized biker gangs, I believe that we should have had legislation much earlier. As one who worked in the judicial system, I find it curious that the minister is bringing forward this bill in such a rush, as my colleague said, without having had the kind of debate and scrutiny that it deserves. While our police and our government need highly sophisticated tools to attack the activity of organized biker gangs in our society, we must be careful that the tools we choose are directed only at organized criminals, not at honest, ordinary citizens.

While I support the bill, some of the wiretap and evidentiary provisions should have received more study and reflection than time permitted. While the direction is correct, and while I believe that desperate times require desperate measures, I am concerned that we will be siphoning time, energy and money from citizens who may find themselves unduly trapped under this legislation. If we have to test these measures in court time and time again, organized crime probably has funds and tools available to it to fight every technical objection, as has happened in every other jurisdiction where organized crime has been attacked.

If we had taken the time and had had the foresight to study the issue and to involve the Canadian Bar Association, community groups and others, we might have ended up with the same piece of legislation, but legislation in which we could have more confidence in terms of withstanding pressures and court tests.

It would be worse, however, to have continued organized crime in Canada and to have Canadians see our judicial system interpret the laws — and interpret them correctly — only to find that that interpretation releases the accused from custody. Canadians would again blame the judicial system and the police unnecessarily. There is a growing tendency, if people get off on a technicality, to say that, somehow, the justice system is failing. In this case, I will be on the record to say that if the accused gets off on a technicality, it will be because the legislation was cobbled together in too much of a hurry and too quickly passed through the two houses of Parliament.

I believe that the minister has made statements saying that it is a two-year issue and he is now reacting after having talked to his officials. I believe this issue has been in our society much longer. I wish the minister had reflected and had been in a proactive rather than reactive mode, which imposed a one-week time frame on us to deal with the legislation.

Nonetheless, I will not say, "Too little, too late." I think the legislation we have before us today will be helpful. It has a symbolic value, saying that, as Canadians, we do not want this kind of activity, we will not tolerate it, and we will do everything possible to stop it. The signals that this legislation sends are positive. However, enforcement may be another matter.

Honourable senators, my reason for rising is to say that I believe that there has been an alert given to the minister and to the government. I hope they listen. They should have listened earlier. The warning relates to the growing phenomenon of gangs in Canada — not organized crime gangs as yet but youth crime gangs. I speak of youth in broad form, not specifically 15-year-olds or 25-year-olds, but young people who are coming together to engage in various activities, some of which are criminal. Nowhere do I see the government addressing this issue.

There was a Mathews report given to the Department of Justice by three eminent academics in this field who have studied youth gangs. Their report, with its recommendations, is still somewhere in the bowels of the Department of Justice.

The mayors of municipalities across Canada received funds to seek out opinions from Canadians as to whether youth gangs were an issue in their communities and, more important, what measures should be taken to deal with them. The major part of the funding came from the Government of Canada, to its credit. Again, this report lies somewhere, unanswered. The recommendations are there.

It is well known that youth generally come together in groups. It is a phenomenon of being a teenager that we cluster. Peer pressure, peer association and peer approval are important to young people in Canada. We hope that when young people come together, peer influence will be a positive force for growth and maturation. We know peer associations are also a testing ground for young people, who are sometimes dared and egged on to become involved in criminal activities such as vandalism, shoplifting, and minor assaults. Unfortunately, there is a growing tendency for young people to use drugs and other tools of destruction, if I may call them that, that we adults have made easily available in our communities.

When young people come together with no hope, with no focus, and with no educational systems, community systems and parental systems to reinforce positives, these groups reach for negatives. The perpetrators, those who utilize youth gangs, are often adults on the fringe of, if not embedded in, organized crime and in adult criminal activity.

I wonder why this has not been a priority for the Government of Canada. Why was the problem not taken up some two years ago in an attempt to address this phenomenon and the growing unease in our communities about it?

It is mainly an urban problem, but not exclusively so. This phenomenon is increasing in our major cities. Caseworkers and judges who work in this field know what it is like to be a young person today. Poverty has an impact on children much more than it has on adults. School systems with zero tolerance laws throw out teenagers who do not fit. These young people end up on the streets with only primary school and no hope of jobs. Nowadays, people need to have post-secondary education if they are to have a hope of getting a job. That excludes many people who have not made it through our secondary school systems. They are on the streets. If futility drives them, criminality will be on the increase.

The two reports to which I have referred have strongly pointed out that if we are to attack crime in our communities, we must start with young people between the ages of one and 10. If we do not, we will lose the battle with crime. We do not want to criminalize every young person, as a certain party in the other house suggests we should. We must identify the problems of children between the ages of one and 10 and work with them. Prevention and identification are the keys.

I have heard some senators say that we can identify criminals, that we know who they are. Believe me, we do not, and we certainly do not know which young people will turn to crime and which will not. We know that the things which happen to people when they are young have a significant impact on the route they take in life; not by their first choice but, in their minds, their only choice.

We must accept the recommendations of the reports. We must start building preventive, medical and educational services into the lives of young people. Otherwise, in their formative teenage years, in their maturing, testing period, their only role models will be negative ones. We know that adults are stalking young people to recruit them for crime.

This house passed Bill C-27. In that bill, we were looking at the curative model rather than the preventive model. We must return to the preventive model. We must have a cohesive approach to children at risk before they get into crime. There are no alternatives. Nothing has changed in 20 years. When the Young Offenders Act was contemplated, it was thought that it would work because it would be front-end loaded with attention from adults.

Honourable senators, we did not do that. We built prisons and we continue to do so. We continue to talk about doing something for young people. We have not expended our dollars, our time or our energy building consensus in the community that will work for the children. In fact, in many cases we have abandoned the young people in our communities.

Parliament has constantly underscored that trend by constantly passing laws, by shortsightedly saying, “If we pass a law, our problems will go away.” If we want to reduce criminal activity and organized crime in our society, we must start at the front end. We must have a cohesive, comprehensive, community-based approach to working with youth, and particularly gangs.

The recommendations focus on resources for the schools. Education seems to be a lesser priority today. We have not focused sufficiently on community policing. In fact, we have withdrawn funding from community policing.

How can we neglect this area? How can the Department of Justice not be contemplating where our youth are heading and how we can divert them from that track? How can members of the other place continually ask for more and more laws, as if this is the panacea for the problem? The root of crime is unidentifiable. The risks, however, are known. We know that children who are not in school end up in criminal activity. We know that young people whose parents are not attentive to them end up in problems.

We have not attacked the new technologies in any way. As legislators, we continue to see things as they were when we were young. The home, the school, the community and our peer group were our influences. Today, rap music and the international Internet system feed negative messages along with positive ones. It is no wonder that young and fertile minds, with no support to separate the good found on the Internet from the bad, turn to experimentation.

We must be concerned about young women in this regard. There is still an attitude in society that young women are not involved in criminality, or that if they are it is males who instigate it. Young women are getting involved in crime. They are a group worthy of our attention, support and resources.

The Hon. the Speaker: Senator Andreychuk, I hesitate to interrupt you, but your 15 minutes have expired.

Senator Andreychuk: May I continue with leave of the Senate?

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Andreychuk: Honourable senators, I raise this issue because I find that on the committees which deal with the issues of youth crime there is a consensus to introduce more preventive services and to bring youth to the top of our list of priorities, and not only at election time.

I am so tired of hearing every politician of every stripe say that the youth are our future and the hope for Canada in the next millenium. If we believe that, we should start today to study comprehensively how we can give hope to the two-thirds of young people in our society who are fraught with anxiety and do not have the options and the support systems they need.

I appeal to the government to embark immediately on a strategic plan to give young people options, be they the YMCA or more support to single parents. We must put such measures in place in order that in two years we will not have to pass a crime bill dealing with youth gangs.

I plead with you all, and particularly those who sit on the government side, not to let the challenge of youth resources be forgotten in the haste for legislation to deal with organized gangs. We must stop the flow. We must stop creating situations which allow young people to get into trouble if we want to have fewer victims in our society. We will all be victims if we do not pay attention to this problem.

• (1700)

Hon. Marcel Prud'homme: Honourable senators, I will not delay this matter any further, although I had wished to participate in this debate. However, I must say that I express regret that we are rushing such an important bill. I am faithful to what is written in our own chamber, that order excludes haste and precipitation. Although I regret passing such a controversial bill so rapidly, I will not hold it up any further by asking, "Why, why, why?" I know that, like the tobacco bill, we will have to come back and amend it eventually.

Motion agreed to and bill read third time and passed.

COPYRIGHT ACT

BILL TO AMEND—ALLOTMENT OF TIME FOR DEBATE—NOTICE OF MOTION

Hon. B. Alasdair Graham (Deputy Leader of the Government): Honourable senators, before we proceed with the next order, which is Bill C-32, the copyright bill, there has been discussion between the leadership on both sides, and there is an agreement that all questions necessary to dispose of third reading of this bill should take place at the conclusion of the debate.

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

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, it is with regret that I rise. I think there has been some misunderstanding. It was my understanding, from the discussions that took place between both sides yesterday, that the agreement was that if the debate on Bill C-32 was concluded, we could have the vote at five o'clock today. Of course, it is now after five o'clock. Earlier in the day, having examined yesterday's *Debates of the Senate*, I found no indication of the agreement which at that point had been made between the two sides.

Quite frankly, I do not see this particular bill as a bill upon which there are partisan differences. There are differences depending upon the constituencies of the people involved. There is division, but the division is not a division along partisan lines. That by itself raises a question as to the applicability of rule 38.

It seems to me — and I made the suggestion to the Deputy Leader of the Government earlier today — that, because there was no house order in the *Debates of the Senate* of yesterday, and if he is still concerned about a time certain for this bill, he should rely on rule 39.

If there is an attempt to rely on rule 38, I think that it has been overtaken by a number of elements contained therein. For example, the number of hours or the number of days that would be permitted by mutual agreement was not specified. The understanding was that there would be a time — five o'clock Thursday — and, as I said, we have already passed that time. Agreement under rule 38 on a matter that is controversial along non-partisan lines would have required a different procedure.

Honourable senators, the Deputy Leader of the Government is attempting to rely on rule 38 in the absence of a house order. If senators wanted to participate in the debate and if the guillotine was being brought down, they should have been told about it. Senator Prud'homme, as an independent senator, has no idea that a motion —

Senator Prud'homme: Be careful now.

Senator Kinsella: — is being brought forward to refuse him the right to participate, if he did not know that the guillotine was being brought down.

It seems to me that prorogation is an important element. If there was doubt, rule 38 provides that, at the same time, without notice, the deputy leader may propose the setting forth of the terms of such an agreed allocation. It is way too late for that. My advice would be that he proceed under rule 39.

Senator Graham: Honourable senators, I am truly mystified by the words of the Acting Deputy Leader of the Opposition. There was no mention of time in my discussions with the leadership opposite yesterday when we came to the agreement that we would have a vote today. There was no mention in the *Debates of the Senate* because I always take the leadership opposite at their word.

Hon. John Lynch-Staunton (Leader of the Opposition): The question has nothing to do with my involvement in the discussion in which we had agreed to a vote on Thursday. The question is that the house was not informed of this agreement. The Deputy Leader failed in not advising the house, either yesterday or today, as we have done in the past, either through a house order or through general comments by the Deputy Leader right after Question Period, when we discuss the business of the day. It is not a question of reneging on the agreement. It is a question of senators not being made aware of it through the one responsible for directing the business of this house, the Deputy Leader of the Government.

Senator Graham: Honourable senators, I regret deeply and profoundly that the leadership on the opposite side has taken this position. Having said so, obviously we have not reached a mutually satisfactory agreement.

Consequently, I do give notice that on Friday, April 25, 1997, I will move:

> That, pursuant to rule 39, not more than six hours of debate be allotted to the consideration of the motion by the Honourable Senator Gigantès for third reading of Bill C-32, An Act to amend the Copyright Act;
>
> That when debate comes to an end or when the time provided for the consideration of the said motion is expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the said motion; and
>
> That any recorded vote or votes on the said motion shall be taken in accordance with the provisions of rule 39(4).

• (1710)

COPYRIGHT ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gigantès, seconded by the Honourable Senator Cools, for the third reading of Bill C-32, to amend the Copyright Act.

Hon. Mira Spivak: Honourable senators, in speaking to Bill C-32, I want first to echo the comments of my colleague who spoke earlier — and I am sure this will be mentioned later by other honourable senators. I want to echo the comments regarding the process of the introduction and passage of this bill in the House of Commons and its subsequent treatment here in the Senate.

At the very last moment in the House of Commons, a piece of legislation, which most witnesses appearing before the Senate committee agreed was fairly balanced, was subjected to 103 amendments in committee and 15 more at report stage. There may have been excellent reasons for all of these amendments; I cannot judge. At the very least, one would imagine that good parliamentary process and close attention to the public interest would have dictated that the Senate be able to examine each of these amendments carefully. This was not the case.

At the time of clause-by-clause examination, most of the senators on this side were not there; therefore, this very complex piece of legislation did not receive the sort of careful study which it is the Senate's duty to perform and which quite often really happens. I will give just one example which Senator Stanbury, I am sure, will remember.

During the previous government's term when the Progressive Conservatives had a majority in the Senate, major immigration legislation was delayed because the Standing Senate Committee on Legal and Constitutional Affairs and its Chair felt that the legislation was badly flawed. They then proceeded to operate in a judicious, non-partisan manner until the legislation could be amended.

The threat of an imminent election is not a reasonable excuse for speedy passage of legislation. After all, the proposed constitutional amendment to enable Quebec to change its educational system may not survive an election call, as is freely admitted by the Honourable Stéphane Dion; nor does anyone doubt that this constitutional bill will be swiftly introduced in the next session.

We were reminded, in our subcommittee studying Canada's competitiveness in the field of communications, by David Silcox, former deputy minister of Heritage Canada, of the importance of fostering Canadian culture and supporting our creative artists. Rosemary Sullivan, a noted author, spoke at one of the "Breakfast on the Hill" seminar series. She, too, phrased this principle beautifully. She said:

> Culture is the life-blood of a country... and art is part of the collective national project — essential to the national conversation. We recognize that culture is a living organism in which all the multiple layers connect — the artists, their industries, the institutions, the public.

Our culture is at the peak of its flowering now. It started in Quebec. It is flowering all over. We have achieved international stature because the Canada Council and the Canadian government supported culture at these multiple levels through grants to the writers, tax breaks and subsidies to the publishing industries, support to the schools, universities and to the libraries, and through the "writer in residence" programs which gave young writers access to the expertise of established writers.

The cultural industries contribute $30 billion to Canada's GDP and employ almost 900,000 people, more than twice as many as are employed directly in forestry, for example. It is our ninth largest industrial sector by payroll and fourth largest by dollar volume. Because it is labour intensive, any increase in activity brings about a commensurate increase in rate of tax paid by workers to government and decreases the amount of time they need to resort to unemployment insurance.

In fact, it has been calculated that for every $100 of increased operating expenses, the industry generates approximately $36 in payments to income tax, CPP and employment insurance. Further — and this should be of particular interest to the government — according to one recent study, for every dollar the government invests in the cultural sector, $10 in economic activity occurs and $2.80 is returned to the government in taxes.

Cultural industries support, directly and indirectly, some 1.5 million people. Investment subsidies in these industries are not much different from public investment subsidies in heavy industry, aerospace, and research.

We have cultural industries because we have artists. However, successive federal governments have been parsimonious in their support of the cultural sector. The sector's 1.6 per cent of the federal budget has not increased in 30 years. Much of that has been for the CBC — and, of course, the scandalous treatment of the CBC need not be detailed here.

Canada continues to lag behind our trading partners in its commitment and allocation to culture. Compared to government support in the U.K., the U.S. and France, Canada's cultural sector is operating with the least amount of direct and indirect encouragement from the federal government.

Support is not only a matter of dollars and cents, even though it is clear that the federal government's performance for some years has been lacklustre. It is also about providing structural support, framing the market and ensuring that our laws allow the artistic community to pay more of its own way as its members exercise their creative talents. That is the thrust of the legislation before us.

Copyright is particularly important to the music and publishing sectors. By providing the market context which allows artists to benefit from their creations, it allows market forces, in cooperation with government, to ensure their artists' well-being.

I want to talk here about SOCAN, the Society of Composers, Authors and Music Publishers of Canada, who appeared before the committee. The organization represents 12,731 creative artists in the music field. They requested two amendments, and their concerns were not mentioned in the committee's report, even though much of the other ground was covered. I will, therefore, put their concerns on the record here.

Existing copyright law protects artists' ability to receive at least a partial livelihood from their creative efforts through the collective administration of performing rights. Those rights have been granted protection for more than six decades and they must be preserved. Both SOCAN-proposed amendments sought to ensure that, in granting new rights to new groups of creators, we would not be undermining their existing rights.

Their first requested amendment was to section 90 of the bill. It would have clarified the bill's intent to grant new neighbouring rights in the field of music without taking away some of the royalty payments now paid to composers, lyricists and music publishers. By removing the few words "in and of itself (par elles-même)," Parliament would be giving clearer direction to the Copyright Board and to the courts that we are not prejudicing existing rights. The bill would more closely follow non-derogation clauses found in article 1 of the Roman Convention and U.S. law.

There is a well-founded fear on SOCAN's part that unless the words are removed, the result will be costly and lengthy litigation, including before the Supreme Court of Canada.

The law firm of Gowling, Strathy & Henderson stated in its opinion to SOCAN:

> These additional words would thus go against the intended policy underlying section 90 as well as the intent of SOCAN's proposed clarifying amendment, that is, to establish a clear and effective non-derogation provision so that existing creators do not pay for the newly created rights...

At the minimum, one can foresee that the addition of the words "in and of itself (par elles-mêmes)" introduces an element of uncertainty into the section that will likely result in otherwise unnecessary and costly litigation, the outcome of which cannot be predicted.

The second requested amendment would have deleted section 66.91 which gives cabinet new authority over the Copyright Board and removes a portion of its independence. It must be remembered that this board differs from other arm's-length boards and commissions. It functions as a quasi-judicial tribunal, setting rates for intellectual property. For 60 years, the board has performed that function without political influence, and the House of Commons, according to SOCAN, has provided no valid reason to justify the Copyright Board's now becoming subject to political influence.

Let me quote the following from SOCAN's brief:

It is not clear exactly how these undefined and open-ended powers to issue policy directions and establish general criteria will affect Canada's performing rights royalty rate determination process. However, it is clear that Copyright users and owners will be forced to lobby Members of Parliament, Ministers, their political staff and officials to ensure that Cabinet's regulations do not adversely affect their interests. As a result, the transparency and perceived fairness of the process will decline.

• (1720)

I am sorry that time did not allow for close examination of these amendments. It is not our intention to move them at this time. However, I want to put on the record my disappointment, and that of the authors, composers, publishers, libraries and researchers who appeared before us that the painstakingly difficult and ultimately successful process embodied in Bill C-32 may deteriorate in its final stages.

It is sincerely hoped that after this pre-election fever is over, some way will be found to remedy the perceived flaws which have been pointed out to us by witnesses appearing before our committee.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I welcome this opportunity to participate in the third reading debate on Bill C-32. I propose to make a few comments on the bill at third reading. I also wish to propose some amendments, all of which, I believe, are friendly amendments.

Honourable senators, we learned a few moments ago that there has been some misunderstanding around whether or not an agreement had been reached on when the vote would take place. However, I have no objection to the vote taking place on the amendments and on the main motion, after I have finished speaking, if no other senator wishes to speak in the debate.

Hon. Marcel Prud'homme: Honourable senators, I rise on a point of order.

Since my friend Senator Kinsella mentioned my name during the debate to which he refers, I want him to know that I do not intend to participate in this debate on Bill C-32. Perhaps that will help the honourable senator and the Deputy Leader of the Government.

Senator Kinsella: Honourable senators, in spite of the pace of the current parliamentary schedule — some might describe it as unruly, disorderly, scattered, jumbled and cluttered — I want to focus on the bill because it requires a great deal of care, a great deal of consideration and a renewed interest in the driving force of our society, namely, education.

Honourable senators, quite plainly, the bill as passed by the House of Commons is totally opposed by the academic community in Canada. However, prior to its peculiar trip to the Standing Committee on Canadian Heritage, Canada's national post-secondary associations supported the bill. They had participated in the consultations with all the various associations. There was a negotiated give and take between the creators and the artists on the one hand and the users on the other. A proper balance, which seemed to please all the participants in that process, had been struck.

However, members of the committee in the other place made amendments which focused on the exclusions that had been contained in the original bill. The original bill had been supported enthusiastically by the sponsoring minister who introduced it. The amendments that I will propose shortly speak to the bill as it was originally. If you like, I wish to return it to the pristine character it had when it was first introduced.

In the other place, the bill was the beneficiary of over 70 amendments in the last few hours of deliberation in committee. As a result, it lost the support of the academic community across Canada. The entire Canadian academic community and their national associations have made known to us that they are opposed to the bill as it is currently drafted. University administrations and faculty associations oppose it. Student associations across the country oppose what the government has constructed with this almost ad hoc approach to copyright lawmaking through the committee process in the other place.

I am sure that several of my colleagues would like to have considered this vital piece of legislation without the threat of the guillotine hanging over their heads. Perhaps senators will reconsider how this bill, with its recent unbalanced amendments, will affect the educational community in our country. There is no doubt that several senators on both sides of the chamber would have appreciated it if the minister responsible for this matter had been somewhat more diligent in ensuring that fairness and balance were part and parcel of Bill C-32's misadventure.

This bill is a complex piece of legislation. It has tremendous ramifications for Canadians, whether they realize it or not. Quite frankly, by the obscene haste in committee, the Senate is being asked to turn a blind eye. The government would have Canadians believe that they have struck a balance between Canada's creators and Canada's users; that there is an admirable accommodation between Canada's cultural community and Canada's educational community.

I do not agree with the description of Bill C-32, as it is now before us, as being either balanced or admirable. Nor would Canadians consider it thus, if they were given an opportunity to understand what the minister responsible has, on behalf of the government, actually brought forward. In short, this bill relinquishes ground to the middlemen who stand between Canada's creators and Canada's users. The middle people stand to reap the benefits of the products of Canada's cultural community and the desire and necessity of Canada's educational institutions to make full and responsible use of those creations.

Various interest groups have called my office, as they have called the offices of all honourable senators. Some of those who have called me have wanted to tell me that this chamber must dispense with and forgo what it is constitutionally charged to do. Our job is to defend the public interest and improve upon the many pieces of what is often poorly conceived legislation that arrive here from the other place.

Senators who have far more seniority than I have been astonished over the past three years, given the nature of this Parliament and the lack of critical opposition in the other place. Some pieces of legislation have been terrible pieces of work.

• (1730)

For those who wanted me to turn my eyes away from this bill, I respectfully replied, "No." I think that such contempt for due process bodes ill for the future.

The legislative route of Bill C-32 has been tortuous and disappointing. Without question, it has been poorly managed. Even the Minister of Canadian Heritage acknowledges that the legislation should receive review far earlier than what was previously considered prudent. The minister has provided us with a letter to the chairman of the committee, undertaking to conduct the review of the legislation within three years, rather than the five years which is provided for by the statute. On Monday, Minister Copps made a written commitment to Senator Bacon's committee to that effect.

However, honourable senators, other distinguished persons have made similar presentations. Honourable senators will recall that on December 5, 1995, the then Minister of Human Affairs and Development, the Honourable Lloyd Axworthy, wrote to Senator Lavoie-Roux, who was then the chairman of the Standing Senate Committee on Social Affairs, Science and Technology. He assured senators on the committee that if they would only pass his Bill C-64 on pay equity without an amendment, he would introduce amendments which would extend coverage of the Employment Equity Act to the staff of Parliament immediately after Royal Assent. I am also informed that the government has not changed the definition of "visible minority" in that same bill. Senators in this chamber will recall that Mr. Axworthy defined "visible minority" as someone not of the white race, someone not of the Caucasian race. I know the minister's letter was well intentioned, but he did not deliver on his commitment. Honourable senators must weigh the import of that letter in light of the similar types of letters that Senate committees have received from other ministers who were anxious to have their legislation passed without amendment.

I listened to the speech of our good friend and colleague Senator Gigantès, and was surprised, given his excellent memory, that he did not see fit to quote himself. Perhaps he was exhibiting a very becoming modesty. In his excellent book, *The Road Ahead*, he writes that "A Senate acting as a house of facts is essential. It is an antidote for the poisoning of the democratic process by professional liars."

Senator Gigantès: I was not referring to Liberals.

Senator Kinsella: Some here today will recall that the long-awaited legislation to modernize our Canadian copyright law was finally tabled on April 25, 1996 by Minister Copps, less than one week before she resigned because of a previous commitment that she had not kept. I appreciate Minister Copps' attempt to assuage our concerns about fairness, balance and due process with a written commitment to commence an early review of the bill, but I would prefer to see that commitment in writing, where it matters, namely, in the bill itself. That would be the subject of one of my amendments.

MOTIONS IN AMENDMENT

Hon. Noël Kinsella (Acting Deputy Leader of the Opposition): Therefore, honourable senators, I would move several amendments *seriatim*. First, I move, seconded by Senator Oliver:

> That Bill C-32 be not now read a third time but that it be amended in clause 50 by replacing line 30 on page 93 with the following:
>
> "92.(1) Within three years after the coming".

That amendment has the effect of putting in the bill the commitment that we have by way of a letter from Minister Copps.

The second amendment deals with a matter that would make an amendment to the bill to return it to the wording that was in the bill as it was tabled in the other place. I therefore consider this a friendly amendment, to return it to the wording that was in the first reading bill.

I move, seconded by Senator Oliver:

> That Bill C-32 be not now read a third time but that it be amended in clause 1, on page 4, by replacing lines 31 to 42 with the following:
>
> "commercially available" means, in relation to a work or other subject matter, available on the Canadian market within a reasonable time and for a reasonable price and may be located with reasonable effort;

The third matter of grave concern to the educational community relates to used textbooks. Honourable senators, I move, seconded by Senator Oliver:

> That Bill C-32 be not now read a third time but that it be amended in clause 28, on page 63, by replacing lines 40 to 43 with the following:
>
> "where they were made, of any used books.".

The Hon. the Speaker: It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Oliver —

Hon. B. Alasdair Graham (Deputy Leader of the Government: Dispense!

The Hon. the Speaker: Is it agreed to dispense with the reading of the three amendments, and that the three amendments be taken as read?

Hon. Senators: Agreed.

The Hon. the Speaker: Before we proceed any further, in case some honourable senators were not in the chamber, the Honourable Senator Kinsella has indicated that the vote could proceed this afternoon, if the debate is concluded. I just want to make sure that there is that understanding.

Senator Graham: There has been further discussion between the leadership on both sides, and I believe there would be agreement to proceed with the votes today. Accordingly, if there are no other speakers, I think there would be agreement, as well, to having a 15-minute bell.

The Hon. the Speaker: Is it agreed, honourable senators, that when the vote comes, there will be a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker: Are there any other senators who wish to speak on the amendments?

If not, I will read the third motion in amendment. It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Oliver:

> That Bill C-32 be not now read a third time but that it be amended in clause 28, page 63, by replacing lines 40 to 43 with the following —

Senator Graham: Dispense!

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "Yea"?

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

Senator Lynch-Staunton: On division!

The Hon. the Speaker: I will now read the second motion in amendment.

It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Oliver:

> That Bill C-32 be not now read a third time but that it be amended in clause 1, on page 4, by replacing lines 31 to 42 with the following —

Senator Graham: Dispense!

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

• (1740)

The Hon. the Speaker: In my opinion, the motion in amendment is defeated.

We are now on the first motion in amendment proposed by the Honourable Senator Kinsella, seconded by Honourable Senator Oliver.

Some Hon. Senators: Dispense!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "Yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those opposed please say "Nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it. I declare the motion in amendment defeated.

Senator Lynch-Staunton: All votes on division.

Motions in amendment of Senator Kinsella negatived, on division.

The Hon. the Speaker: Honourable senators, we are now back to the main motion. It was moved by the Honourable Senator Gigantès, seconded by the Honourable Senator Cools, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

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

Some Hon. Senators: On division.

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

JUSTICE

MOTION TO APPOINT SPECIAL JOINT COMMITTEE ON CUSTODY AND ACCESS ADOPTED

Hon. B. Alasdair Graham (Deputy Leader of the Government), pursuant to notice of April 22, 1997, moved:

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 five Members of the Senate and ten 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 eight 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 four members are present, so long as both Houses are represented;

That the Committee be empowered to appoint, from among its members, such sub-committees as may be deemed advisable, and to delegate to such sub-committees, all or any of its power except the power to report to the Senate and the 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.

Hon. Rose-Marie Losier-Cool: Honourable senators, during our deliberations on Bill C-41, an Act to amend the Divorce Act, we received numerous heart-felt, deeply emotional and well-reasoned presentations from parental groups and individuals from across this country on the issue of child custody and access. Callers told us heartbreaking stories about the consequences of separation and divorce on their families. Letter writers described the anguish they felt over not being able to see or visit or be with their children. Parental groups appeared before the Standing Senate Committee on Social Affairs, Science and Technology and described their experiences and their work with parents and children of divorce and told us that something must be done, that Parliament must work to minimize the trauma experienced by children caught in the middle of a marriage breakdown.

We were moved by these stories, partly because we all recognize that sometimes children are the innocent victims of divorce and partly because these stories are really nothing new. All of us have friends and acquaintances who have experienced the heartbreak of a family breakdown. Child custody and access, however, were not contained within the scope of Bill C-41, which dealt primarily with the responsibilities of divorced parents. The government and many senators felt that while parental concerns about custody, access, visitation and grandparents' rights were very important, there was no place within Bill C-41 to even begin to properly address these issues. This is why, honourable senators, the government is proposing this motion today.

After hearing the stories and representations from parents, families, senators and concerned Canadians, the Minister of Justice, Allan Rock, responded in a letter to Senator DeWare, Chairman of the Social Affairs Committee, saying that he would:

> ... take the steps necessary to introduce a motion in this session to establish a joint Senate-House of Commons committee to study issues related to custody and access under the Divorce Act.

A strong believer in the parliamentary process and familiar with the good work we all can do when we sink our teeth into issues of this magnitude, it was Minister Rock's idea that a joint Senate-House of Commons committee would be the body best able to give serious examination to such an emotional but all too common human tragedy. I share with the minister a great optimism. The enormous amount of interest, concern and thought that Canadians have and wish to express to us on this issue, and the mandate and the powers of the committee as stated in the motion, will be a tremendous resource to us.

Given that the government is into its fourth year in office, one can only assume that one day, in the coming weeks or months, the Prime Minister may decide it is time to call an election. One never knows. I do not know when the writ will be dropped, but if an election does interrupt the work of this committee, I would certainly support and argue in favour of reintroducing this motion in a new Parliament.

Honourable senators, I urge you to support this motion. Together with the House of Commons and with the help of witnesses who appeared before the committee, I hope that we can find ways to protect our children.

[*Translation*]

We must listen carefully to our children. We must do so with a great deal of maturity, while respecting the various representations by individuals and groups who care about the quality of life of our children.

[*English*]

Hon. Mabel M. DeWare: Honourable senators, I should just like to express my pleasure at the formation of this joint committee. Bill C-41 was certainly very contentious. We received calls from all across Canada, in which most of the concerns expressed were about custody and access. I hope this committee will address those concerns.

My present concern is whether this motion was also introduced in the House of Commons. I have not read the *House of Commons Debates* so I am not sure. I hope the Leader of the Government in the Senate can assure us that it was introduced in the House of Commons and that it will continue after the election.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I cannot answer the honourable senator's question definitively at this moment but I certainly know that steps are being taken, and I shall get that answer for her.

Senator DeWare: Honourable senators, I do agree with the motion. The time has come to form this important joint committee. I am sure that only good can come of it.

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

Motion agreed to.

BILL CONCERNING KARLA HOMOLKA

SECOND READING—POINT OF ORDER—SPEAKER'S RULING

Hon. Anne C. Cools moved second reading of Bill S-16, concerning one Karla Homolka.

POINT OF ORDER

Hon. Sharon Carstairs: Honourable senators, I rise on a point of order. I do not know if this is the appropriate time to raise the point of order. Perhaps the motion should be put first.

The Hon. the Speaker: I would be prepared to listen to the point of order.

Senator Carstairs: Honourable senators, this bill, which has just been introduced for second reading, is identical to Bill S-11, which was introduced in 1995. The bill was declared out of order by the Speaker at that particular point in time. It seems appropriate to me that we should determine if it is appropriate for a bill once declared out of order to be again introduced.

The Hon. the Speaker: Does any other honourable senator wish to speak to the point of order?

• (1750)

Hon. Anne C. Cools: If Senator Carstairs is saying that the bill is out of order, I wish she would indicate to us why that is so.

Senator Carstairs: Is it appropriate for a bill which has once been declared out of order to be reintroduced in this chamber and dealt with, or is it appropriate for the Speaker to take it under advisement to see whether the points raised upon which it was originally determined to be out of order are still valid?

The Hon. the Speaker: If no other honourable senators wish to speak on the point of order, I am prepared to rule.

Senator Cools: Honourable senators, it is very unusual for a person to raise a point of order without giving the reasons for it. To simply say that something happened before has no validity and no standing. However, it seems to be par for the course these days that people make declarations and assertions without any supporting evidence. If anyone thinks the bill is out of order, I believe that person has a duty to say why. It is only based on the reasoning presented by that person that the Speaker should rule.

I submit that Senator Carstairs has given no reasons for saying that this bill is out of order. Therefore, the issue should be resolved by the Senate. It is for the Senate to decide.

SPEAKER'S RULING

The Hon. the Speaker: If no other honourable senator wishes to speak, I am prepared to rule.

My opinion has not changed on this bill. When it was presented the first time. I ruled that it was out of order. This bill is identical. Therefore, I rule again that it is out of order.

Hon. Eric A. Berntson: What were the reasons last time?

Hon. Anne C. Cools: Honourable senators, this is a most unusual situation. I should like senators to pass judgment on these opinions.

The Hon. the Speaker: I regret, but there is no debate allowed on the Speaker's ruling.

Senator Cools: No. I asked for senators to rule on the Speaker's ruling.

The Hon. the Speaker: You may appeal the ruling.

Senator Cools: Yes.

The Hon. the Speaker: That, of course, is always an option which is open to the Senate at any time. However, there is no debate on the ruling.

Senator Cools: That is what I am doing.

Hon. John Lynch-Staunton (Leader of the Opposition): The honourable senator is appealing the ruling.

The Hon. the Speaker: Unless I see two senators rise, the matter is concluded.

Senator Cools: Is that what it takes?

[*Translation*]

OTTAWA'S MONTFORT HOSPITAL

MOTION ON PLANNING FOR FUTURE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Lynch-Staunton;
>
> > 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 community and minority French language communities throughout Canada;
> >
> > And on the motion in amendment by the Honourable Senator Losier-Cool, seconded by the Honourable Senator Taylor, that the motion be not now adopted but that it be amended by striking out the words: "the federal government and the provincial government of Ontario" and substituting the following: "all the decision-makers."—(*Hon. Senator Beaudoin).*

Hon. Jean-Maurice Simard: Honourable senators, Senator Beaudoin is yielding the floor to me. Yesterday, after the intervention by my colleague Senator Beaudoin, I asked him a question.

Hon. Eymard G. Corbin: Honourable senators, Senator Beaudoin adjourned the debate yesterday, and now Senator Simard is speaking. Does Senator Beaudoin intend to speak? I would like to know, because there are others who would like to speak.

Hon. Gérald-A. Beaudoin: Honourable senators, it is correct that Senator Simard asked me a question and that the debate was adjourned in my name. In light of the circumstances, I am told that Senator Losier-Cool's motion in amendment is to be withdrawn. I have spoken on the motion in amendment in a general manner. I gladly give the floor over to Senator Simard to speak on the motion in amendment.

Senator Corbin: Would honourable senators agree to listen briefly to the Honourable Senator Losier-Cool?

Hon. Senators: Agreed.

MOTION IN AMENDMENT WITHDRAWN

Hon. Rose-Marie Losier-Cool: Honourable senators, I would ask the unanimous consent of the house to withdraw the motion in amendment I moved yesterday. I will briefly explain why.

The Hon. the Speaker: Honourable senators, is leave granted for Senator Losier-Cool to withdraw her motion in amendment?

Hon. Jean-Maurice Simard: Honourable senators, I would have a question for Senator Losier-Cool.

The Hon. the Speaker: Agreed.

Senator Simard: Senator Losier-Cool has told us she would explain her request to withdraw her motion to amend. I am entirely in agreement with this request.

The Hon. the Speaker: Honourable senators, is Senator Losier-Cool granted leave to provide these explanations?

Hon. Senators: Agreed.

Senator Losier-Cool: Honourable senators, I think my reasons are very simple; first of all, it is something I hold dear. Throughout my life, throughout my career, I have always had a great interest in the survival of the francophonie. I fought hard for this in my province.

My motion to amend was made with the best of intentions. I thought this motion would move the debate forward. I in no way want the debate to drag on. You will recall Senator Jean-Robert Gauthier's call for solidarity at the beginning of SOS Montfort. It is also in a spirit of solidarity that Liberal senators who have spoken support this resolution.

The Hon. the Speaker: Honourable senators, is Senator Losier-Cool granted leave to withdraw her amendment?

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Honourable senators, I had prepared a few notes, but I will set them aside because the afternoon has been a long one. It has been long for representatives of the Montfort hospital, who have spent a good part of it in the Senate gallery. They have been very patient, even if they do not always understand parliamentary procedure on the Senate floor.

I would like it clearly noted that I never hesitated, that I would not hesitate to support a cause such as this. In a way, it is, for me too, the story of my life: I believe I went into politics, like many others, to represent my people. My people were those with whom I grew up, the people who elected me five times to the House of Commons and for whom I still claim to speak in this august chamber.

• (1800)

The Hon. the Speaker: According to the clock, it is 6 p.m., unless honourable senators tell me not to see the clock.

Hon. Senators: Agreed.

Senator Corbin: Thank you, honourable senators. I will try to be brief. We on this side have agreed to withdraw the amendment, so it is not up to me to challenge this decision. If the amendment were still before the Senate, I would have said it does reflect certain realities.

People should not think the federal government and the Government of Ontario — especially the Government of Ontario — are the only authorities to take the bull by the horns, so to speak, as far as the future of Montfort Hospital is concerned.

There are other decision-making levels such as the commission that reviews initial decisions and is to submit a final report to the Government of Ontario. It would be up to the Harris government of Ontario to reject or accept the report, in whole or in part.

Those then are their next steps. The federal government has, of course, always been there to defend the interests of francophone or anglophone minorities in this country.

From time to time, we think the government could do more. We also realize that considering the division of jurisdictions in the Canadian Constitution, it is not always possible for the federal government to intervene at certain stages.

The proposal by Senator Simard which we are discussing today is an expression of the wishes of this House. I could not speak out against such wishes. When the motion is moved for adoption, I fully intend to support it.

I would like to take this opportunity to say that as far as health care is concerned, Montfort Hospital is not the only francophone institution at risk. There is a phenomenon that attracted my attention in recent years. There seems to be an exodus of French-Canadian doctors trained in our institutions, either here in Ottawa or in Quebec, who have decided to leave the country and practise their profession in greener pastures, in other words, south of the Canada-U.S. border. This is just as big a drain on the health care industry as the threatened closing of an institution like Montfort.

There is one Montfort today. I hope there will be more, because there is a real need for training health care professionals in their own language in Ontario.

New Brunswick has no medical schools. It is entirely dependent on Laval, Sherbrooke, McGill, Montreal and the University of Ottawa.

The situation of francophones across the country is certainly not the very best, and certainly does not meet the expectations of French-Canadians.

I wanted to point this out in passing. I hope that someday, senators will take the time to consider this exodus of doctors, of health care professionals to the United States.

Some French-Canadians, and many English-Canadians, have decided to leave and practice their profession elsewhere. God only knows what their training cost.

As you all know, unfortunate family circumstances have required our colleague Senator Marie Poulin to remain in Sudbury. Since she intended to take part in this debate, she has asked me to read you the letter she wrote on April 7, 1997 to Duncan Sinclair, the Chairman of the Health Services Restructuring Commission. It reads as follows:

> Dear Sir:
>
> Since your announcement concerning the possible closure of Ottawa's Montfort Hospital, the sole French-language teaching hospital in Ontario, more and more senators from various regions of Canada have risen in the Senate to demand that the Commission reconsider its decision.
>
> The senators are deeply saddened, and extremely worried, by the idea that the only French-language community teaching hospital in Ontario is being closed.
>
> As you know, in our constitutional democracy, the Senate of Canada has been, and continues to be, the true guardian of official language minority rights since Confederation in 1867.

Within this truly Canadian spirit of respecting our accomplishments, in my capacity as the Senator for Northern Ontario, the francophone population of which benefits from the health and medical services provided by Montfort, I have personally spoken out in favour of the survival and expansion of the hospital.

Senators Leo Kolber of Quebec, Peter Bosa of Ontario, Marcel Prud'homme of Quebec, Sharon Carstairs of Manitoba, Colin Kenny of Ontario, Jean-Maurice Simard of New Brunswick, and Normand Grimard of Quebec have also made statements.

All senators present in the Upper Chamber greeted their words with warm applause, thereby adding their voices to the strong movement of support for the survival of this institution.

I therefore respectfully call upon the Commission to take all necessary steps not to implement its plan but rather to allow Montfort Hospital to survive. This is a totally unique and indispensable health and medical facility.

The issue goes beyond health, policy, partisan politics, economics and geography.

Montfort Hospital is, first and foremost, a unique health facility which is essential to the delivery of acute hospital care in French to the francophone population of Ontario.

As well, it is the only institution offering training in French to physicians and other health professionals with the responsibility of providing services in French throughout the province of Ontario.

Finally, it is a powerful symbol of the French fact in Ontario, for the francophones of the province can receive health care and medical services there in their language around the clock.

When more than 10,000 people from all over Ontario gather together on a Saturday afternoon in winter in support of the survival of a vital institution they are entitled to, the Commission cannot remain indifferent to their just cause. When voices clamour in all regions of the province and the country for the continued existence of the Montfort, the Commission must lend an ear.

When Canada's English and French newspapers carry impassioned editorials calling for the survival and the growth of the hospital, the Commission cannot allow to go unheeded the voices raised in cities, provinces and in the country as a whole.

In light of new facts and figures and the extent of the need — the basic criterion that goes along with the criteria of quality, accessibility and savings — you and your colleagues on the Commission cannot but look at the situation from a new angle and more positively.

We implore you and your colleagues to save the Montfort Hospital. Staff, and patients — francophone and anglophone alike — will thank you for it; medical students and health care workers in training will be grateful; senators, the people of Ontario and people everywhere will applaud.

Yours truly,

Marie-P. Poulin,
Senator.

I have nothing to add. I would simply say: Vive the Montfort both now and for a long time to come!

[*English*]

• (1810)

Hon. Dalia Wood: Honourable senators, I am pleased to rise today to participate in the debate on Senator Simard's motion. The intention of this motion is to show the Senate's commitment to Canada's minority language communities by encouraging both the federal and provincial governments to work together to ensure that these communities will receive health services in their own language. I am glad to see that the Senate is finally taking cognizance of such issues.

I called the attention of the Senate to the status of English health care services in the Province of Quebec just last week, on April 17, 1997. In that speech, I spoke of the Canada-Quebec Agreement on Canada's financial contribution to Quebec's initiatives promoting access to health and social services for English-speaking persons in their own language.

Since that time, I have obtained information concerning Canada's participation in providing minority language communities with health care services in other provinces. I would like to take a few minutes to share this information with honourable senators.

It would seem that the federal government, under the umbrella of what is called the Intergovernmental Cooperation Program, financially supports the two official language communities in areas of health, economy, justice, social services, and recreation. The information I have received from the Department of Canadian Heritage indicates that in 1996-1997, the federal government has contributed to the delivery of health and social services in the minority language in five provinces and the two territories. Saskatchewan, Newfoundland and Nova Scotia do not receive specific sums for the delivery of minority health and social services.

The objective of the Intergovernmental Cooperation Program is as follows:

To encourage and assist the governments of the provinces and territories and other Canadian institutions in enhancing the development of minority official language communities and especially in providing them with services in English and French.

These agreements all work on a cost-sharing basis whereby the provincial governments also contribute to the programs designed to enhance the development of these communities. Honourable senators, the support of minority language communities is not a costly venture, but it is one that could immensely enrich Canadian society.

We have all seen the newspaper reports of provincial health care cuts and restructuring. Such hasty restructuring can have devastating effects on the health and welfare of Canadians, especially since it seems that services to minority communities are often the first to go. Minority-language communities, be they the English minority in Quebec or the French minority in the rest of Canada, have a right to health care services in their language. Nothing is more fundamentally Canadian than the unimpeded delivery of health services. Such delivery of services is impeded if the services are rendered in a language in which the patient is not comfortable or fluent.

This is an important concern which must not be brushed aside simply because the federal government does not have authority to legislate in matters of health. Federal moneys are being used to fund these programs. The federal government should speak out in support of its minority language communities, and maintain its contribution levels under the relevant agreements so that minority language communities can enjoy the services they need to flourish.

I have spent all my political life defending minority rights, whether they be English or French. Even if this motion does not mention specifically the fact that the federal government should be supporting both these minority language communities, I support this motion's intent.

Hon. Jean B. Forest: Honourable senators, I rose at the same time as Senator Wood because I did not want this debate to end without an anglophone speaking in favour of Montfort Hospital and the services it provides.

It is most important — and I am sure I speak for most, if not all, anglophones in the Senate — to remind everyone that we are equally concerned about the services at Montfort being allowed to continue.

[*Translation*]

Hon Marcel Prud'homme: Honourable senators, I would like to begin by thanking Senator Losier-Cool, who facilitated the debate this afternoon. Nobody has anything to teach Senator Losier-Cool, Senator Robichaud, Senator Corbin, Senator Landry, or any of these combatants about being proud of who they are. I would like to thank them. I also thank Senator Simard for introducing this motion.

I would be remiss if I did not pay tribute to Senator Jean-Robert Gauthier, the indisputable champion of the French-Canadian people, particularly in Ontario. Even though he is absent, I want to thank him. Thanks are also due Senator Marie-P. Poulin, whose elegant arguments raised our awareness.

[*English*]

In the same spirit, I will make my intervention in English, and not in French, to show that Canada is best at what we are doing now, that the Senate is at its best. Until Canadians decide the future of the Senate, the Senate has a role to play. The Senate has a constitutional duty. However, the Senate has also a moral authority to exercise.

I did not know that this motion would be debated. Earlier today, Senator Simard and I met with a delegation from the Montfort Hospital. For me, Montfort symbolizes my life.

What is Montfort? Montfort is a hospital where, 24 hours a day, someone who believes that Canada is his country can go and expect to be understood, to explain in detail the very complicated matters that they could not otherwise explain. What is the meaning of Canadian? You all know that I am a proud Canadien français. I repeat that in Vancouver, in Alberta, and again recently on the weekend. It is my home. However, I must feel at home. The people of Ontario must also feel at home, if they are told that Canada is their country. Is that so difficult to understand?

Are people less Canadian because they work in French or fall ill in French? Have they less pride because some speak only French? I come from a province where 4 million people speak nothing but French. When I say that in Western Canada, people cannot believe it.

I have just returned with Senator Bosa from representing Canada abroad. Accompanying us on that trip was a member of the Bloc Québécois who spoke not a word of English. He is not unique. As a matter of fact, he was a former chief organizer for a former prime minister. He is now a member of the Bloc.

I wish to say that it is possible to be a good Canadian, un bon Canadien en gardant sa fierté, in hoping that this country has a lot to offer. If you are ill, is there something more unusual than having to explain what is wrong with you in someone else's language?

I recall an aunt of mine. I made a special plea in English to Mr. Harris to be a great statesman when the time comes, if the commission rejects the call that is made by all Canadians. The Ottawa *Sun* did not hesitate to change its views. I salute the Ottawa *Sun*. They were against it. After listening and seeing the devotion, they changed their minds. If a newspaper can change its mind, then surely the commission that is dealing with these hospital closures can understand that the Montfort is not a hospital like the others.

If the debate were solely about the closure of a hospital, then of course the other hospitals that are to be closed will say, "What about us? Our hospital is as important," and they would have a good point.

The point is that, outside Quebec, it is the only place where a person who is called "un Canadien" or a "Canadian français" can go with confidence. For example, a mother who is about to deliver a baby can say, en français, in her excitement, "J'attends un bébé. Comment va-t'il?" I am not able to translate that in someone else's language. That is the feeling of belonging to a country.

I just returned from Vancouver. Have I imposed anything on anyone when I watch my news in French in my country? I was going to say "in the secrecy of my room," but I could not find TV5 in one hotel. Senator Bosa and I recently returned from South Korea, where I could watch TV5. Yet in some parts of this country, I cannot get it.

How can one develop the feeling of belonging to a country if one says, "I am not at ease here. Maybe I will be at ease somewhere else." That "somewhere else" that some people are talking about is the very thing that I will fight until I die because I do not think it is in the best interest of les Canadiens français of Quebec not to believe in this country. You must make a gesture and show these people some understanding.

If Mr. Harris were in front of me, I would say, "Mr. Harris, you could make a great statesman. You are popular. Regardless of partisanship, you have a decision to make on a very specific issue. You must find the kind of words that Canadians from Ontario will accept. Why would you make an exception for the Montfort when you are closing other hospitals? You must address that." Senator Poulin explained that very well in her letter to the commission.

The devotion of these people is admirable. You may be surprised to hear me make this plea in English, but I have no hesitation to do this in English. I would probably be more eloquent en français, but at times this is the way to proceed with each other.

I am especially touched by the few words of Senator Forest and by Senator Wood's understanding. How can I go to Quebec and say, "Do not touch the services to la minorité anglophone." How can I expect to be heard? I am heard on the radio hotline. I go wherever I am invited. I have never been rejected or insulted because I talk good sense. It is good sense to talk that way to people — that is, with passion, because it is a passionate issue.

I learned many lessons from the man whose birthday we celebrated yesterday, namely, Mr. Pearson. You must understand how human beings function and how they reject the best because you do not hear them. You do not feel their feelings; you do not understand what they are talking about. The Montfort symbolizes all of that. I cannot understand why they do not understand that.

Today is one of the greatest days here since I arrived in the Senate. I think the Senate is about to give its unanimous consent to this motion, which is very kind. This is a great day for the Senate to introduce this kind of motion. We are not begging on our knees, but we are saying to the Government of Ontario, "Read the speeches that have been given here today."

I should like the Clerk of the Senate to convey the feeling that will be printed in our record to both the proper authorities of the commission and the provincial government so that they will see that it is not a fanatical approach, but a very good Canadian approach, to ask that the commission — and the government, if need be — understand the importance of the symbol that represents the Montfort.

I attended the demonstration for the Montfort. It was on a Saturday afternoon. I was supposed to be in Montreal, but I cancelled my arrangements. I just circulated among the crowd all afternoon. The organizers said, "You should have told us that you were here. We would have announced that you were here." I said, "I did not come here to play politics or be anti-government or anti-anything. I came here as a gesture of support for these people."

[*Translation*]

The Daughters of Wisdom are the founders who helped this hospital and who are there today. They deserve our support.

[*English*]

They deserve to see that some people care. They deserve to believe, and to spread the word, that they can trust the Senate; that in tough times, there is an institution that does not panic and could be supportive of their effort and their pride; that there is an institution that understands what they stand for. I am very pleased to say, as Senator Corbin has said: Vive le Montfort, et pour longtemps!

Hon. William J. Petten: Honourable senators, I could not let this opportunity pass without standing up to express my support for the Montfort Hospital. Since I have been living here this past 25 years or more, I have heard of the good work done by the Montfort Hospital. However, as I understand it — and it has been said many times in this chamber — it is the only French teaching hospital in Ontario. I would very much like to see it continue. I wish to be on record as supporting it.

Hon. Joyce Fairbairn (Leader of the Government): Honourable senators, I certainly do not want to prolong this discussion, stirring though it is, because I know our friends have been waiting a long time in the gallery. I simply should like to add my own personal word of support for this motion and for the project of the Montfort Hospital.

The Prime Minister spoke out early on this issue. I would certainly echo the support that he has offered. I also wish to thank all senators on both sides who have taken part so eloquently, through different parliamentary means, to voice their encouragement and support as well.

I wish profoundly that Senator Jean-Robert Gauthier could be here today to speak for himself. I cannot tell you how moved we were to see the picture of our colleague on the front page of the newspaper, attending that tremendous rally in support of this venture. Senator Gauthier has supported this hospital from the start. This is his city, and he is enormously proud of it and the institutions which serve people of both linguistic groups.

I know that Senator Gauthier would be standing tall to record his vote today, could he possibly have been here. Clearly, this issue has moved everyone and touched everyone in this chamber. It has certainly touched me. I congratulate all the senators who have come together to support it.

[*Translation*]

The Hon. the Speaker: Honourable senators, I must warn you that if Senator Simard takes the floor now, his intervention will have the effect of ending the debate on this motion.

Senator Simard: Honourable senators, like other senators from both sides of the house, I said I was hoping for a serious debate.

• (1830)

I thank the senators who took part in this debate. They dealt directly with the issue. The debate was first-rate.

Several senators had to answer the following question: Why did a senator from New Brunswick move the motion and two Liberal senators from that same province speak on the issue? I told journalists that the Canadian francophonie needs all the solidarity it can get to prosper and to grow. This is my explanation, and I thank the honourable senators from Quebec, Ontario, Newfoundland and other provinces for showing such solidarity in this house.

The issue at the centre of this debate over the last two days is that of justice. I am very pleased that the vote to be held soon is expected to be unanimous. I quoted the former great Liberal leader, Edward Blake, who made a statement in 1890 which deserves to be mentioned again today. In a famous debate held in the House of Commons on the issue of the Northwest Territories, Edward Blake said:

> ... a victory for humanity.

and, I might add, for Canada in particular. Edward Blake went on to say:

> And if, as the case is, it has imposed greater difficulties and more arduous efforts and toils on those who are engaged in making a nation of Canada, it yet, by that very circumstance, gave the chance for more exalted triumphs, gave an opening for the exhibition of still higher and deeper and broader feelings of justice and liberality and tolerance than are permitted to a wholly homogeneous people.

I think we can associate Edward Blake's comments with the great victory which I anticipate at the conclusion of this debate today, because there will undoubtedly be unanimity.

Senator Wood, who took part in the debate, told us about her concern regarding English-language institutions in Quebec. She told us about English-language hospitals in that province. She could also have told us about English-language school boards in Quebec. I think Senator Wood can take comfort after this unanimous debate. She will be able to say that she defended, as she has been doing for a long time in the Senate, the interests of Quebec's English-speaking citizens. Comparisons are often risky, but there is a lot of similarity between Quebec's English-speaking minority and francophone minorities outside Quebec.

I think the unanimous resolution which we will pass today will be important. We did not set a precedent. However, this unanimous resolution will be a confirmation and a reminder to all provincial and federal governments of their obligation to look after minorities.

I say to Senator Wood and Quebec minorities that this recognition is a means to add to the position and obligation of governments. More than a wish, this is the formal recognition of the moral and legal obligation that the federal and provincial governments have to look after all minorities wherever they are in Canada.

The unanimous approval of this resolution is more than just a statement made by a group of politicians, whether Tory, Grit or independent. It is a solemn declaration made in the Senate.

A few days ago, I heard Quebec Premier Lucien Bouchard use the word "folklorique" to describe senators, suggesting we are past it. Past it or not, we have done our job and, whether Lucien Bouchard and the separatists like it or not, we will continue to defend Canada and its parliamentary institutions, including the Senate.

I thank you, Senator Corbin and Senator Prud'homme, and all the honourable senators who have participated in this debate. This is a victory, but all those concerned about the future of the Montfort Hospital will have to remain vigilant. We may have won a fantastic victory today, but the battle is far from over.

• (1840)

We now must convince the Government of Ontario, and its Health Services Restructuring Commission in particular. I suggest that today's debates be sent to them. They could have them by nine o'clock tomorrow morning, in both official languages. They will realize this is the wish of the Senate, and certainly that of the government. The federal Government of Canada, with the provincial Government of Ontario, and possibly other interested parties, can find a generous, fair and equitable solution to this problem.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Simard, seconded by the Honourable Senator Lynch-Staunton:

> That the Senate encourage the federal government and 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 community and minority French language communities throughout Canada.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, is the motion unanimously agreed to?

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

FIFTH ANNUAL ASIA-PACIFIC PARLIAMENTARY FORUM—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Hays, calling the attention of the Senate to the Report of the Canada-Japan Inter-Parliamentary Group on the Fifth Annual Meeting of the Asia-Pacific Parliamentary Forum, held in Vancouver, British Columbia, from January 7 to 10, 1997.—(*Honourable Senator Oliver*).

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise in support of Senator Hays' remarks in relation to the work on the Asia-Pacific Parliamentary Forum, the APPF. I was in attendance at the founding meeting of the APPF when it produced the Tokyo declaration in Japan.

I am also honoured to have been a delegate at all five of the annual meetings of the Asia-Pacific Parliamentary Forum. In fact, I had the distinct pleasure of leading the Canadian delegation to the second annual meeting in Manila in the Philippines.

Canada has been an active participant in this organization right from the beginning. Due in part to our strong parliamentary bilateral relationship with Japan, Canadian parliamentarians have, over the years, been active in the APPF and have exercised great leadership.

As the world community prepares to enter the 21st century, Canada continues to position itself in the Asia-Pacific region. This region will continue to grow in importance to Canada in terms of trade and investment, immigration, peace, and security.

It is important for you, honourable senators, to place the work of parliamentarians in this forum in the context of Canadian foreign policy.

As you are aware, the Government of Canada declared 1997 as Canada's Year of Asia-Pacific, and Senator Hays has told you that the Prime Minister actually attended our conference in Vancouver on his way with a delegation of Canadian businessmen to Thailand, Korea, and the Philippines. As a people and as a trading nation, Canada has deep ties to the Asia-Pacific community. Throughout the entire year of 1997, the federal government will work in collaboration with business, culture, and youth groups to encourage them to focus their activities in the Asia-Pacific region in 1997 and to become fully involved in this initiative.

As honourable senators know, there is not a parliamentary secretariat that is called the Asia-Pacific Parliamentary Forum. Canada's participation in this distinguished assembly is by way of the Canada-Japan Parliamentary Association. The Japanese counterpart to Senator Hays is Mr. Tatsuo Ozowa, who has made an outstanding contribution to Canada-Japan relations, and I will deal with his contribution in a few moments.

You should also know that the founding chairman of the APPF was a former Prime Minister of Japan, the distinguished Yakuhira Nakasone. From day one, Mr. Nakasone has hinted that one day he would like to see the APPF become the parliamentary wing of APEC. The advantage is that the parliamentarians, be they members of the lower house or the upper house, are in touch with the people and can bring the concerns, interests and views of the general public to an international forum.

Canadian delegates have helped Mr. Nakasone in raising the profile of the APPF, and now our president, the Honourable Yasuhiro Nakasone, is attempting to obtain observer status at the Vancouver summit this November. Mr. Nakasone has written to Prime Minister Chrétien on this matter, and it is likely that APPF will be represented.

It is axiomatic or a truism, but worth repeating, that just as Canadian participation in APEC complements work in other international bodies, our participation in the APPF brings regional decision-makers together, which allows Canadian parliamentarians the opportunity to promote Canadian values and viewpoints, as well as Canadian business interests.

As you know, in November Canada will chair the Asia-Pacific Economic Cooperation Forum — known as APEC — which will bring many of the region's government and business leaders from across Canada. APEC was created in 1989 and has emerged as the leading forum for promoting trade and investment liberalization, business facilitation, and economic and technical cooperation in the Asia-Pacific region. After the United States, the Asia-Pacific region is, of course, Canada's largest trading region.

Let me very briefly summarize Canada's goals in this year of the Asia-Pacific: to expand Canada's economic partnerships with the Asia-Pacific region and to equip Canada to play an increasingly dynamic role in the emerging Pacific community; to highlight the important role played by the Asia-Pacific region in economic growth and job creation in Canada, in the life of the country, and in global affairs; to increase participation in Asia-Pacific markets by Canadian business by providing more information on opportunities in the region and how best to act on them; to enhance cross-cultural understanding of common concerns related to peace and security, human rights and legal reform, environment and social development, cultural, education and other areas; and to ensure a lasting legacy through new partnerships between Canada and Asia-Pacific business and cultural institutions, as well as better collaboration between government and the involvement of youth and Asian Canadians. You can see that the aims and objects of the APPF do complement the government's plans for 1997, the year of the Asia-Pacific.

Earlier, I alluded to the distinguished Japanese leader of the Parliamentary Association, Mr. Ozawa. I should like to take a moment to thank an individual without whose leadership the Canada-Japan inter-parliamentary relations would not be where they are today. Mr. Tatsuo Ozawa is the chairman of the Japan-Canada Diet Members Friendship League and a New Frontier party member in the Japanese house of representatives. Having been elected 12 times, he has had a very distinguished career and has held a number of senior positions both in the Diet and in party committees. However, his greatest service is really to the Canada-Japan relations group.

Mr. Ozawa has frequently visited Canada since becoming chair of the Canada-Japan Diet Friendship League. His commitment to fostering friendship and understanding between the parliamentarians of our two countries could not have gone unnoticed by any of our participating members of Parliament. Besides leading Diet members to the third annual consultation in Halifax in 1992 and hosting Canadian MPs for the sixth annual consultation in 1995, Mr. Ozawa has taken other initiatives towards furthering the friendship between his and our own peoples. Two such examples are Mr. Ozawa's tea house, inaugurated in May, 1995 at the University of Alberta, and the annual Ozawa Cup golf tournament held each year outside Edmonton, Alberta. Clearly, the Canadian people have a true friend in someone who is committed to the idea of bridging the cultural gaps between our two countries.

Like Mr. Ozawa, honourable senators, we too must make such a commitment. Strong ties with Asia promise benefits that are twofold.

The first benefits are foreign policy benefits. As Senator Hays pointed out, the post-Cold War era has seen the fragmentation of an essentially bi-polar world into a seemingly chaotic multi-polar system. Streams of influence are numerous and more often than not, will be regional. Not only has this changed the nature of our relationships with former Cold War allies such as Japan, South Korea and the Philippines, but it has also opened up the potential for new and mutually beneficial lines of communication with our former Cold War adversaries such as China, North Korea, and Vietnam.

The second benefits are economic benefits. The importance of trade in Asia cannot be overemphasized. Traditionally, we have depended on exports to the United States to help fuel our economy. By 1995, 79 per cent of our exports were accounted for by sales to the U.S. One drawback to our dependence on the U.S. is that, due to the level of economic integration between the two states, the U.S. and Canadian economies necessarily share the same business cycles of booms and recessions. In addition, the U.S. economy is a mature one. Overall, real economic growth has averaged only 2.6 per cent in the U.S. during the past decade. In contrast, virtually all Asian countries have rapidly growing economies. The potential for Canadian exports in this region is truly remarkable.

• (1850)

Honourable senators should note that real economic growth in the developing countries of Asia over the past ten years has averaged almost 8 per cent. As a result, the compelling gross domestic product of Asia, measured in terms of purchasing power, has now passed that of the United States. As for future growth in Asia, the situation seems promising. While Asia absorbed 21 per cent of global imports five years ago, the International Monetary Fund projects that, five years from now, Asia will account for 30 per cent of all global purchases.

The establishment of closer ties with Asia, honourable senators, is a goal Canadians should embrace.

From a purely political perspective, it is clear that if Canada is to have any influence in the area of human rights or other political issues, it must create links to the many sources of regional influence that have grown both in Asia and around the world since the end of the Cold War.

From an economic perspective, honourable senators, I believe the potential for growth of Canadian exports is significant. Just as important is the diversity that trade with Asia gives the Canadian economy by lessening our dependence upon U.S. sales.

As an increasingly diverse society, we are in an always improving position to seek out new markets and new relationships around the world. The countries of Asia and the potential of acquiring the benefits that close ties to them provide are testament to some of the advantages inherent within our open and multicultural society. In relation to so many of our western counterparts, we have a comparative advantage in the area of human capital. Our labour force is both technically skilled and culturally sensitive. Decades of continuing immigration has allowed for the Canadian labour force to be comprised of Asian expatriates and their children. Multiculturalism has allowed for much of the immigrants' cultures to survive and flourish after the move.

In closing, I encourage honourable senators and members of the other place to seek outlines of communications and opportunities for trade within their own provinces. For when the issue at hand is a region of such dynamic growth — both political and economic — I believe that to make the most of this opportunity requires unrelenting and sustained efforts.

The result of such efforts would not only be closer ties to the region, which increasingly is setting the pace of global economic change, but it would reduce our dependence on the U.S. market, stimulate the growth of our exports, create jobs and wealth, further promote immigration, and, not least of all, help to reduce government debt.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I would very much like to propose that we adjourn debate on this issue, if the rules permit. I do not wish to prolong the debate. I would not like to take the place of any senator today who would like to participate, but if there are none, I would like to adjourn debate on this issue.

On motion of Senator Prud'homme, debate adjourned.

NATIONAL UNITY

MOTION TO APPOINT SPECIAL COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion as amended of the Honourable Senator Beaudoin, seconded by the Honourable Senator Lynch-Staunton:

That a special committee of the Senate be appointed to examine and report upon the issue of Canadian unity, specifically recognition of Quebec, the amending formula, and the federal spending power in areas of provincial jurisdiction;

That the committee be composed of twelve Senators, three of whom shall constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evdeidence from day to day as may be ordered by the committee;

That the papers and evidence received and taken by the Special Committee of the Senate on Bill C-110, An Act respecting constitutional amendments, during the First Session of the Thirty-fifth Parliament be deemed to have been referred to the committee established pursuant to this motion;

That the committee have power to sit during sittings and adjournments of the Senate;

That the committee submit its final report no later than June 17, 1997; and

That, notwithstanding usual practices, if the Senate is not sitting when the final report of the committee is completed, the committee shall deposit its report with the Clerk of the Senate, and said report shall thereupon be deemed to have been tabled in this Chamber.—*(Honourable Senator Kinsella.)*

Hon. Gérald-A. Beaudoin: Honourable senators, I...

The Hon. the Speaker: Honourable senators, I must advise you that if the Honourable Senator Beaudoin takes the floor now, it will have the effect of closing the debate.

[*English*]

Hon. Richard J. Stanbury: I should like to move the adjournment of the debate.

POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, on a point of order, motions of this nature can only stay on the Order Paper for 15 sitting days. This is the fifteenth day. I find it difficult to appreciate how we can adjourn an item which is bound to fall off the Order Paper according to our rules, or at least, according to my interpretation of the rules. We should either dispose of it now through a vote or just let it go away. I do not know how we can adjourn the debate when an item is bound to leave the Order Paper.

Hon. Philippe Deane Gigantès: Honourable senators, is there any way of allowing the item to remain on the Order Paper for 20 days instead of 15?

Hon. Shirley Maheu: Can we get leave for another day?

The Hon. the Speaker: The Senate can do as it wishes by unanimous consent, of course.

Hon. Gérald-A. Beaudoin: If I may speak on the point of order, I find it strange that a motion can remain on the Order Paper for nearly one year. Of course, many senators have spoken. Senators Rivest, Bolduc, Lavoie-Roux, Bacon, Gigantès and others have spoken to this matter. I cannot see how I cannot move that this motion be put to a vote or that I be allowed to speak on it. I have never in my life seen such a contradiction. Obviously, the right of expression is fundamental in a parliament.

To use a technique in such a way as to preclude the debate on a very fundamental issue in this country for months and months, in my humble opinion, does not make sense at all. It goes against the fundamental rights of every citizen in this country, including

in the Senate of Canada, not to be able to speak on a motion and, finally, to ask for a vote. If people are against this motion, they will vote no. That is all. However, to preclude a senator and a Canadian from his right to address a legislative assembly is beyond any possibility. That is my point of order, Your Honour.

Hon. Peter Bosa: Honourable senators, it seems to me that there is a simple solution to this dilemma. Perhaps I, myself, can say a few words on the subject-matter. Then the honourable senator could adjourn the debate and it would stand in his name and he could start all over again.

Senator Lynch-Staunton: He wants to put an end to it. It has been here for a year. Enough is enough.

Senator Stanbury: Honourable senators, just on the point of order, the matter rests in the name of Honourable Senator Kinsella. I am not sure how long it has rested in his name, but I do not remember it being discussed yesterday.

The opportunity has been there during all of the 15 days for debate to be completed or continued by the other side or by Senator Beaudoin, if he so desired. It is important that there be expressions of views from all sides. Before this matter comes to a vote, it is important that we all have an opportunity to speak on it. I have asked for the opportunity to do so.

Senator Beaudoin: Honourable senators, how can one say that any person here has not had the time or the opportunity to speak after one year? That is not a good argument at all. In my opinion, we cannot deny the right to free expression just on the question of a technicality. This ploy has been used for months and months. I think it should come to an end.

The Hon. the Speaker: There is a dilemma for the Senate because, indeed, the rule is that, unless a motion is proceeded with after 15 days, it falls off the Order Paper. We have a choice. One suggestion was that we unanimously agree to extend that period to 20 days. If there is agreement, it can be done. If there is no will to do that, then unless someone gets up and speaks on the matter, we cannot have an adjournment, and it will fall off the Order Paper.

Hon. Eymard G. Corbin: Honourable senators, on the point of order, I distinctly heard Senator Stanbury get up and state, "I have something to say on this and I shall speak later," or words to that effect. To me, that is part of a speech. He has spoken. Then he moved the adjournment of the debate in his name. The rule does not say you have to speak 1 minute, 15 seconds or the full, allotted time of 15 minutes.

Senator Gigantès: We have done that many times.

Senator Corbin: There are a number of items which have remained on the Order Paper for whole sessions. It is not this side of the house that imposed the 15-sitting-day rule on these matters. We are very much for open debate and for having matters stand. The dilemma facing the house is that we have reached day 15. However, if Senator Stanbury wants to make a contribution to the debate, and he has so indicated, it seems it is his absolute right to adjourn the debate at this time. We ought to acknowledge that right.

• (1900)

Hon. Eric Arthur Berntson: Honourable senators, my honourable colleague is partly right. The fact of the matter is that Senator Stanbury rose to say that he would like to make some comments later, and that he would like to move the adjournment of the debate. However, the question was not put. There has been no adjournment of the debate; nor does adjournment give a senator ownership. Anyone, at any time, can pick up a debate on any motion, no matter in whose name it stands. No formal yielding is required. The senator in whose name it stands is not precluded from speaking at a later date.

This whole idea of ownership of a motion simply because it is standing in your name is false. We have already had a ruling from the Speaker on that point. This item has been standing on the Order Paper for one-half year. There was nothing to prevent anyone, except the mover of the motion, from speaking to it. Six months is a long time.

Senator Corbin: We have been very busy.

Senator Berntson: It is a heck of a long time, when you get over the hump. It is not so long for a younger fellow.

All I am saying is that there has been much opportunity for everyone to put their view on the record as it relates to this particular motion. It is not a frivolous motion. It is one which deserves the attention of this place. I do not know what the will of the house is, but it is not automatic simply because you ask for an adjournment that you get an adjournment. If an adjournment is denied, then debate continues. It is that simple.

[*Translation*]

Hon. Jacques Hébert: Honourable senators, you must not think this issue leaves us unmoved. It certainly does not leave me unmoved. The unity of my country is a daily concern, and I try, to the extent of my limited abilities, to do my part.

However, as regards the motion, I am not sure we are capable of miracles with a committee, even one comprising senators of the calibre —

The Hon. the Speaker: Senator Hébert, are you speaking to the motion or on a point of order?

Senator Hébert: To the motion.

[*English*]

Hon. Marcel Prud'homme: Honourable senators, I am presenting myself on the point of order. If Senator Hébert is speaking on the debate, however, Your Honour must have considered that Senator Stanbury has spoken and that the next speaker is now Senator Hébert. The motion to adjourn the debate has not been put. Logically, if Senator Hébert is speaking to the motion, then the debate is going forward.

I should like to be advised as to what is going on now. Is it a point of order or is the debate going forward? Who had the floor? Was it Senator Beaudoin, as I expected? If he speaks, then it is the last day of debate; not because it is day 15, but because it is his motion. Your Honour was right in saying that if he speaks now, his speech will end the debate.

Senator Stanbury has said that he wants to speak on the motion and he has adjourned it. That is all right. He can do that. However, Senator Hébert is now speaking to the motion. I should like to get some direction from the Chair as to where we are.

Senator Stanbury: Honourable senators, I rise on the point of order.

When I rose earlier, I said, "I have views that I should like to express on this matter. I move the adjournment of the debate." As far as I am aware, that motion is still on the floor of the Senate. I know of no reason why it should not be put.

Senator Lynch-Staunton: Honourable senators, I raised a point of order to the effect that we believe that that adjournment motion is out of order. One cannot adjourn debate on an item which will not return to the Order Paper. An item can remain on the Order Paper for 15 days without being spoken to. The 15-day rule was instituted to limit the time that motions by individual senators could stay on the Order Paper, to force a debate within a reasonable time and to force a decision. There were times, as Senator Corbin doubtless will recall, when motions from individual senators would stay on the Order Paper for months, if not years. This provision was created to avoid cluttering the Order Paper with motions that senators put down and then decided to disregard for one reason or another.

The point of order is that the adjournment motion is out of order because you cannot adjourn debate on an item which will not reappear on the Order Paper at a subsequent time.

I am asking for a ruling, Your Honour.

The Hon. the Speaker: I now have the word from Senator Stanbury that he did, in fact, get up and speak. He said words to the effect, "I wish to speak on this matter." He then said, "I wish to adjourn the debate."

We have precedents where a senator has done exactly that. You do not have to use your 15 minutes. I did not hear Senator Stanbury say it in the initial instance. All I heard was that he wished to adjourn the debate. He tells me now that he did speak and say, "I wish to speak on this subject, but I am not prepared to do it now." In that case, I rule that the adjournment is in order.

Senator Beaudoin: Your Honour, why do we not put this question to a vote? The right to vote is fundamental.

The Hon. the Speaker: It is moved by the Honourable Senator Stanbury, seconded by the Honourable Senator Bacon, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Senator Lynch-Staunton: Is an adjournment motion a debatable motion?

Senator Berntson: It is a votable motion.

The Hon. the Speaker: An adjournment motion is always votable.

Senator Lynch-Staunton: It is votable, but is it debatable?

The Hon. the Speaker: It is votable.

Senator Lynch-Staunton: Your Honour, may I ask for a point of clarification? Do I understand you to accept the adjournment of this debate, knowing full well that the item cannot reappear on the Order Paper? What are we adjourning?

The Hon. the Speaker: The very fact that a few words were spoken is a proceeding. That is the problem that I have. If Senator Stanbury had said, "I move the adjournment of the debate," I would not have considered that as a proceeding.

He did, however, say a few words. The same situation arose the other day with Senator Wood. In that case, she spoke a little longer. She spoke for a period of time and then said, "I wish to adjourn the debate," after which she came back and spoke later.

The point is that Senator Stanbury did say a few words and it is a proceeding.

Senator Kinsella: In the spirit of trying to resolve this matter, it seems to me there are two questions, one of which has been resolved. In fact, I was about to get up to speak on this item when Senator Beaudoin rose to his feet. My understanding is that Senator Beaudoin was looking for two things.

First, he would like to have a time when the matter will be adjudicated; there will be a judgment made. That will not happen today because the Speaker has ruled that the matter can be adjourned.

However, another solution might have been to allow Senator Beaudoin to speak. If there is unanimous consent, it would not have the effect of concluding the debate. Senator Beaudoin, who would like to speak, could put what he has to say on the record because the expectation is, as we have been hearing for the last number of days, that we will not be back here next week.

Senator Lynch-Staunton: Yes, we will.

• (1910)

Senator Kinsella: That is the practical situation. My suggestion is to let Senator Beaudoin make his speech and then to agree unanimously that it will not have the effect of closing the debate.

The Hon. the Speaker: If honourable senators agree, that certainly can be done, and then Senator Stanbury can take the adjournment at that point.

Is it agreed that the Honourable Senator Beaudoin may speak?

Senator Gigantès: No.

The Hon. the Speaker: And that it will not be deemed as closing the debate?

Some Hon. Senators: No.

Senator Prud'homme: On this same point of order, what is happening here, as we all know, is hardball politics. The rules are clear. I had that kind of motion and I let it go for 15 days, and then it died. Because of a motion that seems not to be to the liking of some people, we are now about to establish a very dangerous precedent in the Senate. That may play against the government some day, as well as against the opposition. The rule says that after something of this nature appears 15 times — and I learned this only a year ago — it disappears; it is not there tomorrow. When we look at tomorrow's Order Paper and Notice Paper, it will not be there.

The Hon. the Speaker: That provision regarding 15 days takes effect if no one speaks on a motion. If someone speaks, then it starts again at number one. Senator Stanbury spoke a few words and then moved the adjournment, therefore, it is a proceeding and the matter will appear tomorrow as No. 1. The debate will not disappear. The debate will be there. That is clear.

Senator Prud'homme: Thank you for that clarification.

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

Some Hon. Senators: No.

The Hon. the Speaker: On division?

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "Yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed please say "Nay"?

Some Hon. Senators: Nay.

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

On motion of Senator Stanbury, debate adjourned.

The Senate adjourned until tomorrow at 9 a.m.

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