



Debates of the Senate

1st SESSION

•

36th PARLIAMENT

•

VOLUME 137

•

NUMBER 45

OFFICIAL REPORT
(HANSARD)

Tuesday, March 17, 1998

**THE HONOURABLE GILDAS L. MOLGAT
SPEAKER**

This issue contains the latest listing of Officers of the Senate, the Ministry,
Senators and Members of the Senate and Joint Committees.

CONTENTS

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

OFFICIAL REPORT

CORRECTION

Hon. Anne C. Cools: Honourable senators, I would like to make a correction to the *Debates of the Senate* of October 28, 1997. In my speech found in the debates of that day, at page 256, second column, line 5, a quotation is attributed to Madam Justice Beverly McLaughlin which should have been attributed to Madam Justice Claire L'Heureux-Dubé.

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

Published by the Senate

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

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

THE SENATE

Tuesday, March 17, 1998

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

[English]

Prayers.

•(1420)

NEW SENATORS

At the same time, may I wish each and every one of you the happiest St. Patrick's Day.

When I think of Senator Joan Cook, I cannot help but think of Charlotte Whitton's famous comment:

Whatever she does, a woman must do twice as well as any man to be thought of as just half as good.

Then the former mayor of Ottawa added with characteristic flair:

Luckily, it is not that difficult.

When I think of Joan Cook's consummate energy and enthusiasm, I think of a whole lot of lives wrapped up in one. I think of a woman who has always worked twice as hard as anyone around her, who has been the epitome of always doing a little more than you have been paid to, always giving a little more than you have had to, always trying a little harder than you probably often wanted to, always aiming a little higher than maybe even you had thought possible, and always giving a lot of thanks to God for health, family and friends.

I think of only a few of her busy lives today as we welcome her, a wonderful breath of fresh air to the Senate of Canada. I think of the life of a successful business woman. I think of the astute and committed political activist. I think of the life of a volunteer who never said never to any request for help and support from any facet of her community and her province.

June Callwood once observed that the best word in the English language is "justice." Justice has been the engine of this straight-talking, hard-working Newfoundlander who, through the United Church, helped found Naomi House, a shelter for women in St. John's. The list of her simple, personal commitments to the well-being of those around her is lengthy and a cause for reflection.

Senator Cook served as a member for a national consultation on women and poverty. She was also a volunteer with the Girl Guides of Canada, eventually being recognized as a national life member of the organization. Senator Cook has worked with the Canadian Mental Health Association and is currently a member of the General Hospital's Board of Trustees.

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Joan Cook

Archibald (Archie) Hynd Johnstone

Ross Fitzpatrick

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Joan Cook, of St. John's, Newfoundland, introduced between Hon. B. Alasdair Graham, P.C., and Hon. P. Derek Lewis.

Hon. Archibald (Archie) Hynd Johnstone, of Kensington, Prince Edward Island, introduced between Hon. B. Alasdair Graham, P.C. and Hon. Catherine S. Callbeck.

Hon. Ross Fitzpatrick, of Kelowna, British Columbia, introduced between Hon. B. Alasdair Graham, P.C., and Hon. Raymond J. Perrault, P.C.

The Hon. the Speaker informed the Senate that each of the honourable senators named above had made the subscribed declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

[Translation]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am delighted to wish all francophones in Canada a fine Semaine mondiale de la Francophonie.

Senator Cook has been a shining light of friendship and compassion, relieving the fear, attending to the needs of the homeless and the young, never fearing to dive in where the need is greatest. No task has been too great, no contribution has been too much. She has given little people the inspiration to stand up straight and tall with pride in their own humanity and with the conviction that no man and no woman was better than any other. Now to me, that is real leadership.

However, like all leaders, we may anticipate Senator Cook has her faults. Probably her greatest is her honesty and plain talk. Harry Truman once said, "I don't give them hell: I just tell the truth, and they think it is hell."

Honourable senators, prepare for the broadsides, because with Senator Joan Cook on board we can expect lots of truth and a whole lot of the other stuff along with it.

Hon. Senators: Hear, hear!

Senator Graham: Honourable senators, when I think of lovely Prince Edward Island, I think of the gentle province where the Fathers of Confederation negotiated the terms of union and conceived the great national dream. I think of communities and traditions and lifestyles which have been passed on from generation to generation, communities which in many ways are the glue of our national identity, communities where the values which anchor our country have been renewed across the decades.

Senator Archibald Johnstone was born and raised in communities such as these, where the famous Island spirit of self-reliance and responsibility to others was nurtured and where people understood the value of cooperation in good times and in bad. I stress the word "cooperation." Islanders have always been renowned for this, not because they expect something in return but because they know that cooperation is essential to success at all levels.

Senator Johnstone has enjoyed great success in many areas. His business endeavours have borne much fruit. So, too, has his very deep involvement with Island organizations related to agriculture and tourism to which he has lent much of his time. He has served as president of the Prince Edward Island Federation of Agriculture, as an executive member of the Canadian Federation of Agriculture, to speak of only a few of his personal efforts with regard to the interests of his home province.

In all these efforts, he has shown the generous Island spirit of cooperation and responsibility — responsibility for a future which is shaped around lifestyles which are good and profitable at the same time; a future shaped around the communities Islanders hold dear and the family values they know to be the real anchor of our Canadian identity.

I am proud to welcome to this place the Island spirit in the person of Archie Johnstone. Honourable senators may recall that his beautiful Island, so central to the foundation of our nation, was also renowned for having the highest per capita enlistment of any place in Canada during World War II, along with the highest casualty rate as well. Senator Johnstone was very much part of

that remarkable contribution to freedom, serving as a crew member with the Royal Air Force Heavy Bomber Squadron based in England.

All of us, at one time, have probably reflected on Sir Winston Churchill's famous tribute to the courage and skill of British airmen: "Never in the field of human conflict was so much owed by so many to so few." Today we see those words as a fitting tribute as well to all those Canadians, such as Archie Johnstone, who served in dangerous times to liberate Europe in its darkest hours.

Senator Johnstone, we are privileged to have you join us in this chamber.

Hon. Senators: Hear, hear!

•(1430)

Senator Graham: Honourable senators, perhaps it is more than coincidental that on St. Patrick's Day we should introduce officially to the Senate chamber a person with such deep roots in County Cork, the Honourable Ross Fitzpatrick.

Senator Fitzpatrick, on every opportunity I have had to visit your wonderful province, I have had a chance to think a little about the expanse of this great country from the perspective of the aerial traveller. I have thought about the long distance that separates my home province from yours, and the fact that the journey, if we project from Senator Cook's home in St. John's to Vancouver, is comparable. If we relate eastward extension to westward extension, it is the equivalent of spanning the Atlantic, plus the entire width of Europe.

I have thought of the ideals, values and symbols which unite our tolerant, freedom-loving people across 3.8 million square miles of a crowded planet. I have thought of the aerial topography of Canada: water, lakes, ice, the Laurentian Shield, the Prairies and then the reality of British Columbia, from its granite alpine peaks to its spectacular rivers, the wonderful coastline of dense rain forests and glacier mountains — the kinds of mountains not only loved by British Columbians but also worshipped by British Columbians and envied by all other Canadians.

Ross Fitzpatrick has become a symbol of the tremendous dynamism, energy and vigour which is all a part of the legendary British Columbia story. He has achieved well and succeeded well, and probably been a model of John Fitzgerald Kennedy's famous remark that once you say you are going to settle for second, then that is what happens to you in life.

Senator Fitzpatrick never settled for second. He built innovative and visionary businesses in fields as diverse as aerospace, energy and mining, gas production and wineries. These were all wrapped up in enormous personal drive and big dreams, and the huge sense of adventure which drove so many remarkable Canadians in that magnificent province. Senator Fitzpatrick has opened up big mining projects, and at the same time he has earned much environmental acclaim.

Viceroy Resources Corporation, which he founded in 1984, has won no fewer than six environmental awards, including *The Financial Post's* 1992 Environmental Award for Business, and the 1993 Environmental Award from the Prospectors and Developers Association of Canada.

Honourable senators, Senator Fitzpatrick has always believed that you give back to your province, your region and your community what it has given to you. He has a fine record of community service in British Columbia. He is a past member of the board of governors of the Vancouver Art Gallery and a member of British Columbia Government House Foundation. He has generously supported the Kelowna General Hospital Foundation, the Canadian Cancer Society and the University of British Columbia.

Senator Fitzpatrick, we welcome you to this place. In the service of Canada and this chamber, I know that you will never settle for second.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in joining Senator Graham in welcoming our new colleagues, I trust that they will not be distracted by the negative reaction which inevitably follows each summons to this place. The same shrill voices which raise the same sentiments over and over again, I want to assure them, are for the most part echoes of ignorance rather than reflections of reality.

Much of the criticism directed this way, our way, arises from the fact that senators are appointed. By itself, this is an anomaly which is distasteful to many, even in this very place. To condemn the appointed Senate simply because it is appointed may allow for a colourful verbiage but it obscures some of the basic realities of this place.

Our new colleagues will soon find that the wide knowledge, experience and background of their colleagues compare more than favourably with those found in any elected legislature in this country, including the House of Commons. Our new colleagues will soon find that the scrutiny of legislation is done here in a far more careful and less partisan way than in the House of Commons. Even some of our most voluble critics admit that Senate's role in correcting bills, warning of flaws in them, even raising their constitutionality on occasion, are an essential contribution to the legislative process. Recognition of the valuable role played by the Legal and Constitutional Affairs Committee in its current study of Bill C-220 is only the latest example of this.

Our new colleagues will find that special committee studies and reports result in valuable evaluations and recommendations on very important topics, some of which, such as euthanasia and assisted suicide, the House of Commons refuses to consider because it does not have the political will to look into certain items of sensitive and controversial nature.

I have no doubt that it will not be too long before Senators Cook, Johnstone and Fitzpatrick not only recognize these and the

many other positive features of the Senate but also make their own special contributions to them. My colleagues on this side and I wish them well as they assume their new responsibilities.

Hon. Raymond J. Perrault: Honourable senators, the Leader of the Government has appropriately pointed out that there could be no better timing for the appointment to the Senate of a Canadian of Irish descent than on St. Patrick's Day. As they say, it may be the luck of the Irish that the dates coincide. In any case, it is a wonderful event for Canada that Senator Fitzpatrick has now assumed his seat in this place.

As well, the appointments of Senators Johnstone and Cook are outstanding, and they will serve to reinforce the effective work the Senate does.

Ross Fitzpatrick is a friend of many British Columbians. He was born in Kelowna. He attained his Bachelor of Commerce and Business Administration degrees at the University of British Columbia. He completed his degree studies at the University of Maryland and Columbia University in the United States. He is married to Linda Fitzpatrick and they have two children, James Gordon and Lesley Ann, who are with us today. They are talented people in their own right.

During Ross's long and successful career, he has been active in resource development, including oil and gas exploration and mining. He has been the founder, co-chairman and chief executive officer of a number of resource development corporations operating not only in Canada and the United States but also offshore. His other interests and involvements have included real estate and the building of trucks in the interior of the province of British Columbia. He brings to the Senate many talents which will be very useful in the work done by the Senate and its committees.

In recent years, Ross has added another industry to his list of activities. He is proprietor of a well-known estate winery in British Columbia. I am in a position to testify that the product of this enterprise is absolutely superb. We hope that part of the marketing strategy will be the holding of sampling sessions in various parts of the country, including here. It is a great product.

In addition to this extensive list of endeavours, Ross has found time to involve himself deeply in community affairs and public interest activities, some of them noted by the Leader of the Opposition, including higher education, the arts and politics. Early in his career, Ross was an executive assistant to a member of the federal cabinet and developed an interest in politics at that time.

•(1440)

For me, it is a great pleasure and honour to welcome Ross Fitzpatrick, a good Canadian, a good friend and a good British Columbian, to the Senate today. I predict that he will make a significant contribution to this place and thereby to all of Canada.

Hon. P. Derek Lewis: Honourable senators, I would also like to congratulate and welcome to this chamber our three new members, Senator Johnstone, Senator Fitzpatrick, and Senator Cook. Specifically, I wish to say a few words about the new senator from my province of Newfoundland.

Senator Cook has her origins in a small fishing community on the south coast of the province. As such, she has a personal knowledge of the problems and conditions of life in such areas outside the larger centres. Although Senator Cook left her community many years ago to take work in St. John's, she never cut her ties and has remained in tune with life in coastal Newfoundland. Through her work as an assistant in various business endeavours, Senator Cook has gained a vast knowledge of the community and commercial life of the province, in addition to which she has been a tireless volunteer worker for her church and its organizations. She has given many years of service to various charitable groups and, in particular, to the Girl Guides Association, by which she has been appropriately honoured.

I cannot omit to mention Senator Cook's contribution to the political field. I have been aware, from personal knowledge and experience going back over 30 years, of the tremendous organizational work she carried out for her political party in all aspects of organization, at the constituency as well as provincial and federal levels. Senator Cook did not stint herself and has always been available to carry out such work, even during the dark days when her party was out of office. I imagine there are quite a few members in this chamber who have experienced that situation. In fact, she was one of those who helped maintain her party during such trying times.

I can assure senators that Senator Cook is a worthwhile addition to this chamber, and I look forward to a great contribution from her in our work.

Hon. Catherine Callbeck: Honourable senators, I am pleased and honoured today to welcome three new senators to this house: Ross Fitzpatrick from British Columbia, Joan Cook from Newfoundland, and of course Archie Johnstone from my native province of Prince Edward Island. I am sure that they will demonstrate in this chamber the same vigour, intelligence, and commitment that has distinguished them in their respective communities.

I would like to extend a special greeting to Senator Johnstone, whom I have known and respected for many years. Senator Graham has spoken at length about his accomplishments and achievements, and there have been many. He has also pointed out that Senator Johnstone has been extremely active in the affairs of the province and the country. He has received many awards, over 20 in fact, including a certificate of appreciation from the Royal Canadian Legion, a distinguished service award from the Canadian Red Cross, and an award of merit from the P.E.I. Association of Community Schools. He has been and still is active in over 30 organizations. They include the Travel Industry Association of Prince Edward Island, the College of Piping and

Celtic Performing Arts of Canada, and the Board of Governors of the University of Prince Edward Island.

Honourable senators, it is very evident that he is an exceptional person with great vision and will be a significant asset to the Senate of Canada. Just last Friday night, I attended a function held to honour his appointment to the Senate. It was sponsored by his hometown of Kensington, the Tourism Association, and the Chamber of Commerce. At that event, several people spoke of his valuable contribution to the area, both on a personal and professional level. That, honourable senators, demonstrates the high regard that Islanders have for Archie Johnstone.

I am very pleased today to stand in this house to welcome this fellow Islander to the Senate of Canada, and I am pleased that his wife, Elicia, and two of his four children are in the gallery today, along with some of his other friends. Congratulations, Senator Johnstone.

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to a distinguished group of visitors in our gallery. I wish to draw your attention to a parliamentary delegation from Mongolia in the centre gallery. They are led by his Excellency Dr. Radnaaumberel Gonchigdorj, the Chairman of the State Hural of Mongolia, and they are accompanied by Mongolia's Ambassador to Canada, His Excellency Jalbuugiin Choinkhor.

Honourable senators, I would also draw your attention to another group of visitors in our gallery. It is the Royal Canadian Army Cadet Corp No. 1888 from the province of Ontario, and they are accompanied by their Commanding Officer, Captain Gary Bonnell. I wish to point out that I was informed of their visit by Honourable Senator Kelly.

THE LATE GABRIELLE LÉGER

TRIBUTES

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, with the death of Gabrielle Léger, the wife of our former Governor General, on March 10, Canada lost one of its most distinguished citizens.

When Gabrielle Carmel met a young French Canadian through friends in Paris in 1937 for an evening of dinner and theatre, she was a little apprehensive about the blind date. The young lawyer, a graduate of the University of Montreal, was earning his doctorate in letters at the Sorbonne. No doubt they were both proud to trace their respective ancestries through generations of Quebec country people. No doubt he spoke to her of his brother Paul-Emile, who was then studying for the priesthood, and the back country village of Saint-Anicet where he was raised. As the famous line about first love would have it, they gave each other a smile with the future in it.

Gabrielle married Jules Léger a year later. The Légers moved to Ottawa shortly thereafter, where he took a job as a radio reporter, a lecturer in diplomatic history, and finally, as the international situation deteriorated, as an associate editor of *Le Droit*, where he became renowned for his fervent denunciations of fascism.

He went on to become one of Canada's most admired and distinguished diplomats — a genius in the art of mediation and compromise, someone from whom ideas sprang off his imagination like sparks off flint. As Gaby and Jules moved from Chile to London, to Paris and to Mexico, and as Under-Secretary of State in Ottawa, as Ambassador and permanent representative to the NATO council, the Légers moved through some of the great historic events in our time.

In his extraordinary career, whether it was as part of the wonderful team around Lester Pearson which resolved the Suez crisis or his dramatic efforts to achieve calmer waters in Canada's stormy, difficult relations with Charles de Gaulle during the sixties, Gaby worked by his side. They were real partners. This was real teamwork. In doing so, the hundreds of tiny threads which bound them together developed a special alchemy of their own.

•(1450)

In fact, this was a love story which can only be called a masterpiece — a union of great talent, intelligence and devotion; a union of great humanism and love of the world; a masterpiece exemplifying all that is magnanimous and noble about the human spirit; a story to be treasured by Canadians for all time.

When Jules Léger suffered a stroke within six months of his appointment as Governor General of Canada in 1974, Gaby — a tiny woman whose enormous smile made one forget the long years spent in the corridors of power; whose verve and warmth made one forget the depth of her knowledge of literature, architecture, fine cuisine and history — devoted herself to her husband in most remarkable ways. She helped him to learn to speak and walk again; she read the New Year's message in 1975 on behalf of the Governor General, and she became the first woman to read certain passages from the Speech from the Throne, along with her husband, in 1976.

On leaving the Governor General's residence in 1978, she confessed her fear of retirement, telling a journalist at the time that all she might have to do would be to make her bed and scrub the bathtub. Such domestic obligations were not to be hers, however, as history would strike out a new, fascinating phase in the distinguished life of Gabrielle Léger.

That same year, the Heritage Canada Foundation created an award in her honour which is still the principal honour in the heritage field. In 1979, she was named Chancellor of the University of Ottawa. When the Jules and Paul-Emile Léger Foundation was created by a special act of the Canadian Parliament in 1981, Madam Léger was named its co-president

with Paul-Emile Cardinal Léger, one of the country's best loved heroes. As Archbishop of Montreal, he had surprised and indeed fascinated the Catholic church and the country at large when in 1968 he resigned his post as head of the diocese, and became a missionary among the lepers in Cameroon. I heard firsthand how Cardinal Léger was revered in Cameroon when, during an election-observing mission to that country in 1992, I visited the centre he had established.

Under the auspices of the foundation, Gaby Léger would follow the heroic work of the cardinal, travelling to 27 countries, helping abandoned children and lepers.

[*Translation*]

Honourable senators, I pay tribute to Gabrielle Léger, a slip of a woman with a great big heart, who served her country so well.

[*English*]

I pay tribute to a love story which will always be one of the most beautiful chapters in the history of our country that Jules and Gaby Léger revered and served so well over the decades.

[*Translation*]

Hon. Gérard-A. Beaudouin: Honourable senators, I wish to pay tribute to Gabrielle Léger, the widow of the former Governor General of Canada, His Excellency, the Right Honourable Jules Léger. Mrs. Léger died last Tuesday at the age of 81.

Born in Montreal in 1916, she studied in Paris and married Jules Léger in 1938. He, as we know, had a remarkable career as a diplomat before becoming Governor General of Canada.

Mrs. Léger has left us fond memories. She chaired the Jules and Paul-Émile Léger Foundation. This foundation was created by special legislation by Parliament in 1981, and operates in Canada and the third world. In Canada, the foundation helps women who are victims of violence, the homeless, young people and seniors in difficulty. In the third world, the foundation is active in 28 countries and allocates its resources to international development, emergency aid, abandoned children, health and lepers.

Mrs. Léger, a Companion of the Order of Canada, admirably seconded her husband, who, it will be remembered, suffered a stroke only a few months after his installation as Governor General of Canada. She helped read the Throne Speech.

In 1978, the Heritage Canada Foundation created the Gabrielle Léger award. It became the most prestigious award for the protection of Canadian heritage.

In 1979, the Government of Canada instituted the Jules and Gabrielle Léger bursary for research and publication on the function and contribution of the Crown and its representatives in Canada.

Mrs. Léger was the Chancellor of the University of Ottawa from 1979 to 1985. As dean and law professor at that institution, I had the opportunity to see her at work in a university setting, where she performed her duties admirably.

Canada has just lost a great lady. I wish to express my deepest sympathies to her sister, Berthe Dupuis, her three grandchildren, Paul, Diane and Marie Fréchette, and her two nieces, Aline Dupuis Aumais and Louise Dupuis.

[English]

SENATORS' STATEMENTS

INTERNATIONAL WOMEN'S DAY

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, as many of you know, March 8 was International Women's Day, which marked the beginning of International Women's Week celebrated during the week of March 8-14. International Women's Week allows Canadians to celebrate women's achievements and to face with renewed energy the task of creating full equality for all women, a task which should be met head on at all opportunities.

The theme for this year's International Women's Week was "The Celebration of Women's Rights — A Lifelong Commitment." This theme was chosen to coincide with the fiftieth anniversary of the Universal Declaration of Human Rights on December 10 of this year, and it highlights the importance of women's human rights while underscoring the future commitment needed in the advancement of women's equality.

Canada has been a leader, both internationally and at home, in the advancement of women. From our support of the Convention on the Elimination of All Forms of Discrimination Against Women, to our proposed reaffirmation of rape as a war crime that was accepted in the Beijing Platform for Action at the Fourth United Nations World Conference on Women in September 1995, and to our leadership in rallying countries to join in the global ban on the use of land-mines, we have made an international impact.

At home, Canadian women have made significant progress towards economic equality. The wage gap between women and men working full-time has narrowed. In 1982, the average woman earned only 53 per cent of the amount earned by the average man. By 1993, this figure had risen to 72 per cent.

Women have also moved quickly into entrepreneurship, starting their own businesses at three times the rate of men, and with a higher success rate. About 25 per cent of all Canadian business owners are now women.

Although much remains to be done to achieve full equality, the voices of women are being heard. Today more than ever, women are taking leading roles in business and government, and no more so than in this chamber where we are now 29 per cent of its participants. The evidence suggests that the perspective women bring forth as leaders is making society work better for all Canadians.

CANADIAN FLAG

RULING OF HOUSE OF COMMONS SPEAKER
ON REFORM PARTY INITIATIVE

Hon. Marjory LeBreton: Honourable senators, during the past few weeks we have been witness to what is termed the "flag flap," the spectacle of the flag being used as a prop or a foil for what clearly is cover for a very divisive and dangerous agenda.

•(1500)

I was privileged to be here working on Parliament Hill in the mid-1960s during the great flag debate. Opinions were strongly expressed, emotions were genuinely felt, and, yes, at times there was overblown rhetoric on both sides of the debate. Having said that, I stood on the Hill on that February day in 1965 and watched the new Canadian flag being unfurled. Since that time, I believe the vast majority of Canadians have felt a deep sense of pride when they have seen the easily recognized, distinctive flag celebrated around the world — whether it is watching Jacques Villeneuve standing at the centre podium after a Formula 1 race, or Catriona LeMay-Doan, Annie Perreault or Donovan Bailey celebrating their Olympic gold medals, or as a friendly welcome to Canadians travelling abroad, at Canadian embassies and consulates, or, most of all, celebrating the contributions of members of our armed forces as they serve all over the world.

Make no mistake, honourable senators, about what we are witnessing in the other place. It is not what the official opposition would have us believe. Oh, yes, they will deny their motives, aided by the tabloid-style media and the talk shows, who whip everyone into a frenzy of misinformation, confrontation and mistrust, but you know and I know about their divisive tactics. We have seen all this before — in the 1995 referendum campaign and, indeed, even in the last election campaign.

What we have here, honourable senators, is the Leader of the Opposition and his disciples hitting a hot button or trying to catch one of their famous waves. Their words are clearly code words to cover their real agenda. Why, we even have the Leader of the Opposition, Mr. Manning, saying publicly on television, "We are on the side of the angels." Where does that put the rest of us, who love this country, respect our institutions and honour our flag?

One of their arguments in support of this folly is that they favour freedom of expression. What hypocrisy. While I personally disagree with the position of my friend Suzanne Tremblay, I ask: What about her right to freedom of expression?

The tactics of the Reform Party as the Official Opposition are reprehensible. From the stereotypical racist stunt that they pulled at the door of the Senate, dancing around in sombreros and serving burritos, to this latest episode, their tactics speak volumes about their *modus operandi*. This country urgently needs people who respect each other, who will reach out to each other and make an effort to strengthen our great country from coast to coast to coast.

I support the decision of the Speaker in the other place. Just picture what would happen — Canadian and provincial flags, perhaps both, sitting on desks, thrown and waved about. It would turn Parliament into the carnival the Reform Party has attempted, with some success, to make of the place.

Shame on them, and double shame on them for trying to paint anyone who disagrees with them as unpatriotic or unCanadian.

Hon. Senators: Hear, hear!

PARALYMPIC WINTER GAMES

PARTICIPATION OF CANADIAN ATHLETES
IN 1998 GAMES AT NAGANO, JAPAN

Hon. Joyce Fairbairn: Honourable senators, I should like to take a moment today to congratulate all of the Canadian athletes who represented our country with such distinction at the Paralympic Games which concluded in Nagano, Japan, last weekend.

Often in the course of our work, we have very interesting opportunities, and for me one of the most special was representing the Canadian government in support of our team in Nagano. Canada had 32 splendid ambassadors in those games who skied the same daunting alpine slopes and challenging cross-country courses, and who battled in the same hockey arena as the Olympic athletes who preceded them. They had the same skills, courage, determination and heart — and the same weather conditions — but the Paralympians had an extra challenge. Their challenge was to do it all, sometimes on one ski because of having only one leg, or with one pontoon because of the lack of an arm, or on sit-skis because of the lack of use of both legs or double amputations, or with a guide because of varying degrees of blindness, or, as with the hockey team, all on sledges, providing faster, more exciting games than we often see in the NHL. In these Paralympics there were also participants in cross-country skiing events who had intellectual disabilities.

Honourable senators, never did the spirit of the Olympic flame shine as steady and as bright as it did in these games. These individuals gloried in competing to the outer limits of their abilities, and sell-out crowds cheered them on at every venue. They cheered each other on, with enthusiasm and laughter — and, yes, with flags — and they consoled each other over the rough spots. This was sport at its best, but, unfortunately, you did not see or hear much about it. It was not the stuff of the newspaper headlines or magazine spreads which accompanied the Olympics, and yet, there could not be more important role

models for Canadian children, or adults, whether able-bodied or disabled.

There will be a chance to see the highlights in a two-hour special to be broadcast by the CBC on March 28. As we watch these men and women demonstrate their abilities, we cannot help but ask ourselves to pull up our own socks and try to do as well.

In the end, this was the most successful Paralympic games ever for Canada. There were 15 medals — one gold, nine silver, including one in hockey, and five bronze — the same total as for the Canadian Olympians. The Paralympics were not just about medals. Every participant was a winner and spread a tremendous image of Canada among the other nations competing, as well as among the tens of thousands of Japanese who offered their support with enthusiasm and great courtesy.

This is a story, honourable senators, which must be told across this country. We in this house have the opportunity to do so in all of the communities we represent. I hope we will.

UNEMPLOYMENT IN RURAL CANADA

Hon. Gerry St. Germain: Honourable senators, I, too, would like to take a quick opportunity to welcome the new senators, especially our new colleague from British Columbia. I hope your first name, Ross, can influence the boss.

Honourable senators, I wish to bring to your attention today the growing problem of unemployment in rural Canada. While unemployment in urban centres in Canada remains a concern, it is rural Canadians who are feeling the most pain and who have been abandoned, I believe, by this government. A prime example of this is the growing trend in my home province of British Columbia. Last week, Statistics Canada released unemployment figures which showed a small drop in the national level of unemployment. Unfortunately, British Columbia was the only province in Canada which had an increase in unemployment, from 9.3 to 9.7 per cent.

Honourable senators, these numbers do not show the true reality in the province's unemployment picture. While unemployment rates in urban centres such as Vancouver and Victoria have not been significantly affected and are consistent with the national level of 8.6 per cent, it is in rural B.C. that the level of unemployment has sky-rocketed. Unemployment levels have risen to 11 per cent on Vancouver Island, 12.8 per cent in the Kootenays, and 13.6 per cent in the Cariboo. In some smaller towns in rural B.C., the unemployment levels are nearing 35 and 40 per cent.

In an article in *The Vancouver Sun*, Lori Culbert reports that in Gold River, a small town on Vancouver Island, the local pulp mill has closed, pushing unemployment levels in the town of 2,000 to nearly 50 per cent. I am sure all senators are aware of the recent MacMillan Bloedel announcement that they are cutting 1,300 jobs in B.C. in such towns as Powell River, Nanaimo and Port Alberni. This is in addition to closings and reductions in mills in other places, such as Williams Lake, 100 Mile House and Cranbrook.

As it is in most parts of rural Canada, the economy of rural British Columbia is linked to its resource sector. Industries such as agriculture, mining, fisheries, and, most important, forestry are the backbone of the B.C. economy.

What has this government been doing to help relieve unemployment in rural British Columbia in these sectors? In the fishing industry, they gave us the Mifflin Plan, with lay-offs in the province's fishing fleet turning coastal communities into ghost towns.

For agriculture, they failed to come to our assistance when we had excessive rainfall in 1997, and they eliminated the transportation subsidy, affecting the viability of the British Columbia northwest transportation corridor and its ability to export all Western Canadian resources and products.

For mining, the government, when first elected, promised to work with the province to clear up aboriginal land claims and eliminate delays and uncertainties in the mining industry. This has not been done.

•(1510)

In relation to the forestry industry, this government signed the Canada-United States Softwood Lumber Agreement, which all analysts agree has devastated the industry in British Columbia and has led to record levels of unemployment. I have risen in this place on numerous occasions to question the government on this issue. On the Canada-United States Softwood Lumber Agreement alone, I have risen almost a dozen times without receiving what I believe are concrete answers on what the government plans to do to address this problem. Meanwhile, Canada's softwood lumber market share is going to Russia, Chile and Sweden, to name a few. These countries are basically stealing our markets.

The most horrific aspect, honourable senators, is that the United States now controls our resources as a result of this agreement. I have spent most of my life living and working in rural Canada, and I am afraid that future generations will not be able to experience the lifestyle that we now have because I do not believe the government is focusing on the unique problems facing rural Canada.

Honourable senators, when will this government listen to the concerns of rural Canada and address the critical issue of rural unemployment? Does this government plan to destroy this rural way of life? I hope not.

ST. PATRICK'S DAY

FELICITATIONS

Hon. Eugene Whelan: Honourable senators, I rise in the house on this St. Patrick's Day to pay tribute to the Irish people of Canada, and of the world.

My Grandfather Whelan came to New York in 1846, and proceeded to the town of Amherstburg, then called Fort Malden, in 1851. He was a Whelan who recognized early on the value and importance of settling in Canada. He came to Ontario to marry a girl by the name of Murphy, who was already married to a man by the name of Kelly. When we review Irish history, we find it one of tragedy and happiness, and one which has made great contributions to the world.

One of the greatest tragedies that ever happened in Ireland was the potato famine. It was at that time that there was a mass migration of Irish people to Canada. Some historians refer to what took place at that time as an act of genocide. The British Prime Minister at that time, Robert Peel, sent a delegation to Ireland to find out what they should do; the delegation recommended that food be sent. Parliament voted against the Prime Minister in that respect, and he resigned because he disapproved of what was happening there in Ireland.

We can see in our own country the results of this tragedy. Many thousands of those people died, and were buried in Canada. Some never made it to Canada; they were thrown overboard in the Atlantic on the way here. We can visit Partridge Island in New Brunswick, or Grosse-Île in the St. Lawrence, not far from Quebec City, where the quarantine station was, and see there the graves of over 12,000 Irish people.

Honourable colleagues, during my tenure as Minister of Agriculture for Canada, the department had a quarantine station on Grosse-Île for exotic animals which was near that cemetery. The Auditor General once gave me heck for spending money from the departmental funds to take care of the cemetery, which was in a very bad state of repair. I remember that we repaired markers, and cut the grass. That station now falls under the responsibility of the Minister for Canadian Heritage, the Honourable Sheila Copps. It has now been officially declared a heritage site, something that should have happened a long time ago, given the contribution that Irish people made.

In fact, the contribution that the people of Irish origin have made in building this country is significant, whether it be in industry, in the lumber business, the fishery business or in politics. It must mean the luck of the Irish for our three new senators to come to this chamber on such an important day as St. Patrick's Day.

St. Patrick was born in Britain, of Roman stock, around 389 AD. As a youth, he was kidnapped. I cannot imagine Irish people being kidnapers of anyone, but in any event they kidnapped him and carried him off to Ireland. He escaped six years later and fled to Gaul.

After 15 years or so in monastic life, St. Patrick returned to Ireland to christianize the land of his captors. They welcomed him when he came back. He confronted King Laoghaire at Tara, confounded the druids, and converted the king's daughters. He is said to have driven all the snakes from Ireland. The shamrock, which he used to explain the trinity because of its three leaves, is associated with this day.

As the new senator from Prince Edward Island may know, one of the Fathers of Confederation was the Honourable Edward Whelan. I do not know if he was related to me or not, but my family can claim a little bit of that heritage also.

Just to conclude my remarks, I want to say something about leprechauns. Some senators on the other side of this chamber may wonder how I ever got elected, looking as I do. I want to tell honourable senators that in the first election that I won, in 1962, to come to the House of Commons as a member, the leprechauns got into the ballot boxes and changed enough "X"s so that I would win the election.

Honourable senators, the Whelans are still making a contribution. If you check the history of this country, you will find out one Whelan was elected in 1962, another was elected in 1993 — our daughter Susan Whelan, and then a senator was appointed to this house in 1996 by the name of Eugene Whelan — the same one who was elected to the House of Commons in 1962! Therefore, as I say, the Whelans are still making a contribution, as are many other Irish people, not only in this country but in the whole world, whether that contribution was to democracy or to the wealth of other people.

Honourable senators, I end my remarks by saying: May the Little People be kind to you.

[Translation]

CANADIAN FLAG

RULING OF HOUSE OF COMMONS SPEAKER
ON REFORM PARTY INITIATIVE

Hon. Marcel Prud'homme: I wish to associate myself with my good friend Senator LeBreton has said concerning the recent events surrounding the flag.

[English]

I wish to be very clear: Shame and double shame, as Senator LeBreton said, on the Reform Party, for tampering with the most sacred of Canadian symbols: the national anthem and the Canadian flag.

French Canadians never needed the help of the Reform Party in order to honour the Canadian flag. Almost 25 years ago, Alexandre Cyr, member of Parliament for Gaspé, made a motion in the House of Commons that the flag be on show in that chamber. Senators Stollery and Whelan were members of that house at that time. Believe it or not, that motion received unanimous consent, on February 14, 1973. The Speaker was somewhat embarrassed; he could not believe that he had unanimous agreement. He asked: "Is it really agreed? Really, there is unanimous consent?"

I was with Lester B. Pearson in Winnipeg in 1964 when he first spoke about a Canadian flag. I voted for a Canadian flag.

Must I have a flag on my desk to show respect for the Canadian flag? Wherever I stand, stands the flag of Canada. I am proud of this country.

What the Reform Party is doing is le triomphalisme dangereux. To sing *O Canada!*, I disagree with that. Do members of the House of Commons in the United Kingdom sing *God Save the Queen* every week to show their respect for their royal anthem?

•(1520)

That was on February 14, 1973. The next day, the Speaker drew the attention of honourable members to the fact the Canadian flag was being displayed in the chamber for the first time. That was 25 years ago.

That is the way to respect the symbol. Do not put it everywhere. It is almost like a clarion parade that they want. I think Mr. Charest was right. He said if you push too much, it could be disastrous for everyone. Now everyone who disagrees with Canada will know what to do with the Canadian flag. I disagree with that.

I repeat the same words of my friend Senator LeBreton — shame and double shame. I was so angry last night. I tried to get a line, all night, to Pamela Wallin. She is a great personage, no doubt, but she seems not to know that there are flags in the House of Commons. It seems most of these journalists have not noticed that there are two immense Canadian flags, opened up so that we can see them better. Before, they stood draped as this one right here. That is the way to show our respect, not to over do it. Otherwise you wonder what is going on.

Last night Pamela Wallin interviewed Mr. Fotheringham. I could not believe what I heard from such a fine gentlemen. Today I say, if anyone has a contact, put us on. I will go any time, anywhere in Canada, on any hot line on this issue because I feel strongly about it. I was in the scrum yesterday and I will be there tonight to boo when they vote. I know about the Conservatives. I know about the NDP and, of course, the Bloc I discard. I hope the Liberals will not vote for that resolution tonight in the House of Commons to really show that these people are playing with our symbols in Canada at the risk of further destroying this country.

EUTHANASIA

DISMISSAL OF MURDER CHARGE AGAINST
DR. NANCY MORRISON IN HALIFAX, NOVA SCOTIA

Hon. Donald H. Oliver: Honourable senators, on Friday, February 27, 1998, Judge Hughes Randall of the Halifax Provincial Court dismissed the case of Dr. Nancy Morrison stating that he did not believe that a jury properly instructed would convict her of first degree murder or any crime in relation to the death of Paul Mills on November 10, 1996.

From the outset, this case has been surrounded by controversy. Mr. Mills was terminally ill. He had already been given the last rites and was suffering intense pain. Yet on May 6, 1997, 60 police officers raided the Health Sciences Centre at Queen Elizabeth Hospital in Halifax and arrested Dr. Morrison — more police than were sent to arrest Paul Bernardo.

Clearly this was overkill and an overreaction on the part of the police. The resulting publicity, allegations, and the charge of first-degree murder convicted Dr. Morrison in the court of public opinion long before her case was heard by Judge Randall. Yet Dr. Morrison must still await a decision from the same Crown prosecutor and police to see if they will continue to prosecute her by way of a preferred indictment, which would, in effect, set aside the judge's ruling and send Dr. Morrison to trial on a charge of the Crown's choosing.

By all accounts, Dr. Morrison is an excellent, caring individual and physician. Her career has in effect been ruined. A victim of an abusive process, she has had to resign her intensive care privileges at the hospital. Even though Judge Randall has dismissed her case, she is still under review by the College of Physicians and Surgeons in Nova Scotia and the Queen Elizabeth Hospital. Our legal system has failed Dr. Morrison.

Jocelyn Downie, the director of Dalhousie University's Health Law Institute, summed up the dilemma that Dr. Morrison and other physicians face daily when she said in the daily news:

The dismissal leaves a somewhat confusing message. There is a strictly worded provision in the Criminal Code, yet there are instances when it doesn't seem to count. We are left with no clear guidelines. There is a possibility left that law is different in reality than in the book. This is a struggle...it raises questions about when you can be charged, what you can be charged for, if the charges will change or the charges can simply be dismissed. It is most unsettling. Right now, it's like reading tea leaves.

Our esteemed colleague Honourable Senator Dr. Keon has indicated that we need clear legislation and guidelines for the medical profession and patients. Surely we cannot ignore his request. How many other doctors must be subjected to what Dr. Morrison has endured? How many other careers must be ruined before action is taken?

Judge Randall's decision has left a number of moral issues unanswered and they ought to be considered by a chamber such as this. Where is the dividing line between easing a patient's final agony and inducing death? Whom did Dr. Morrison hurt given that Mills had received the last rites, was removed from life supports and was dying in extreme distress? How many doctors help patients die every day knowing that they could be charged with murder?

As medicine advances and life expectancy increases, the need for guidelines becomes more important. Doctors cannot be

expected to risk their careers to release the terminally ill from their suffering. Family members should not be forced to choose between respecting the wishes of their loved ones and obeying the law. We cannot let the reading of "tea leaves" decide a doctor or patient's fate any longer. I urge honourable senators to address this matter as expeditiously as possible.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I call the next item, I should like to point out that Senator Whelan talked about the "luck of the Irish." Today it is combined with the luck of the Senate because both our pages here with us from the House of Commons are called Patrick.

I would like to introduce to you first Patrick Thompson from North York, Ontario, who is at the University of Ottawa in the Faculty of Social Sciences studying political science.

[*Translation*]

On my left, you will forgive my Manitoban pride as I introduce to you Patrick Courcelles from Ste. Agathe, Manitoba.

[*English*]

You will remember that Ste. Agathe was badly damaged during the 1997 flood.

[*Translation*]

Patrick is studying at the University of Ottawa, in the Faculty of Social Sciences. He is a political science major. I welcome both Patricks to the Senate, on this St. Patrick's Day.

[*English*]

ROUTINE PROCEEDINGS

THE ESTIMATES, 1998-99

TABLED

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the Main Estimates for the fiscal year 1998-99.

THE ESTIMATES, 1997-98

TABLING OF SUPPLEMENTARY ESTIMATES (B)

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the Supplementary Estimates (B) for the fiscal year ending March 31, 1998.

STATE OF FINANCIAL SYSTEM

INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. Michael Kirby: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on Banking, Trade and Commerce entitled, "Joint and Several Liability and Professional Defendants."

The Hon. the Speaker: When shall this report be taken into consideration?

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

CANADA-YUKON OIL AND GAS ACCORD IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-8, respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading Thursday next, March 19, 1998.

•(1530)

THE ESTIMATES, 1997-98 THE ESTIMATES, 1998-99

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY MAIN ESTIMATES 1998-99, AND SUPPLEMENTARY ESTIMATES (B), 1997-98

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, March 18, 1998, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon:

the expenditures set out in the Estimates for the fiscal year ending March 31, 1999, with the exception of Parliament Vote 10 and Privy Council Vote 25; and

the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 1998.

THE ESTIMATES, 1998-99

NOTICE OF MOTION TO REFER PRIVY COUNCIL VOTE 25 TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, March 18, 1998, I will move:

That the Standing Joint Committee on Official languages be authorized to examine the expenditures set out in Privy Council Vote 25 of the Estimates for the fiscal year ending March 31, 1999; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

NOTICE OF MOTION TO REFER VOTE 10 TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, March 18, 1998, I will move:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10 of the Estimates for the fiscal year ending March 31, 1999; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

BUSINESS OF THE SENATE

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, March 18, 1998, at 1:30 p.m.

Hon. Lowell Murray: Honourable senators, before the vote is called, may I ask the Deputy Leader of the Government what undertaking she is able to give to us on her own behalf as to the adjournment time tomorrow if this motion passes? Can a committee chairman safely convene a standing committee meeting for 3:30 tomorrow afternoon, or should I ask for leave to sit while the Senate is sitting?

Senator Carstairs: Honourable senators, I can assure you that this side will do everything to ensure that we adjourn shortly after three o'clock so that any committee meeting may begin as scheduled and as committee notices have indicated.

Senator Murray: I do not wish to press this point. I am sure my friend will do everything in her power, et cetera, but I note that she used the future tense. I should like to have some assurance. My friend Senator Bolduc suggests that I request a firm commitment. I will ask simply for an assurance that the business of the house for tomorrow has been discussed between the house leaders and that we can expect with some confidence that the Senate will adjourn in time for the committees to meet at 3:30 tomorrow afternoon.

Senator Carstairs: In so much as it is within my power to control the government agenda, I will make sure that we adjourn on time. However, I cannot control individual senators who wish to speak to inquiries or to motions. That is up to that individual senator.

Hon. Noël A. Kinsella, (Acting Deputy Leader of the Opposition): Honourable senators, I have a question for the Deputy Leader of the Government in the Senate. On behalf of this side, I would suggest that we should be able to adjourn at 3:15 tomorrow afternoon, and I shall rise in my place at 3:15 to move the motion to that effect.

Motion agreed to.

[Translation]

CANADA-TAIWAN PARLIAMENTARY FRIENDSHIP GROUP

REPORT OF CANADIAN DELEGATION TO TAIWAN TABLED

Hon. Normand Grimard: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation to Taiwan, from January 11 to January 17, 1998.

[English]

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

SIXTH ANNUAL ASIA-PACIFIC PARLIAMENTARY FORUM,
SEOUL, KOREA—REPORT OF DELEGATION TABLED

Hon. Dan Hays: Honourable senators, I have the honour to present, in both official languages, the report of the Canadian delegation to the sixth annual meeting of the Asia-Pacific Parliamentary Forum hosted by the Republic of Korea, which took place from January 7 to January 10, 1998.

CANADIAN WAR MUSEUM

NOTICE OF MOTION TO AUTHORIZE SOCIAL AFFAIRS,
SCIENCE AND TECHNOLOGY COMMITTEE
TO EXTEND DATE OF FINAL REPORT

Hon. Lowell Murray: Honourable senators, I give notice that on Wednesday, March 18, 1998, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to examine and report upon all matters relating to the future of the Canadian War Museum including, but not restricted to, its structure, budget, name and independence, be empowered to present its final report no later to Tuesday, June 30, 1998.

[Translation]

PRIVILEGES, STANDING RULES AND ORDERS

NOTION OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF SENATE

Hon. Shirley Maheu: Honourable senators, I give notice that tomorrow, March 18, 1998, I will move:

That the Standing Senate Committee on Privileges, Standing Rules and Orders have power to sit Thursday next, March 19, 1998, at 2:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

CIVIL CODE OF QUEBEC

DIFFICULTIES AND PROBLEMS ARISING FROM SECTION 35—
NOTICE OF INQUIRY

Hon. Jacques Hébert: Honourable senators, I hereby give notice that, on Tuesday next, March 24, 1998, I shall call the attention of the Senate to the difficulties and problems arising from section 35 of the new Civil Code of Quebec.

[English]

LEGALIZATION OF INDUSTRIAL HEMP CULTIVATION

NOTICE OF INQUIRY

Hon. Lorna Milne: Honourable senators, I give notice that on Thursday next, March 19, 1998, I will call the attention of the Senate to the legalization of industrial hemp cultivation and to the credit due the Senate for its role in ensuring that hemp will be planted in Canada this year.

[Translation]

INTERNATIONAL FRANCOPHONIE DAY

NOTICE OF INQUIRY

Hon. Fernand Robichaud (Saint-Louis-de-Kent): Honourable senators, on behalf of Senator Gauthier, I give notice that, on Thursday, March 19, 1998, Senator Gauthier will call the attention of the Senate to International Francophonie Day, which will take place on Friday, March 20, 1998.

[English]

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

SIXTH ANNUAL ASIA-PACIFIC PARLIAMENTARY FORUM,
SEOUL, KOREA—NOTICE OF INQUIRY

Hon. Dan Hays: Honourable senators, I give notice that on Thursday next, I will draw attention to the Senate of the meeting of the Asia-Pacific Parliamentary Forum that took place in Korea from January 7 to January 10, 1998.

QUESTION PERIOD

POST-SECONDARY EDUCATION

HARMONIZATION OF MILLENNIUM SCHOLARSHIP
WITH ADMISSION PROCESS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate, and it relates to the millennium scholarship.

The recently announced millennium scholarship plan has certain creative accounting problems and it has other shortcomings as well. We need to examine the mechanics of this initiative to make sure it is appropriate for Canada.

My question to the Honourable Leader of the Government is: To what extent has the government harmonized the scholarship awarding process with the post-secondary institution admissions process?

Hon. B. Alasdair Graham, (Leader of the Government): Honourable senators, I am not aware that there have been discussions with respect to harmonization, and I do not know that that would be required.

•(1540)

However, if it is a stumbling block, I am sure that it has been, or will be, addressed. I would be happy to determine for my honourable friend whether that would be an impediment, or indeed something that should be addressed. To my knowledge, it is not something that has been considered to the present time. It is a valid question, but I am not aware that harmonization is a prerequisite in awarding scholarships.

Senator Oliver: What is the government's plan should a recipient of the Millennium Scholarship be unable to secure admission to a recognized post-secondary institution in Canada?

Senator Graham: I would think that a prerequisite to awarding a scholarship would be that the person had gained admittance to a recognized university or other post-secondary institution.

Senator Oliver: Then unless the applicants have proof that they can be admitted to a recognized post-secondary institution, they would not be able to receive a Millennium Scholarship?

Senator Graham: That is important for us to understand, and the honourable senator is asking very valid questions. However, the body that will govern and award the scholarships will be at total arm's length from the government, and will determine the criteria when it is set up.

TRANSPORT

DECISION ON RELOCATION OF MARINE ATLANTIC
HEADQUARTERS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, I should like to ask Senator Graham a follow-up to a question that I have asked on two previous occasions with regard to Marine Atlantic. We have received information that the Minister of Transport, the Honourable David Collenette, has decided not to release the decision on the future of the location of Marine Atlantic headquarters until after a certain provincial election in Nova Scotia.

Can the Leader of the Government in the Senate tell us whether a decision has been made, and if so, if the decision is that the headquarters will remain in Nova Scotia?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware that that decision has been made, but as soon as it is I will be happy to alert my honourable friend. March 24 will be an interesting night. I am sure that all honourable senators will stay up late to hear the results, or perhaps they will not need to stay up too late.

INDUSTRY

POSSIBLE CRISIS IN FAILURE TO ADJUST
GOVERNMENT COMPUTERS TO YEAR 2000

Hon. Fernand Roberge: Honourable senators, one of the most renowned experts on the year 2000 computer glitch appeared last week before the House of Commons Industry Committee. Mr. Peter de Jager gave a series of grave warnings that do not augur well for our current efforts to deal with this problem. He predicted that the government's April 1, 1999 deadline to fix government computers is insufficient. According to Mr. de Jager, a new deadline of the end of this year should be considered, rather than April 1, 1999. He said that, because most systems look one year into the future, government systems that are not readied by the end of this current year will start making mistakes next year, which will begin an endless cycle.

My question is twofold: First, has the Leader of the Government in the Senate made himself aware of Mr. de Jager's testimony before the House of Commons Industry Committee? Second, is the government considering moving up the date of readiness for the year 2000 computer crisis from the current deadline of April 1, 1999?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that is a very important question. I am aware of the testimony that was given by this distinguished gentlemen, and I am also aware that the government is giving consideration to his testimony.

The suggestion is that the date of April 1, 1999 be advanced three months to the end of 1998. It is a valid suggestion which I shall certainly bring to the attention of my colleagues.

[Translation]

ENERGY

SABLE ISLAND GAS PROJECTS—DECISION OF NATIONAL ENERGY BOARD—GUARANTEE OF SUPPLY TO NEW BRUNSWICK

Hon. Jean-Maurice Simard: Honourable senators, three months ago, after seeing an article in the *Halifax Chronicle-Herald*, I asked a question concerning the National Energy Board's decision to award exploration and export permits for the Sable Island Gas project to an American company, Mobil Oil.

The December 16 press release confirmed the National Energy Board's decision to give the go-ahead to Mobil Oil. This American company wanted to export 83 per cent of an important natural resource belonging to Canadians. Taxpayers in northern New Brunswick and a number of companies would like to be assured of the availability of this alternative source of energy. Three months ago, the Minister of Natural Resources announced and confirmed this decision. It was announced by agencies, boards and officials.

Can the people of New Brunswick and Canadians expect a decision by the minister in the next few days confirming the board's position?

[English]

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators, as discussed on earlier occasions when Senator Simard has raised his concerns, due process was followed and the regulatory bodies in the market-place will do their respective jobs. This was the case in the decisions arrived at by the National Energy Board following the recommendations of the review commission.

With respect to the availability of gas, Senator Simard makes reference to 83 per cent of the resource being exported to the United States. My information is that there is so much gas available in the Sable field and the Laurentian sub-base, which is located between Cape Breton Island and Newfoundland, and throughout the length of the gulf, and that there will be sufficient gas to service everyone in Canada for many years to come.

[Translation]

Senator Simard: On December 16, I tabled a notice of motion to discuss this project. I spoke to it on December 17. On

December 18, the Deputy Leader in the Senate, Senator Carstairs, adjourned debate. Before giving my motion a first-class burial, may I ask the Leader of the Government or his deputy to give us an update on the situation and explain the decision by the National Energy Board and cabinet?

Canadians, particularly the people of northern New Brunswick, are entitled to an explanation of the reasons behind the government's decision.

[English]

•(1550)

Senator Graham: Honourable senators, the procedures that were followed were quite normal and very transparent. In the interests of getting on with the project, the National Energy Board made its recommendations, and those recommendations were concurred in by the Government of Canada. It was also indicated that those who still wished to pursue their bids and apply to the National Energy Board for hearings would be heard.

[Translation]

PRINCE EDWARD ISLAND

POSSIBLE APPOINTMENT OF ACADIAN SENATOR

Hon. Jean-Maurice Simard: Honourable senators, I have another question on a different topic. First, I would like to congratulate and extend a welcome to the three new senators, including the one from Prince Edward Island, Senator Johnstone. We know that, at 73 years of age, he will not be sitting in the Senate for long. When I visited Prince Edward Island last May, in the fall and even one month ago, I learned that Acadian organizations and Acadians had asked Prime Minister Chrétien to appoint an Acadian senator. I saw letters to this effect. I have a suggestion for the Leader of the Government to pass on to Mr. Chrétien, if he is still there in two years. My suggestion, which represents the wishes of Prince Edward Island's Acadians, is that he appoint an Acadian senator.

[English]

Hon. B. Alasdair Graham (Leader of the Government): I would be very happy to bring Senator Simard's recommendations forward to those responsible, indeed to the Prime Minister. However, I must say that the Acadian community, while perhaps not numerically strong, is certainly well represented individually in terms of quality; by yourself, by Senator Losier-Cool, by Senator Fernand Robichaud, by Senator Louis Robichaud, and by Senator Comeau from Nova Scotia. The quality and the strength of representation is indeed very commendable and very admirable. I certainly will bring my honourable friend's recommendations and his sensitivity on this question to the attention of the Prime Minister.

VISITOR IN GALLERY

The Hon. the Speaker: Honourable senators, I would call attention to a visitor from the other place in our gallery. It is the member for Burlington, Paddy Torsney. Welcome to the Senate.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on February 10, 1998, by the Honourable Senator Atkins regarding the proposed merger of the Royal Bank and the Bank of Montreal; I have a response to a question raised in the Senate on February 18, 1998, by the Honourable Senator Marjory LeBreton regarding the appointment of an ethics counsellor responsible to Parliament; and I have a response to a question raised in the Senate on February 18, 1998, by the Honourable Senator Brenda M. Robertson regarding a review of Canada Post Corporation, request for progress report.

NATIONAL FINANCE

PROPOSED MERGER OF ROYAL BANK AND BANK OF MONTREAL—GOVERNMENT POSITION

(Response to question raised by Hon. Norman K. Atkins on February 10, 1998)

The Task Force has no plans to issue an interim report prior to the release of its final report.

The Task Force intends to present a report on the financial services sector to the government in September 1998. The report will deal with a broad range of policy issues affecting to the Canadian financial services sector, including the government's approach to mergers of Schedule I banks, but will not deal with specific transactions (such as the proposed merger of the Royal Bank and the Bank of Montreal).

The Minister of Finance has indicated that the government will not be in a position to rule on the Royal Bank-Bank of Montreal merger proposal until it has had adequate time for consultation and consideration of the Task Force's recommendations.

PRIME MINISTER'S OFFICE

APPOINTMENT OF ETHICS COUNSELLOR RESPONSIBLE TO PARLIAMENT—GOVERNMENT POSITION

(Response to question raised by Hon. Marjory LeBreton on February 18, 1998)

The Ethics Counsellor envisioned in the *Red Book* had a narrower focus on lobbying. The government expanded that to a much broader range of ethical issues including administering and enforcing the revised Conflict of Interest Code.

The role of the Ethics Counsellor is clear: he is the Prime Minister's Advisor on matters related to conflict of interest and the ethical conduct of government officials, including Ministers.

In our Parliamentary system, the ultimate responsibility for the conduct of Ministers rests with the Prime Minister. He recommends the appointment of Ministers to the Governor General, and thus has the sole authority to set standards of conduct, consider possible breaches of those standards, and where necessary, take appropriate action.

The Ethics Counsellor advises the Prime Minister on the overall policies and on particular cases, but in the end, it is the Prime Minister who is accountable to Parliament for his decisions. Therefore, it is logical that the Ethics Counsellor report to the Prime Minister, and not to Parliament.

There was no commitment made in the *Red Book* to consult leaders of all parties on the continuing appointment of the Ethics Counsellor at the beginning of each new session of Parliament.

In 1994, the government consulted with leaders of the opposition parties before the position of Ethics Counsellor was created and the appointment of Mr. Wilson was made.

The Office of the Ethics Counsellor is part of the Department of Industry. Salaries and expenses for the Office are included in the Estimates of that Department.

LABOUR

REVIEW OF CANADA POST CORPORATION— REQUEST FOR PROGRESS REPORT

(Response to question raised by Hon. Brenda M. Robertson on February 18, 1998)

The Government recognizes the importance of continuing to improve the state of labour-management relations at Canada Post. To prevent future conflicts, attitudes must definitely be changed and more constructive solutions developed to manage labour relations at Canada Post. That is why the Minister Responsible for Canada Post Corporation will, in the coming months, undertake a serious examination to find methods better suited to the realities and imperatives of the Canadian postal system.

The Government believes that there is a real hope for change. It was particularly encouraging that both sides could come to an agreement to permit the delivery of social assistance payments despite the existence of the postal strike. The Government hopes to build on that collaborative potential to create an atmosphere where workers are satisfied, but where management has enough flexibility that it can respond to the changing needs of Canadians.

The Government and Canada Post are committed to improving labour-management relations with the Canadian Union of Postal Workers. However, there is an important and constructive effort to settle a new collective agreement under way. There is no intention to launch any initiative that could potentially interfere with that effort until it has come to a full conclusion.

ORDERS OF THE DAY

DEPOSITORY BILLS AND NOTES BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Banking, Trade and Commerce (Bill S-9, respecting depository bills and depository notes and to amend the Financial Administration Act, with an amendment), presented in the Senate on February 24, 1998.

Hon. Michael Kirby: Honourable senators, I wish to say a few words before moving the adoption of this report, as the bill was amended by the committee.

This bill began in the Senate and will ultimately have to go to the House of Commons. The bill deals with depository bills and depository notes and also has certain amendments to the Financial Administration Act. It is in fact a highly technical bill, and the amendment which the committee unanimously proposed and the government has agreed to is a highly technical amendment to a highly technical bill.

The amendment, in effect, clarifies the wording in the bill. The bill in its current form is, in our view, a little obscure on the question of when a party's obligation to pay an amount owing to a clearing-house is actually discharged. It was clear that the intent of the bill, and from the intent of the policy as explained to the committee by officials, is to ensure that a clearing-house does not discharge their obligation until a final and irrevocable payment has been made to the clearing-house.

The original wording in the bill simply used the word "pays" without defining exactly what "pays" means or, in particular, when payment had been completed. Indeed, that clearly left open the possibility of different legal interpretations of the word and

the timing as to when a payment had been completed. The amendment makes it absolutely clear that payment has been completed only when a final and irrevocable payment has been made to the clearing-house.

That is the only amendment contained in this bill. It was, as I say, passed unanimously by the committee. The amendment has been accepted by the government.

Honourable senators, with that brief explanation of a highly technical subject, I suggest that the committee report be adopted.

The Hon. the Speaker: If no other honourable senator wishes to speak, it was moved by the Honourable Senator Kirby, seconded by the Honourable Senator P  pin, that this report be adopted now.

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

Motion agreed to and report adopted.

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

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

TOBACCO INDUSTRY RESPONSIBILITY BILL

SECOND READING—POINT OF ORDER— SPEAKER'S RULING RESERVED

On the Order:

Second reading of Bill S-13, An Act to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation.—(*Honourable Senator Kenny*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have alerted Senator Kenny that I would be asking about this bill today as soon as second reading was called, either by a point of order or point of clarification. I do not want to pass judgment on it. I have read it, however, and I question whether it is appropriate to introduce it in the Senate since it talks about a levy being assessed on tobacco products. Various sections define what those levies are, the actual amounts, and the responsibilities of the Minister of Health in the assessment of the levies.

The question on which I am asking for a ruling, as soon as possible, is whether such a bill can be defined as a money bill and, if so, would it be in order to bring it before us. My purpose is strictly to get that question out of the way. I have no answer for it. I am sure others may be raising it in their minds, and I would rather have it clarified. I am sure Senator Kenny would also like the question cleared up before going to debate only to find that we are not acting appropriately by having this bill before us.

Hon. Peter A. Stollery: Honourable senators, I also rise on a point of order —

•(1600)

The Hon. the Speaker: Perhaps we might let Senator Kenny move the second reading of the bill so the matter is before us. Then we can deal with it.

It is moved by the Honourable Senator Kenny, seconded by the Honourable Senator Nolin, that this bill be read the second time.

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

POINT OF ORDER

Hon. Peter A. Stollery: Honourable senators, I rise on a point of order. I wish to obtain some assurance with respect to a procedural matter in relation to Bill S-13.

While I believe this bill has merit, there is a question as to whether it is properly before the Senate because it may be regarded as a money bill. If it is a money bill, it would require a Royal Recommendation and would have to be introduced in the House of Commons. Some of us have been through arguments on Royal Recommendations before. The bill clearly has financial implications. Therefore, before it is referred to committee, we should address the money bill question and obtain a ruling on whether it is properly before the Senate.

Senator Kenny is in agreement that the matter needs clarification, if only to reassure honourable senators that we may properly proceed with the study of this bill. If His Honour is of the view that the Senate may consider the initiative, then we may feel comfortable proceeding and not harbour any further doubts about the matter.

It may be argued that the Senate cannot initiate a bill of this nature. Section 53 of the Constitution Act, 1867, requires that appropriation bills and tax bills be introduced in the House of Commons, not the Senate. We must also consider rule 81 of the *Rules of the Senate*, which states:

81. The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

Section 54 of the Constitution Act, 1867, is of concern as well. I will read the relevant part of it.

It shall not be lawful for the House of Commons to adopt or pass any...Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General...

There is an emphasis on that point.

Finally, there is also a well-established principle described in *Erskine May Parliamentary Practice*, 21st Edition, that no public charge can be incurred, except on the initiative of the Crown.

There is also a convention that bills for imposing a tax must be introduced by ministers of the Crown. There is no doubt that Bill S-13 has significant financial implications. Clause 36 of Bill S-13 requires tobacco manufacturers to pay what is called a "levy," but it appears to be a tax. The moneys collected from the imposition of the "tax" would serve to finance a foundation to be established by the bill.

The bill also requires the foundation to spend 90 per cent or more of all amounts raised by this tax in order to carry out the objectives of the foundation, the principle objective of which is the reduction of tobacco product use by young persons. Therefore, the money collected is to be applied to a public purpose.

Does this bill, then, impose a tax, and does it appropriate public money to a government purpose? If so, the initiative must be introduced in the House of Commons by a minister, not in the Senate by a private member.

Of course, I raise this point of order without prejudice to the merits of the initiative, but it seems to me that while the objectives of this bill are desirable, we should not proceed with it if it is not properly before us.

Hon. Colin Kenny: Honourable senators, I would first like to thank my honourable friends for raising this point of order. Of course I was fully aware that they would do so. I realize that Bill S-13 quite clearly involves financial matters, and that may be of some interest to this house. The bill is not a "money bill," and I think this needs to be clarified before proceeding any further.

I should like to begin by reminding honourable senators that when Bill C-71, the Tobacco Act, was being studied and debated last year, representatives of the tobacco industry testified before a Senate committee that they supported a reduction in youth smoking, but they said they lacked the credibility to address the problem on their own. I am quoting Mr. Robert Parker, Chairman and Chief Executive Officer of the Canadian Tobacco Manufacturers Council when he addressed the Standing Senate Committee on Legal and Constitutional Affairs on April 1, 1997:

The member companies are prepared to work with any responsible agency on the issue of youth smoking to further reduce it.... A program started voluntarily by the industry when it is selling cigarettes to tell kids that they should not smoke would be attacked most vocally by...the anti-tobacco people.

Bill S-13 would assist the industry in accomplishing its own publicly stated objective of reducing youth smoking, and it would do so in a manner that is credible. The bill would establish an independent, non-profit corporation which would carry out a number of activities aimed at reducing the use of tobacco products by young people. The activities of this corporation would be financed by way of a levy imposed on tobacco manufacturers.

The financial provisions of the bill, although important, do not appropriate any part of the public revenue and do not impose a tax. There is no authorization of any kind in the bill for the expenditure of public funds. All of the money expended through the corporation is raised by the levy or by gifts, legacies and grants. The money goes directly to the corporation to be distributed on its authority and does not in any way raise public revenue or become a part of the Consolidated Revenue Fund. The bill imposes a levy for an industry purpose. The authorities make it very clear that a levy imposed on an industry for an industry purpose is not a tax and therefore not subject to all the financial rules which apply to taxes.

It is clear that the levy under Bill S-13 is imposed for an industry purpose because of the numerous benefits that would flow to the industry if the bill were passed. I will outline many of these later on. However, the most important of these is that the industry will be seen to be addressing the serious problem of tobacco use by young persons in Canada, and this may well enhance the industry's image and reduce public criticism of it.

In summary, there is no procedural or constitutional impediment to this bill being initiated in the Senate under the sponsorship of a private member. A detailed analysis of the rules and provisions respecting financial matters will hopefully clarify this for senators who are still in doubt.

First, section 53 of the Constitution Act, 1867, is relevant.

•⁽¹⁶¹⁰⁾

It reads:

Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Rule 81 of the *Rules of the Senate of Canada* is also of importance. It provides:

The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

Rule 81 makes the consideration of the financial aspects of a bill a matter of Senate procedure. It is essentially based on the constitutional principle in section 54 of the Constitution Act, 1867 which provides in part:

It shall not be lawful for the House of Commons to adopt or pass any...Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General.

There are two questions which these rules raise in relation to Bill S-13. The first is whether the bill appropriates any part of the public revenue. The second is whether the bill is a tax. I will address these individually.

First, the term "appropriate" means to devote money to special purposes. This definition comes from *The Concise Oxford Dictionary of Current English*, eighth edition. In order to be an appropriation, the bill must be a clear and direct authority for the expenditure of public revenue or of any tax or impost for a specified purpose. Bill S-13 does not appropriate any part of public revenue. I emphasize the words "public revenue," which are used in both sections of the Constitution Act, 1867 and in rule 81.

The money collected under the bill comes exclusively from the tobacco industry. More important, there are several provisions in the bill that ensure that the money does not become part of the public funds.

First, clause 4 establishes a non-profit corporation which receives and spends money collected by it in accordance with its objects outlined under subclause 5(1) of the bill. Public funds usually go into the Consolidated Revenue Fund. This is not the case with Bill S-13, where funds are immediately received by the corporation to be used by it to carry out its purposes.

Second, subclause 33(1) explicitly provides that the corporation is not an agent of the Crown and its funds are not public funds.

Third, subclause 33(2) provides that the corporation may work with the federal government or the government of any province in order to achieve its objectives. This confirms that it is independent of government. In fact, the role of the public sector in this bill is minimal. What little involvement there is was necessary because, as I mentioned earlier, the tobacco industry has clearly stated in its testimony before a Senate committee that it lacks the credibility to undertake initiatives on its own to reduce youth smoking.

Fourth, subclause 35(3) ensures that in the event of dissolution of the corporation, any surplus funds are returned to tobacco manufacturers. They do not at any point go into the Consolidated Revenue Fund and they do not come under government control.

In addition to the fact that it is obvious from the bill's provisions that it in no way appropriates public funds, honourable senators are aware of a recent precedent in which a levy similar to that which would be imposed under Bill S-13 was imposed on an industry. The particular precedent to which I am referring is Bill C-32, an Act to amend the Copyright Act. This bill received Royal Assent on April 25, 1997. Subsection 82(1) imposes a levy on any person who manufactures blank tapes in Canada or imports them into Canada. Section 84 arranges for the distribution of levies to groups representing authors, performers, and the makers of cinematography works and sound recordings.

Bill C-32 was introduced in the House of Commons and it did not have a Royal Recommendation when it was passed. A bill which appropriates money may not be initiated in the Senate and it must have a Royal Recommendation attached. Since Bill C-32

did not have a Royal Recommendation, it may be concluded it was not considered a bill that appropriated any part of the public revenue; therefore, it could be initiated in the Senate. By analogy, Bill S-13, which creates a levy similar to that under Bill C-32, does not appropriate public money and does not require a Royal Recommendation, nor must it be initiated in the House of Commons.

At this point, I would like to remind honourable senators of our Speaker's ruling of February 4, 1997, respecting Bill S-12, an Act providing for self-government by the First Nations of Canada. This bill did not have a Royal Recommendation, and in his ruling, His Honour said that in the absence of sufficient evidence that the bill provided for an appropriation or creating a charge, he had no authority to prevent debate on it and it was properly before the Senate. He ruled that the Royal Recommendation was not necessary in this particular case.

There is one final matter with respect to this first issue: With leave of the Senate I would like to table an opinion prepared by Mr. Michael Clegg, former parliamentary counsel to the Legislative Assembly of Alberta, Queen's Counsel and an expert on matters of parliamentary law and procedure.

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

Hon. Senators: Agreed.

Senator Kenny: In his opinion, Bill S-6 does not appropriate any public funds.

The second issue that the rules raise is whether Bill S-13 imposes a tax. Obviously this question is relevant because the government has a prerogative of financial initiative in respect to the imposition of taxes. Such measures must be initiatives of the government, by convention. Also, they must be introduced in the House of Commons because of section 53 of the Constitution Act, 1867. I should comment here that the Speaker does not ordinarily rule on matters of law, and since section 53 of the Constitution Act, 1867 does not form the basis of any rule of the Senate, the matter need not be addressed for procedural reasons. However, having said that, I intend to deal with it because I think it should be clarified in order to provide reassurance to those senators who support the policy of this bill but who are concerned about any constitutional impediments.

Clause 36 of Bill S-13 imposes a levy for industry purposes. Such a levy is not a tax. The authorities make this very clear. I am quoting from *Erskine May Parliamentary Practice*, 21st Edition, page 688:

The rules of financial procedure are not applied to funds or levies which, though they may be public in the sense that they are regulated by statute or publicly administered, exist for sectional rather than national purposes.

May goes on to cite numerous examples of such levies and then concludes with the following remark, again at page 688:

All these matters are treated as outside the category of charges and as exempt from the roles of financial procedure...

•⁽¹⁶²⁰⁾

Later on at pages 730 and 731, May describes such levies under the heading:

Levies upon an industry for its own purposes.

He cites a number of bills in which various provisions under each have been treated as falling within the category of industry levies, not taxes. Therefore, in order to be a levy rather than a tax within the meaning of section 53 of the Constitution Act, 1867, two requirements must be met.

First, it must be a levy imposed on the industry. The expressed provisions of the bill make it clear that the levy is one imposed on the tobacco industry. There is no other source of funds for the levy other than the industry. There is no provision for any liability, subsidy or guarantee that would be a charge on public funds.

The second requirement that must be met in order to find that a charge is a levy, not a tax, is that the levy must be imposed primarily for the industry's own purpose. The express provisions of the bill make it clear that the most obvious purpose is to assist the tobacco industry in meeting its objectives. Clause 3(1) of the bill describes the bill as enabling:

...the tobacco industry to carry out its publicly-stated industry objective of reducing the use of tobacco products by young persons throughout Canada.

That purpose is an industry purpose and that is evident when one considers the numerous benefits that the industry will gain from this initiative.

The bill may well help the industry to improve the negative image it seems to have at the present time. Currently, the tobacco industry is viewed by many Canadians as being instrumental in causing the death of thousands of Canadians each year. With the passage of this bill, the industry will be seen by some to have made an effort to respond to the problem of tobacco use by young persons.

If the bill is successful, the industry might hope for a reduction in public criticism of it. This, in turn, may reduce the likelihood of more restrictive legislation being enacted and the civil litigation that threatens the very existence of the industry. Also, the industry will be able to use its contributions under this bill in addressing youth smoking as evidence of its support of a defence against liability for causing young people to become addicted to smoking. The industry will be in a position to argue that it is the sponsor of the foundation. In fact, clause 31 of the bill specifically allows tobacco manufacturers to use the name of the foundation in order to seek this kind of recognition.

Of course, the bill also has a public purpose — to reduce youth smoking. However, many levies imposed for an industry purpose may also be said to be public in the sense that they are regulated by statute or publicly administered. Erskine May makes this point at page 668:

Moreover the industry purpose and the public purpose of this particular bill are interrelated and of each cannot be considered in isolation.

The public purpose of reducing adolescent smoking is also, in this case, an industry objective.

At this point I would like to again refer you to the opinion of Mr. Michael Clegg. In addition to the question of appropriation, he also addresses the tax issue in more detail. He concludes at page 3 of his opinion:

...the view that the charge is a tax not only contradicts the bill's provisions but is based on a speculative view of the outcome and is thus a difficult position to sustain.

The distinction between taxes and other statutory charges has also been clarified, as a matter of law, by our courts. They have said that if the primary purpose of a levy is the raising of revenue for the general government purposes, then it is taxation. If, on the other hand, the levy is imposed for regulatory purposes or is necessarily incidental to a broader regulatory scheme, then the levy is not a tax.

The courts have given indications as to what may point to a tax. For example, a statutory charge is probably not a tax if the scheme is a self-financing scheme. Bill S-13 is clearly a self-financing scheme on the part of the tobacco industry. The funds collected under it come exclusively from it.

How do we know whether the bill is a regulatory scheme? The courts suggest that a levy can be characterized as a regulatory charge or a levy imposed for regulatory purposes if the amounts received reasonably relate to the cost of providing the service. The regulatory charges are imposed to deal with the expenses of certain programs or services. The levy imposed by Bill S-13 is part of a regulatory scheme. The money is not intended to provide revenue to be transferred to a public authority for general public purposes. The amounts are to be used for a specific purpose and they relate to the cost of providing the service.

Subclause 36(3) illustrates this fact because it contemplates the levy being reduced or waived if 5 per cent or less of young persons are using tobacco products. So there is a clear relationship between the amount of the levy and the specific objects of the foundation.

I will avoid getting into further detail on this matter but, again, with leave of the Senate, I would like to table another opinion by Mr. Mark Siegel. He is a senior tax lawyer practising law with the firm of Gowling, Strathy and Henderson.

The Hon. the Speaker: Is leave granted to table this further document?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we have received one document which has

not been identified. It is headed, "Procedural Issues Re Bill S-13," but it does not show the author on the document.

Senator Kenny: The authorship can be attributed to my office. I apologize for this omission. I must take responsibility for the document you have before you.

As I mentioned before, Mr. Siegel is a senior tax lawyer practising law with Gowling, Strathy and Henderson. He discusses the distinction in law between taxes and other statutory charges in more detail and concludes that the levy under Bill S-13 is not a tax. I should also mention that, should the bill proceed to committee stage, there is a third independent legal opinion from a well-known constitutional expert to confirm that Bill S-13 respects the division of powers in the Constitution and that it complies with the Canadian Charter of Rights and Freedoms.

I would like to close by raising a concern I share with many senators about how we decide the issue of what is or is not a "money bill." A determination of this question goes well beyond the narrow consideration of any particular bill. It has and will continue to have great impact on the Senate as an institution.

The study of this bill is in my view a necessary and important step towards protecting the health of our young people. These adolescents are the future. We have a responsibility to them.

The tobacco industry has clearly indicated its interest in and support for the protection of youth, but the study of this bill is also important for the Senate because, as an institution, we have a responsibility to the public to do our job. We have a duty to propose and examine legislative initiatives that come before us and we should not be looking for ways to avoid this responsibility.

We should not be interpreting our powers as an institution in a restrictive manner. In being active instead of reactive, we have a chance to show the public the kind of work that we, as an institution, are capable of doing.

•(1630)

Honourable senators, we should take this opportunity to allow this bill to be debated.

The Hon. the Speaker: Honourable Senator Kenny, two documents have been tabled which I have seen, but there is a third one which has been circulated. Is it your wish to have that one tabled as well?

Senator Kenny: Honourable senators, I would be happy to do that.

The Hon. the Speaker: It might be better for the benefit of the discussion if they were tabled.

Senator Kenny: That is fine.

The Hon. the Speaker: Is it agreed, honourable senators, to table this document as well?

Hon. Senators: Agreed.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, concerning the point of order, this is the first time that I have put my mind to this question. As I listened carefully to what Senator Stollery had to say and what Senator Kenny said just now, I realized that this is an extremely interesting question. If the government has taken a view on this, it would be helpful to hear the government's view on the point of order.

To speak on a point of order off the cuff is difficult for me. At this point, I will give my impressions of what I think we are dealing with here today.

In order to assess whether or not a Royal Recommendation is required in this bill, we need to have the benefit of a thorough examination of the bill. To judge ahead of time that it must have a Royal Recommendation begs the question: Do we know what the bill is about? That is my first concern.

The second concern that I have — and Senator Kenny alluded to it — is that our Parliament is based on a bicameral system. A legislative initiative commenced in one house is reviewed by the other house before that initiative can become law. If I understood Senator Kenny's point correctly on this issue, in dealing with a bill with a technical question as to its admissibility, that of whether or not it should have a Royal Recommendation, perhaps a greater largesse in interpretation should be applied in the house of first instance. Should we pass this bill, it will go to the other place, and the other place must also assess whether or not a Royal Recommendation is required.

The other place has the advantage of having the fullness of the ministry present. Obviously, the ministry will be interested in whether or not royal recommendations are required. Unfortunately, in our house we only have one representative of the ministry to deal with this. Notwithstanding that limitation, I still think it would help to have the opinion of the government on this matter.

The government should establish its view because the government has the responsibility of securing the integrity of the Royal Recommendation where required. Therefore, unless the government is ready to give us its view on this matter now, I wonder whether honourable senators would be open to the idea of having this point of order set aside until tomorrow, so that we might bring forward further debate based on our respective research, unless His Honour feels that he does not require the benefit of debate.

It would only be fair to all members to have a chance to at least think about this overnight. I would like to hear the view taken by the government.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, this is a private member's bill, not a government piece of legislation. Therefore, the government has not taken a stand on this piece of legislation, nor would it take a stand on any other private member's legislation introduced in this chamber.

Clearly, it is the government's responsibility, if they are introducing a money bill, to ensure that it has the appropriate recommendation. In this case, it would have to be a Royal Recommendation. It is up to this chamber to determine its validity, in exactly the same way that we determined the validity of the legislation introduced by the other side concerning aboriginal self-government. His Honour was asked for a ruling on whether that bill was in fact a money bill. The reply that His Honour gave in that case was that it was not a money bill and therefore did not require a Royal Recommendation.

My recommendation to His Honour is that he take the matter under advisement and report back to the chamber as to whether in his view, after consultation with legal staff and members of the table, this is a money bill requiring a Royal Recommendation.

Senator Kinsella: Could I ask the Deputy Leader of the Government whether or not the government believes that this bill requires a Royal Recommendation?

Senator Carstairs: Honourable senators, quite frankly — speaking for myself and not for the government because I, too, am hearing for the first time the arguments with respect to this particular piece of legislation — the arguments seem to be extremely strong on the part of the sponsor of the legislation, that because it is a levy and not a tax, it does not require a Royal Recommendation. However, I have not had legal scholars or table officers or law clerks examine this piece of legislation for the very reason that it is a private member's bill. Therefore, as a private member's piece of legislation, it is reasonable to ask His Honour to make a ruling. That is my recommendation.

Hon. John. G. Bryden: Honourable senators, I find myself rather bewildered by what is happening here. Presumably, this bill can be introduced here if you find that what is occurring is a levy and not a tax. According to what is stated here, a levy must be imposed for the industry's own purposes.

The claim is being made that this is a levy because this is being introduced for the tobacco industry's own purposes. That purpose is to reduce the consumption of cigarettes. I raise that point at this stage because it goes to the definitions.

•(1640)

To me, it looks like a duck and quacks like a duck. It may well be a tax. The point that really concerns me is: In trying to make this into some sort of levy, are we becoming some sort of ally of the tobacco industry? The industry said that it wished to work to reduce the use of tobacco products by young persons throughout Canada and that it would work with anyone in order to be able to do that. The member companies are prepared to work with responsible agencies on the issue of youth smoking. As I have said, the tobacco industry has some legitimate questions on how credible it can be. A program started voluntarily by the tobacco industry to tell kids that they should not smoke would be attacked most vocally by anti-tobacco people. I wonder whether we are becoming complicit in this, and would be quite legitimately attacked by anti-tobacco people.

If this initiative is in the interests of the industry's purposes, what is the industry's purpose? The industry's purpose, ultimately, is to make a profit, and ultimately they make a profit by selling cigarettes. If they do not sell the cigarettes to Canadian kids, they sell them to Chinese kids, South African kids, or some other kids. I will be very concerned if we jump through logistical hoops to try to turn this initiative into a technical levy to assess money in order to start a fund because, as the initiator of the bill said, cigarettes kill people. They kill young people and they kill old people.

In trying to bring this bill in through the door of this chamber rather than that of the House of Commons, I wonder whether we are not involving ourselves in something of which we would not want to be a part.

Hon. Lowell Murray: Honourable senators, this bill was tabled several weeks ago by Senator Kenny. As he himself has acknowledged, the question does arise as to whether it impinges on the prerogative of the Crown. That being the case, I am slightly surprised that the government's advisers have not placed in the hands of the deputy leader or the Leader of the Government a view on whether the bill does or does not impinge on the prerogative of the Crown. The fact that they have not done so perhaps tells us something. Perhaps we should conclude from that that they are of the view that it does not.

If I may be so bold, my advice to the Deputy Leader of the Government is to consult with the government's advisors over the next few hours and ask whether they have a view which they wish to put forward on this matter.

The Speaker of the Senate will have the last word here, subject to our own vote to override him, if we want to do so. Really, he has the last word. However, it is of some practical significance to us to know whether the government feels that the bill, be it a private member's bill or not, impinges on the prerogative of the Crown. If they believe it does, then we may expect that they will take the same position if and when the bill arrives in the House of Commons, and we will have possibly gone through some needless exercise in this place.

Therefore, I would ask the Deputy Leader of the Government to ascertain whether the government has a view on the matter.

Hon. Philippe Deane Gigantès: Honourable senators, I can think of two bills that originated in the Senate and then were passed by the Senate. In one instance, the government was not in favour of that initiative and, because we had passed the bill, they then produced their own version, which fulfilled the purposes of the bill that we had previously passed here. I know the government did not want that bill. It was the bill prohibiting the drunken defence. I introduced the bill here. We studied it in committee and then we passed it, and the government did not want to touch it. The Minister of Justice at the time said, "Let's leave that aside." However, because we had passed the bill, the government eventually came up with a slightly altered version.

That section is now in the Criminal Code, and a defendant can no longer plead drunkenness as a defence.

Honourable senators, we started the process which resulted in that change. Therefore, we should not assume that we do not have the right to start legislation and send it on to the House of Commons.

I remember, when Mr. Martin testified before us, that Senator Lynch-Staunton insisted that the Senate should be considered an equal branch of Parliament, and should be able to undertake its own initiatives.

I remember also the bill concerning alternative fuel for government vehicles which was introduced by Senator Kenny. We voted for that bill and then Senator Kenny worked to get it through the House of Commons. That, too, is a precedent which may, one of these days, make our position a little clearer.

We should not be shy about using our own resources, our own experts, and asking the opinion of our Speaker first. How does that accord with the desire, expressed by Senator Lynch-Staunton to Mr. Martin, that the government should accept that the Senate can show initiative?

Hon. John B. Stewart: Honourable senators, reference has been made to sections 53 and 54 of the Constitution Act, 1867. I am not at all sure that we need spend much time on section 54. We need to focus on the question begged by section 53, which says that bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons.

The question then is whether this bill would impose a tax or impost. If it does, it cannot properly be introduced here. If it could go through this house and money were collected, that money would be the proceeds of a tax or impost. In that case, the question of a Royal Recommendation would arise. However, we do not need to talk about Royal Recommendations relative to this bill. The question is whether it is a tax or an impost. If it is a tax or an impost, it is out of order here. If it is not a tax or an impost, the question of a Royal Recommendation for an appropriation does not arise. In either case, the Royal Recommendation is not a matter for concern.

•(1650)

Sometimes we confuse Royal Recommendations, which are required in the case of appropriation, and the notion that only the government can introduce taxation legislation. The latter is a convention; and we must be careful when we talk about conventions because there is a distinction between practice, on the one hand, and conventions of the Constitution, on the other hand. Sometimes Supreme Court judges do not appreciate the distinction. A convention of the Constitution historically meant a practice which, if broken, will ultimately lead to a breach of the law. I could give examples, but I think you follow me.

In this case, the notion that only the government can initiate a tax or impost, is a practice, but there is no constitutional prohibition of others doing so in the other place. There is no constitutional barrier to a member of the other place introducing a bill which would impose a tax or impost. No Royal Recommendation is required for that. Only appropriation requires the Royal Recommendation.

The Hon. the Speaker: Do any other honourable senators wish to participate on the point of order? The suggestion was made by one honourable senator that we might have further discussion at a later date. Is there any desire to do so? If not, then I thank all honourable senators who participated. It is indeed a very important point, as well as a very interesting one. I appreciate the points of view that have been given, and I will take the matter under advisement.

VISITOR IN GALLERY

The Hon. the Speaker: Before we proceed to the next order of business, I would call your attention to a distinguished visitor in our gallery, one of our recently departed colleagues, Honourable Senator Petten.

CANADA HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cohen, seconded by the Honourable Senator Chalifoux, for the second reading of Bill S-11, to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination.—(*Honourable Senator Chalifoux*).

Hon. Thelma J. Chalifoux: Honourable senators, thank you for the opportunity to speak in support of Bill S-11. I will give you some examples of my reasons for supporting this amendment to the Human Rights Act in order to include social condition as a prohibited ground of discrimination.

In Alberta, the Social Services Department brought forward a policy that all recipients had to open an account so that their cheques could be directly deposited. Many major banks created so many roadblocks that it was totally impossible for these families to open a bank account. When they were finally able to get an account, one of the banks went as far as to only allow these clients access to one teller. There was even a separate entrance into the bank to get to this teller. It was brought to the attention of the bank management, and this practice was stopped, but it still happened.

Even today, there exists a stereotype in this country that if you are illiterate, you have no financial resources, and therefore no one needs to serve you or pay you any mind. Numerous

Canadians are still part of the working poor, and even a higher number of Canadians for social reasons do not meet the general public's expectations nor the appearance of success as we define it. These are the people who are discriminated against in many areas of our society. This amendment will prevent this type of discrimination from happening.

As a working single parent, I personally was a victim of this type of discrimination. This occurred not only when I applied for any type of banking services, but also in retail outlets. When persons with limited resources try to access services such as hydro, telephone and other utilities, they usually are required to pay a large deposit. Sometimes this means that they have to use their grocery money. It is necessary for some people, especially families with small children, to have a telephone. A telephone is also needed if a person is looking for work. You need to leave a number so that prospective employers can contact you if you are a successful applicant. A telephone is a must in family violence situations. It is needed by the disabled and in many other emergency areas. However, for this reason, the telephone companies choose to charge a large deposit that no one can afford.

Being on social assistance is not a crime. It is there and available for people who need it during an emergency in their lives or for people who are unable to find work, for the disabled and for the chronically ill. It is difficult for poor families to find decent accommodations. Usually the only places they can afford to rent are low-income housing units, and we know that these areas are not always the best places to raise children. The slum landlords exploit the poor by demanding exorbitantly high rents.

When I was sitting on the Social Services Appeal Panel in Edmonton, Alberta, many families appeared before the panel with many issues concerning discrimination against them because of their social condition. I have seen poor people dressed in shabby clothing who are asked to give a deposit of \$20 before being allowed into a taxi, even if they were only going ten blocks. This is discrimination. Do you think this same taxi driver would require a \$20 deposit from a well-dressed, well-coifed, successful-looking person even if that person asked to be taken to the airport and back to, say, the Château Laurier?

Poverty will surely be around for a long time, but we can do our best to ensure that the poor people of our country are protected. For example, if a poor person is charged with a criminal offence, they are unable to access legal counsel. There is in Alberta a \$10 application fee for Legal Aid. Some cannot even afford this. Therefore, they face the judge by themselves and more likely will plead guilty rather than not guilty. There are many people in gaol for petty crimes committed due to their social condition.

To quote from Archbishop Crawley of Vancouver, B.C.:

Poverty was not part of God's original creation.

This is a very realistic problem, and I feel that the disadvantaged poor need us to advocate for them. Fellow senators, I fully support Senator Cohen and the amendment in Bill S-11.

[*Translation*]

Hon. Lucie Pépin: Honourable senators, I would like to make my contribution to this debate on Bill S-11 at second reading. My position is clear: I give my unqualified support to this bill to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination.

Honourable senators, this long-awaited change is very important for all our fellow citizens. It would have the immediate effect of adding social condition as a prohibited ground of discrimination under the law, strengthening special programs within federal jurisdiction, designed to prevent, eliminate or reduce disadvantages based on social condition and protecting these corrective measures from being considered a prohibited act of discrimination. In the long run, this change would make poverty issues — which are omnipresent but go unnoticed, not unlike the victims of poverty — a permanent feature on the government's agenda.

Why was this change so long in coming? Because, as a founding member of the United Nations, Canada long ago signed international covenants that form part of the International Charter of Human Rights. One such covenant concerns civil and political rights, while another concerns economic, social and cultural rights. The purpose of both is to ensure that all individuals have equal access to their fundamental rights. The Canadian Charter of Rights and Freedoms, which no doubt stems from the covenant on civil and political rights, is a tool allowing us as a nation to fulfil our international obligations in this respect. Similarly, federal and provincial human rights codes can only arise from our commitment to the covenant on economic, social and cultural rights. The difference is that, in the second case, our obligation is more moral than legal. While results are important, so are the efforts aimed at achieving these results.

Each state party to the covenant undertakes:

— to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the...Covenant by all appropriate means, including particularly the adoption of legislative measures.

Basically, we undertook to do our best. Failure to get closer to the ideal standards established in the covenant could be a source of embarrassment both internationally and domestically, but our obligation to strive to achieve these standards is essentially a moral and political obligation. It is our moral and political obligation to our fellow citizens.

[*English*]

•(1700)

What moral obligations did we assume? The guarantees of the International Covenant on Economic, Social and Cultural Rights include very basic matters which are essential to personal dignity, respect, and the ability to take part in our society in a full and

productive way. This covenant promises each individual the opportunity to gain a living by work freely chosen or accepted by that individual. It affirms a right to social security, including social insurance. It promises an adequate standard of living for oneself and one's family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. It promises the highest attainable standard of physical and mental health. There is a right to education directed to the full development of the human personality and the sense of its dignity, which education shall enable each individual to participate effectively in a free society.

[*Translation*]

Children's rights are a vital part of the Covenant. It provides that:

The widest possible protection and assistance should be accorded to the family ... particularly ... while it is responsible for the care and education of dependent children.

In addition:

Special measures of protection and assistance should be taken on behalf of all children and young persons without discrimination for reasons of parentage or other conditions.

[*English*]

Honourable senators, the addition of the term "social condition" to the Canadian Human Rights Act relates to every one of the rights and obligations I have just recited. Nonetheless, despite the breadth of its reach, this amendment to the Canadian Human Rights Act will not obligate the federal government to legislate and/or spend so that every one of these rights is completely fulfilled. What it will do, within the federal sphere of responsibility, is ensure that impoverished Canadians are not denied equal access to these social goods — work, social security, social benefits, adequate food, clothing and housing, and education — because of their social condition or the social condition of their parents.

For the long term, it will remind us, as legislators and policy-makers, of the commitment which we gave on the international stage that we would take active steps toward the betterment of the economic, social and cultural condition of our population.

[*Translation*]

What do we know about the fate of the poor in this country? According to the National Anti-Poverty Organization, one Canadian in six — in other words, 5,294,000 people — was living below the poverty line in 1996. This figure is truly incredible, especially since it does not include the native people living on reserves, the residents of the Territories and people in prisons, hospitals and homes for seniors. We know that poverty

affects certain categories of Canadians: families where the head of the household is young, families with a single woman as the head of the household and people who live alone. Young people and women are likely to be poor. In the case of children and seniors, the national figure of one in six becomes one in five. In the population as a whole, more native people than persons with disabilities make less than \$10,000.

Honourable senators, the children of poor families do not fully enjoy other basic rights guaranteed by the International Covenant on Economic, Social and Cultural Rights. Let us take housing as an example. If conditions are unhealthy, the children are more exposed to respiratory diseases and other minor health problems, as well as to serious infectious diseases such as tuberculosis and meningitis. Overcrowding, the lack of privacy and the lack of place to play are all linked to poor health and inferior academic performance. Improper and overcrowded housing, and frequent moves all have an enormous impact on our children. With frequent moves, people have to face the problem of increased rent or the ever rising cost of living. In October 1997, the Housing and Urban Development Association of Canada testified as follows before the Commons Standing Committee on Finance:

[*English*]

Researchers have found that housing environments can support or undermine individuals in becoming participating members of society with a personal network of close ties and a recognised contribution to make. Poor housing environments reinforce low social status. They foster isolation and prevent people from taking on meaningful roles that raise their social opportunities and social status. Children growing up in homes where the primary experience is of powerlessness — before the landlord, before the eviction notice, before any efforts to have repairs done or conditions improved — learn quickly that they are of no account to the world.

Moreover, we, as parliamentarians, know all too well that economically disadvantaged children are more likely to find themselves amongst the youths and adults entangled with our criminal justice system. Towards the end of the last Parliament, the Commons Standing Committee on Justice commented in its report “Renewing Youth Justice” that:

...the factors associated with criminal activity are, in the main, social problems (e.g., illiteracy, poverty, poor housing, substance abuse, school failure, etc.) with which —

— criminal —

— law and legal institutions are ill-suited to deal.

[*Translation*]

If there is not unanimity in the research on the role poverty plays in criminal behaviour and victimization, the result is the

same in the end, whether the cause is poverty itself or the myriad risk factors that go along with poverty. It is clear, according to a National Crime Prevention Council document, that poor children are often deprived of the essential rights guaranteed to them by the international covenant. The document tells us that poor children generally have poor health and bad nutrition, and that poverty is also bad for the forging of solid bonds between the children and their caregivers. Children can suffer from the family stresses caused by precarious employment and illness. A child born into poverty runs a greater risk of abuse and of poor social development. It is also found that academic performance, emotional stability and skills acquisition are markedly lower among poor children than among their middle class counterparts.

It is clear that, because of child poverty, in a number of ways Canada is not meeting its commitments under the International Covenant on Economic, Social and Cultural Rights. Poverty can lead to a series of circumstances which will bring our disadvantaged children running into conflict with the law as children and later as adults. The National Crime Prevention Council tells us that poor children are more likely to fall victim to discrimination and victimization, and today’s young victim is often tomorrow’s criminal. The Canadian Council on Children and Youth has reached similar conclusions, which the Standing Senate Committee on Social Affairs, Science and Technology repeated in 1991:

If we disregard the problems confronting children at risk for becoming offenders, we cannot help but face the consequences later on. If we abandon these children to their existence ... of unrealized promise and limited opportunities, we will pay the price later on ... with their alienation and loss of productivity and creativity.

Honourable senators, from my experience while a member of the Appeal Division of the National Parole Board, I can attest to the truth of this statement.

I have heard of countless cases of offenders who were malnourished and had inadequate housing in their youth, could not follow in class because of hunger and started stealing because it was the only way they could look after their younger brothers and sisters. In the latter case in particular, what was a means of survival during their youth became a lifestyle when they grew up. All these offenders started off in life with a handicap; no wonder most of them are still living in poverty as adults.

As Senator Cohen reminded us a month ago, we still have a way to go in fulfilling our obligations under the covenant. Social condition — in other words, poverty — remains a huge handicap for a large part of our population. The most vulnerable members of our society are very likely to be poor and to be hindered by poverty in their efforts to participate fully in our society. In a paper soon to be published in the law journal of the University of New Brunswick, the Chair of the Canadian Human Rights Commission, Michelle Falardeau-Ramsay, reminds us that:

Poverty is the economic result of a lack of opportunities, whether this lack is due to discriminatory decisions, rules or policies or to the vicious circle of underemployment, low income, lack of self-confidence and educational opportunities and run-ins with the law. If a person is unfairly and systematically denied employment, this will result in a handicap that may lead to poverty. In turn, poor people increasingly rely on government benefits and social services, which makes them particularly vulnerable to any reform — as neutral as it may be — of fiscal and social policies.

[English]

...Poverty is itself a disadvantage which throws up barriers to individual dignity, social participation and the powers of self-determination and self-fulfilment.

[Translation]

Honourable senators, one month ago, in this very chamber—

The Hon. the Acting Speaker: Honourable senators, the allotted time is up. Your 15 minutes are over. Is leave granted for Senator Pépin to continue her speech?

Some Hon. Senators: Agreed.

Senator Pépin: Honourable senators, one month ago, in this very chamber, Senator Cohen told us that the UN, which is monitoring Canada's efforts to comply with the Covenant, had asked us to take the necessary action to bring our legislation more into line with our obligations under the International Covenant on Economic, Social and Cultural Rights.

Several of our provinces — but not all — enacted legislation prohibiting discrimination on the basis of poverty. Social condition is a prohibited ground of discrimination in Quebec. Source of income is a prohibited ground of discrimination in Alberta, Manitoba and Nova Scotia. In Saskatchewan, being on welfare is a prohibited ground of discrimination; this is also the case in Ontario, but only if a person is refused accommodation. The Province of Newfoundland prohibits any discrimination based on national or social origin. That leaves three provinces, two territories and the federal government that have not yet enacted legislation to protect Canadians living in poverty against discrimination based on their condition.

Honourable senators, by supporting the amendment to the Canadian Human Rights Act, we would be adopting a position consistent with that of the Chairman of the Canadian Human Rights Commission, Mrs. Falardeau-Ramsay, who told the media she was convinced that poverty is probably the most common ground of discrimination in our society. She stressed the need for a provision concerning the poor in our human rights legislation. She explained that, in a period of slowing or difficult economic growth, discriminatory attitudes harden and people look for scapegoats, something that is particularly easy to do when people are different from us.

Honourable senators, by including social condition as a prohibited ground of discrimination in our legislation, we will be telling our fellow countrymen clearly that discrimination against the poor will simply not be tolerated. We all know in our hearts that the poor did not ask to be poor. How could we possibly believe for one second that poor parents would deliberately impose such conditions, such inequality, on their children? We must be wary of government action and policy that divides the poor into two categories: the worthy and the less worthy, in an effort to cut assistance to those in the second category. Some of us have become so hardened we deem poor parents to be free to work, even when their children are of pre-school age, as is increasingly the case. We therefore consider these families less worthy. We lose sight of the real interests of these children and fail to meet our moral and international obligations to them.

Honourable senators, in any debate on discrimination against the poor, housing is the most obvious stumbling block. Relationships between landlords and tenants obviously come under provincial human rights codes, and it is unlikely that the change proposed by Bill S-11 would have a direct impact. However, I still think it significant that the drafters of this text chose to add social condition as a prohibited ground of discrimination rather than the narrower concept of "welfare recipient." I am thinking for example of a landlord who refuses to rent to a single parent receiving spousal benefits and child support, instead of welfare, on the grounds that the first source of income could be unreliable.

In short, we will create a model the provinces could perhaps emulate. While a number of forms of discrimination based on source of income would fall under provincial, rather than federal, human rights legislation, we would be expressing the importance of this all too often ignored problem at the federal level.

This does not mean that inclusion of social condition will not have an immediate effect within federal jurisdiction. Banks, as you know, are federally regulated.

If a bank were to refuse a deposit because the person cannot give a fixed address, to refuse to cash a government cheque without charge, or to charge exorbitant service charges for small accounts, it is clear that this would be because of the person's low financial resources. To pick up on the example Senator Cohen gave a month ago, if a bank were to refuse to renew a mortgage, even if all payments had been made in full and on time, because the family is now on social assistance, that decision would be based on source of income and would be illegal.

Telecommunications are also a federal jurisdiction. A telephone company setting a deposit requirement depending on whether the customer is employed or not, without regard for whether or not he has always paid on time, would be exposing itself to a lawsuit under the federal human rights legislation. A similar situation exists where the banks are concerned. Pricing policies seem to benefit only those who are well off. I am thinking, for instance, of the long distance reductions available

only to customers who are heavy users of these services. Poor Canadians who could use these savings the most cannot afford to pay the basic charges to take advantage of the reductions, since the lowest price is still too high for them so that they end up paying comparatively higher rates. Adding social condition to the Canadian human rights legislation ought to encourage our regulatory bodies to re-examine these credit, price and service policies under the “magnifying glass of poverty.”

Honourable senators, these last examples are a clear illustration of the broad, long-term impact that Bill S-11 ought to have, in my opinion, on federal decision-makers and regulatory bodies. This text will be our barometer; it will serve as a reminder that we will not tolerate discrimination toward the poor and that government decisions should always be examined in order to avoid their having an unexpected — and no doubt unintended — negative impact on disadvantaged Canadians. We must be up to the obligations imposed upon us by the International Covenant on Economic, Social and Cultural Rights. Adding social condition to this human rights legislation is a significant step in the right direction.

As far as I am concerned, honourable senators, the fundamental intent of Bill S-11 is to protect our children and improve their chances of becoming responsible adult members of our society. This is not a partisan action here. It is a moral obligation we must fulfil.

[English]

•(1720)

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, it will not be necessary for me to go through the speech that I have prepared on this bill, because we have had three excellent interventions by our colleagues Senators Pépin, Chalifoux and Cohen. They have canvassed very thoroughly the principle underlying this bill which is aimed at amending the Canadian Human Rights Act.

I should simply say what a wonderful initiative by the Senate of Canada, during this year, the fiftieth anniversary of the Universal Declaration of Human Rights. Our colleagues have demonstrated to us the consistency between this proposed amendment to the Human Rights Act and section 15 of our Charter of Rights and Freedoms, as well as the consistency between this amendment to the Human Rights Act and the International Covenants on Human Rights ratified by Canada in 1976.

I want to go on record as lending my support to this amendment. I hope it will go to the Standing Senate Committee on Legal and Constitutional Affairs so that we may hear the views of expert witnesses. I commend my colleagues for their excellent speeches at second reading debate.

Hon. Jean B. Forest: Honourable senators, the hour is late and as my colleague has said, the previous speakers have spoken eloquently, but as a former human rights commissioner and long-time advocate for the protection of the socially and

economically disadvantaged, I simply rise to record my strong support for this amendment.

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 Cohen, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Hon. Lise Bacon: Honourable senators, I would like to ask for leave to attend the meeting of the Standing Senate Committee on Transport and Communications. People have been waiting for an hour and a half already. We request leave to sit immediately, rather than waiting for the Senate to adjourn.

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

Some Hon. Senators: Agreed.

[English]

CAPE BRETON DEVELOPMENT CORPORATION

CONSIDERATION OF FINAL REPORT
OF SPECIAL COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the final report of the Special Senate Committee on the Cape Breton Development Corporation, tabled in the Senate on December 15, 1997.

Hon. Lowell Murray: Honourable senators, in rising to speak to this report, let me first offer a word of appreciation to the chairman of the special committee, Senator Bryden. The honourable senator brought his considerable analytical and forensic skills to a subject with which he had no previous experience. He is, as I say, a quick study. His interest and his leadership were far from perfunctory. Those of us who have some background in Cape Breton and with the issues at stake are grateful for his assistance and cooperation as our chairman.

I also say a word of thanks to the staff, including the clerks, the Parliamentary Library researchers and our communications advisors who were most helpful.

Over the past two years, the Senate has three times set up a special committee to examine the affairs of the Cape Breton Development Corporation. The first committee sat in the spring of 1996 and tabled its report in June of that year. The second sat in March of 1997 and reported in April. The third committee met in the fall of 1997 and its report, which we are debating today, was tabled in December.

For the record, let me report that the first committee spent some \$10,400 in carrying out its mandate. The second committee, which spent several days in Cape Breton and held hearings there, spent slightly in excess of \$40,000. The third committee spent just under \$7,000. I think the three committees have given excellent value for these relatively modest expenditures. However, some colleagues may wonder — indeed, some have wondered aloud — why the Senate should have taken the trouble to appoint special committees on a subject which is obviously of limited and local interest rather than of national significance.

First, Devco is a federal Crown corporation and Parliament has a fiduciary responsibility to the taxpayers of Canada to hold the directors, the government and management to account for its policy and operations. In the 30 years of its existence, this corporation has had its operating losses and capital expenditures underwritten by the federal treasury by more than \$1.5 billion — not a huge amount when compared with other similar expenditures over the same period of time but certainly worthy of attention.

Until we established the first special Senate committee on Devco in 1996, it had been very many years since any committee of either of the Houses of Parliament had examined this Crown corporation.

Second, while Devco is a matter of local rather than national interest, its role is crucial to those of our fellow Canadians who live on Cape Breton Island. The most recent annual report states that in the fiscal year 1996-97, the corporation directly contributed some \$150 million to the Cape Breton economy, \$128 million in wages and pensions and approximately \$23 million in goods and services. Devco is, of course, and by far, the biggest employer on the island, with some 1,800 employees.

Third, the future of Devco is uncertain. The sense of insecurity, indeed foreboding, that exists on the island today is nothing new, but it is growing. The economic, social and, yes, cultural issues that are interwoven with Devco's future are such that we owe it to Cape Bretonners to try to dispel some of the uncertainty and anxiety.

The Senate committee cannot claim to have settled the future of Devco. The future is primarily in the hands of the government. However, we have clarified the issues. We have made recommendations which we believe support the mandate of self-sufficiency given to Devco and which point to its continuance as a Crown corporation and a major economic contributor to Cape Breton. The analysis in our first two reports has, in some important respects, been verified by events. Some of our recommendations of 1996 seem even more timely and reasonable today.

Not everyone has applauded our work or even welcomed our existence. Management have not tried very hard to conceal their resentment at having to give an account of their stewardship at a Senate committee with the media watching. They should

consider themselves lucky to have encountered courteous and constructive questioning instead of the harsh ordeal that some Crown corporation presidents in the past have had to endure at the hands of parliamentary committees. The annual appearance of Donald Gordon of Canadian National Railways at the Commons Transport Committee was, for many years, the best ticket in town. I can recall committee scenes that could fairly be described as tumultuous, involving Ross Campbell when he was at Atomic Energy of Canada Limited, and stormy meetings with various officers of the CBC and even of the National Gallery.

•(1730)

Anyway, management these days, whether in the public or private sector, are learning that they cannot be a law unto themselves; not all the time, anyway. There has to be an occasional day of reckoning.

As for the United Mineworkers, they jumped at the opportunity to use the three committees as a platform from which to vent their grievances against the company and the government, but they reacted negatively in December when our report stated, in more pointed language, what we had tried to say more softly in our first two reports, namely that at the higher levels, union-management relations are just awful.

While there is no doubt fault on both sides, the union executive's practice of trying to conduct labour-management relations through media headlines is completely counterproductive. It just poisons the atmosphere, and it is unknown today in any industry anywhere that has a successful record in labour-management relations.

The UMW executive did not appreciate our comments, but they would do well to take them to heart, as would the government and management do well to revisit some of the recommendations to which they have so far given short shrift.

Honourable senators, it was in March 1990 that the federal government issued a mandate to Devco to become financially self-sustaining by the end of the fiscal year 1994-95. In the years immediately following 1990, the Crown corporation did, indeed, cut costs and reduce its losses. However, it became clear well into fiscal year 1995-96, which was supposed to be the first year of self-sufficiency, that they would not achieve this goal. A new five-year plan was drawn up and approved by the government, at the end of which the corporation would be turning a profit.

Meanwhile, a schedule of declining losses over the period 1995-96 to 1998-99 would be underwritten by interest-bearing, repayable loans of \$9.4 million in 1995-96, and of \$34.1 million, \$22.1 million and \$3.4 million respectfully in the three succeeding years ending in 1998-99.

In our report of June 1996, the first special Devco committee made some recommendations that would have removed from the Devco balance sheet, at least in part, some obligations that we believed ought not to have been kept on the books once the government insisted that the company should become

self-sustaining. These were social costs, some of which pre-dated or accompanied the federal takeover of the Cape Breton coal mines 30 years ago. On the books, they give a false impression of the current financial management and status of the company. I will not dwell on this today because the government has twice rejected our recommendations and I see little point in pursuing the matter.

More significant in the context of the challenge facing Devco today were the committee's observations on the condition and future prospects of the two mines it now operates, Phalen colliery, which employs some 800 people, and Prince colliery, where the workforce numbers 500.

We noted that development at Phalen was then two years behind and that the mine faced adverse geological conditions such as a heavy roof, gas problems, rock outbursts and flooding. In the case of the Prince mine, we referred to evidence we had received indicating diminishing returns and questions about the life expectancy of the mine. We went on to recommend that Devco should immediately undertake and publicly report a clear assessment of the future of existing mines. We urged that the corporation adopt, as part of its corporate plan reporting process, a longer-term perspective on current and future mine development with contingencies.

In view of the uncertain life expectancy of the existing mines, we recommended that Devco and the Province of Nova Scotia undertake a study to ascertain the development potential and cost of opening the Donkin mine, which seemed to us to be the best, if not the only, future opportunity for Cape Breton coal.

That was almost two years ago in the report of the first Senate committee on Devco. We returned to these issues when the second Devco committee reported in April of 1997. By that time, Devco had entered into a rather dubious letter of intent to transfer the Donkin lands and leases to a private sector company which had suddenly been created overnight for this purpose. Although the federal government had refused our repeated calls for a study of the Donkin potential, they found \$300,000 through the Atlantic Canada Opportunities Agency to fund the private sector study. The second Devco committee was critical of this initiative and we urged that no irrevocable commitment be made to give up this asset.

When the third Senate committee on Devco met last November and December, we found that in the fiscal year 1996-97 the company had, indeed, stayed on target and achieved its bottom line financial objective. The cash requirement of \$34.6 million was just slightly higher than the limit forecast in the five-year plan and approved by the government.

Further, the prospects for the Prince mine had been clarified, and happily so. According to the President of Devco, a reassessment of Prince indicates that there are some 44 million tonnes of mineable coal available, which would give that colliery a new and unexpectedly longer lease on life.

Unfortunately, conditions at the Phalen mine have worsened. A roof fall resulted in a lengthy cessation of production and rock-gas outbursts halted development work during the third quarter of the present fiscal year, and the shutdown extended into the fourth quarter. Production has recently resumed, but the problems took a heavy toll on Devco's financial results in the third quarter and, I would think, for the entire fiscal year which ends in two weeks' time on March 31.

The corporate plan approved by the government limits the cash requirement for Devco for this fiscal year to \$22 million, and it seems likely they will exceed that limit.

The third quarter report, recently released, shows that, up to that point, Devco's losses were at \$34.8 million and its cash requirements some \$16 million more than allowed for in the corporate plan. To try to cut its losses, 450 employees were laid off at the beginning of January and it is not known when they will be rehired.

As for the longer-term future of the Phalen mine and its 800 employees, it seems less certain than ever. Devco expects to have completed development for Phalen's next wall face and to start production in the first quarter of the new fiscal year, beginning April 1; but who knows what to expect? A worst-case scenario sketched for the committee by Devco's chairman would leave no long-term future for Phalen. At best, most knowledgeable people see a ten-year life span ahead.

This is the background against which the third Devco committee reiterated the recommendations of its predecessors; recommendations which had been vindicated and reinforced by events. The committee recommended that the future of existing mines be clearly assessed, that a longer-term perspective for current and future mine development be included in the corporate plan, and we recommended that the geological and economic data of the Donkin mine be assessed to ascertain whether, and under what circumstances, Donkin would be commercially viable.

The committee heard testimony from one of the private sector proponents of the Donkin mine, Mr. Steve Farrell. Various options were floated by Mr. Farrell, but the private sector company does not seem to have a very clear game plan or strategy. The \$300,000 advanced to his company by the federal government seems to be financing a variety of studies, but more money from some source would be needed to conduct a proper feasibility study.

•(1740)

Mr. Farrell spoke of contracting with Boyd Engineering, a U.S. firm that had done work on Devco for the federal government in the past. He also mentioned the prospect of some arrangement with SNC Lavalin which, as we all know, does not contribute its services free of charge.

Where is the money to come from? It is all quite mystifying. The letter of intent between Devco and the private proponents signed last April was to enter into an agreement on lands and leases within 60 days. As of last December, eight months later, the agreement had not been done. So far as I know, it has still not yet been concluded.

When the Minister of Natural Resources appeared before the committee in December, he gave us and the people of Cape Breton some small comfort by confirming what most honourable senators had believed to be the case, namely, that the directors and management on their own could not open a new mine at Donkin nor dispose of the asset. The final decision with regard to Donkin rests with the government. Our report, which is before us now, quoted Mr. Goodale on this point as follows:

When we receive Devco's revised corporate plan in the new year, our government will look closely at the ramifications for the corporation, and for workers and for the Cape Breton economy.

It must be obvious to the government that the time for decision is now. Devco has a right to know whether the government, as shareholder, is prepared to stick with the Phalen colliery and, if so, for how long. A clear statement of intent from the shareholder to management would only be sound business practice. Parliament has a right to know what the cost to the treasury would be if it were decided to abandon Phalen in the near future and operate only the Prince colliery.

And what of Donkin? The committee report which is before us today placed the central issue very clearly before the government in these words:

Before an option is chosen, this committee recommends that the government make the fundamental business and policy decision on whether to keep and explore the potential of Donkin through Devco or to make some other arrangement involving the private sector.

In the Senate, the government's policy is announced by the government leader, Senator Graham. Happily, Senator Graham is himself a Cape Bretonner, and thoroughly conversant with all the issues to which I have referred today. I therefore call on him to present —

The Hon. the Speaker: I am sorry Honourable Senator Murray, but your 15-minute period is up. Are you asking for leave to continue?

Senator Murray: I request leave, yes.

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

Hon. Senators: Agreed.

Senator Murray: Honourable senators, I am calling on the Leader of the Government to take this occasion presented by the

debate on the committee report, before the debate is over, to make a full statement in regard to Devco.

Let me conclude by outlining more precisely what I trust we can expect from him in this connection:

First, I ask that he table in the Senate a copy of the updated corporate plan, which should now include, among other things, forecasts for the five fiscal years ending in 2002-03. The updated corporate plan should also indicate what assumptions are being made or what decisions have been taken with regard to the Phalen colliery, and it should show how the company intends to achieve self-sufficiency as planned in fiscal year 1999-2000.

Second, the government should by now have made its decision, as recommended by the committee, with regard to Donkin. Is the land to be kept for possible future development by Devco or does the government prefer to transfer this asset to the private sector?

Third, when and how does the government intend to ascertain whether and under what conditions the Donkin mine would be a viable operation?

Fourth, the Auditor General of Canada has recently completed his periodic special examination of this Crown corporation. The first Special Senate Committee on Devco was given access to the report of the previous special examination conducted in the early 1990s. I ask that the Leader of the Government obtain a copy of the most recent such report, and table it here in the Senate.

To this, honourable senators, I would add a reference inspired by a question asked yesterday in the House of Commons by the member of Parliament for Bras D'Or, Ms Dockrill. She asked the government to confirm the existence of a plan, which she says exists, to shut down Devco operations for 15 months. The reply to the question came from the Leader of the Government in the House of Commons, Mr. Boudria, who simply took note of the question and undertook to have the Minister of Natural Resources reply at a later date.

A 15-month shutdown, honourable senators, would be very bad news in Cape Breton. I would hope that when the Leader of the Government participates in this debate he will be able to clarify the situation, and let us know whether there is any foundation at all to this report that Ms Dockrill mentioned in her question.

Honourable senators, the special committee has done its job. We have helped define the issues; we have identified some of the main important questions. It is past time for the government to provide some answers.

Hon. Philippe Deane Gigantès: Honourable senators, I should like to point out to Senator Murray that I did not refuse permission for him to continue because I like him. He has not been mean about this issue, whereas Senator Lynch-Staunton refused permission for Senator Hébert to continue. I intend to retaliate at some time, but not against you.

Senator Murray: The people of Cape Breton thank you for that.

Honourable senators, perhaps I should not be relating private conversations, but I understood that Senator Bryden, chairman of the committee, wished to take some part in the debate on this report after I had spoken. He is not here today. Perhaps someone on the other side would like to adjourn the debate in his name. I also remind my friends opposite that I have invited — indeed, urged — the Leader of the Government to take part in the debate before it is over. Perhaps the adjournment could be taken on the other side.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, if it is agreed, we will leave the item standing in the name of Senator Bryden.

On motion of Senator Carstairs, for Senator Bryden, debate adjourned.

AGRICULTURE

MOTION URGING DEFERRAL OF LICENSING OF RECOMBINANT BOVINE GROWTH HORMONE PENDING STUDY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Whelan, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C.:

That the Senate urges the Government to defer licensing the use of Recombinant Bovine Growth Hormone (RBGH) to increase the milk production of the Canadian dairy herd for at least one year, and thereafter until such time as scientific studies have been designed, tested and completed whose conclusions enable the Government to either precisely identify for Canadians the long-term risks to public health or, in the alternative, to publicly assure them that the use of this growth hormone will not affect their individual health.—(*Honourable Senator Spivak*).

Hon. Mira Spivak: Honourable senators, I am pleased to speak to Senator Whelan's motion. I do not think this will take more than 10 minutes. Motion 48 involves the Senate urging the government to defer licensing the use of rBST.

Honourable senators, it is important that we support Senator Whelan's motion. The Senate should urge the government to refrain from approving the bovine growth hormone, also known as rBST, until we have the results of long-term studies of the long-term risk to public health.

At issue is a genetically-engineered product developed by Monsanto to increase milk production. By all accounts, it increases the milk that cows produce by some 10 to 15 per cent. Since 1990, Monsanto has been attempting to win government approval for rBST, but the basic question that still has not been

answered is: What problem are we trying to solve by permitting the sale of this product?

There is no shortage of milk or milk products in Canada. There is not the slightest suggestion that rBST improves the quality of milk. The National Farmers Union objects to its approval and the National Dairy Council of Canada is strongly opposed to the product. The council represents 350 dairy plants and 23,000 workers.

In June, the council wrote to the Minister of Health that:

...regardless of the findings of Health Canada on the health of animals and human issues, the potential for economic loss and attendant social disruption from the introduction of the use of rBST will be immense.

As the dairy council knows, consumers are not clamouring to drink milk from rBST-treated cows. Quite the reverse. Approximately three years ago, when it appeared that the government was about to approve rBST, some 200 organizations across this country voiced opposition.

•(1750)

An rBST task force found that it would be difficult and expensive to have a dual marketing system in Canada — one arm for milk from untreated cows and another for milk from rBST treated cows. The costs and headaches for processors and retailers, the problems of quality control and labelling, could eliminate the theoretical marginal economic benefits to producers or consumers. Simply put, to allow the use of rBST would create problems, not solve any real problem in Canada.

What is driving this long debate and who is likely to benefit from it? The answer is, very clearly, the corporation which developed it. Monsanto has won approval for rBST in the U.S. and elsewhere. Countries of the European Union have resisted, as they have resisted approving growth hormones to increase beef production, and have tried to ban imports of U.S. and Canadian beef.

I have raised questions on the government's position on rBST and have received virtually the same response to each question: rBST is under review by Health Canada.

In December, I raised the matter of allegations from Health Canada's own scientists. While demanding a public inquiry, the scientists claimed that their review of this drug and other veterinary drugs containing growth hormones has been hijacked; that their managers have denied them access to human health data, that their managers have tried to pressure them into approving drugs of questionable safety, and that they have been subject to coercion, threats and defamation.

I was shocked, as I am sure were many others, to hear these charges. The vast majority of Canadians trust that our Health Protection Branch is doing exactly what its name implies — protecting our health. The Public Service Staff Relations Board will hold a hearing next month into the grievances filed by the scientists.

What I have discovered since posing that question is just as shocking. There is evidence that officials at Health Canada have not been honest with parliamentarians and that, within the Health Protection Branch, they are withholding information from one another.

The response to my latest question on the rBST matter was:

At the Codex Alimentarius Commission meeting in June, it was decided that the Joint Expert Committee on Food Additives should re-evaluate any and all new scientific information which could affect human health....The Department of Health will evaluate all new relevant data including the Codex data.

The vast majority of Canadians do not keep watch on the Codex, an international standard setting body. They know little about the degree to which Canada must follow these standards or face trade challenges. If they have heard of the Codex, they would assume that whatever Canada does there does not work against our public health policy and that the review of this drug is being carried out responsibly.

However, the events at the international meeting of this commission, which included Canadian representatives, and the impact for Canada were not covered by what I have just quoted. There was a recorded vote on rBST at the Codex meeting last June. In fact, Canada voted against a scientific re-evaluation. Canada opposed considering any new information about rBST. Canada voted against considering any other legitimate factors in setting the standard — such factors as consumer resistance. Alongside the U.S., Mexico, South Africa and Costa Rica — all countries that use rBST — Canada wanted to set a standard without delay, and we did not abstain.

The Canadian delegation, sent by our Health Protection Branch, opposed an international review and delaying a Codex for rBST, at the same time as their colleagues in Health Canada were supposedly reviewing the drug in-house. A Codex standard could prompt a trade challenge and obligate Canadians to accept milk and milk products from rBST treated cows. The only defence in future might be a full-blown scientific risk assessment proving that Canadians, for some reason, needed tougher standards than our American neighbours. In essence, what occurred at the international meeting both contradicted or could render irrelevant the review of rBST within Health Canada.

The evidence is found in the proceedings of the twenty-second meeting of the Codex, the standard setting body of the WHO and the Food and Agriculture Organization. For many years, Codex simply set descriptive standards for foods — standards that allowed both exporters and importers to know what is being bought and sold, such as peanut oil, for example. Recent agreements have changed that. Both NAFTA and the Uruguay Round of GATT designated Codex as the international body establishing presumptively trade-legitimate safety standards. That means that any WTO member country which adopts a

standard that is higher than the Codex risks a trade challenge. Challenges are heard by arbitration panels behind closed doors. Decisions by appellate bodies are binding under international law. That is why standards set by the Codex Alimentarius have become so critical — more critical than standards set by Health Canada. That is why industries pay such close attention to the Codex, where Consumers International is one of the few persistent public interest watchdogs. This is what Consumers International has to say about the Codex meetings:

Representatives from the food and chemical industries heavily outweigh representatives from public interest groups at Codex meetings....In the period 1989 to 1991, 96 per cent of non-governmental participants represented industry.

The standard that Canada favoured at last June's meeting would have set no limit on residues of rBST in milk or meat. The standard is ludicrous, according to one Canadian observer at the meeting, because there is no good, widely available test to detect these residues.

It seems inexplicable that the Canadian delegation wanted to set an international standard while rBST is still under review by the Health Protection Branch. It seems doubly so given the great weight that is now attached to the decisions at the Codex.

There is another troubling point. The office of the Codex contact point for Canada is within our Health Protection Branch. On the list of Canadian delegates who attended the meeting is an individual who is the director of government regulatory affairs for Monsanto, maker of rBST. Mr. Robert Ingratta says he attended as an observer and that his prime interest was food labelling. He claims he was not present when Canada voted on rBST. Now this same gentleman is also listed as a lobbyist for Monsanto Canada in the public registry for lobbyists.

It is completely inappropriate for a Canadian delegation to have the director of government regulatory affairs of a corporation and a lobbyist alongside at a meeting to decide something so important to this company. There were, by the way, no Canadian consumers on the delegates' list.

Health Canada now has an "issues manager" for rBST. His task is to create two outside panels to look at the human health and animal health evidence. One panel is to be formed through the Royal College of Physicians and Surgeons; the other through the Canadian Veterinary Medical Association. The issues manager is well aware that any decision by the Codex could make moot the decisions of those independent Canadian groups.

In late February, he claimed not to know that the Canadian delegation in June had opposed delaying the Codex standard. Although he meets with officials who attended the Codex session and with officials from the Department of Foreign Affairs and International Trade, apparently no one had told him that their work could make an independent review little more than a domestic whitewash.

It seems incomprehensible that officials in this department could not coordinate the review of such an important matter so that both the international and domestic positions were consistent.

As it turned out, Canada was in the minority on the vote at the meeting of the Codex. The majority of countries agreed that two expert international committees should look again at the scientific evidence before setting a standard and that a third should consider whether other legitimate factors should apply. One of those committees reported recently. It suggests that milk from rBST-treated cows results in no appreciable risk for consumers.

The question now is what room for manoeuvring remains for the Canadian review should all expert committees approve rBST. This is not the only example of inconsistencies between a Canadian position abroad and at home. In January, an appellate body of the WTO ruled on Canada's challenge to the European ban on imports of meat from cattle treated with growth hormones. There is evidence that Canada's arguments before the WTO body were completely contrary to what we assume is government policy at home.

European countries tried to invoke the precautionary principle; the principle that says we do not need complete scientific certainty before we take steps to protect health and the environment. Canada argued that in law there is no precautionary principle, only a precautionary approach which may, in future, crystallize into one of the general principles of law recognized by civilized nations. The Minister of International Trade, in his former post as environment minister, relied on the precautionary principle to defend his ban on imports of gasoline containing the additive MMT. Environment Canada officials invoked it at a Senate committee hearing.

•(1800)

The Hon. the Speaker: Honourable Senator Spivak, I regret that I must interrupt you. It is six o'clock. Under the rules, I must leave the chair and return at eight o'clock.

Hon. Noël Kinsella (Acting Deputy Leader of the Opposition): We agree not to see the clock.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I think there is agreement not to see the clock.

The Hon. the Speaker: Is there agreement not to see the clock?

Hon. Senators: Agreed.

Senator Spivak: In the WTO January ruling on beef hormones, there is evidence that Canada argued that countries

have a "positive obligation" to follow Codex standards. What does that mean to Canadian sovereignty on matters of public health? The Minister of International Trade, in the negotiations on the MAI, multilateral agreement on investments, had said that nothing will interfere with sovereignty on health.

The January ruling on beef hormones also shows that Canada claimed to have done a risk assessment on one of the growth hormones in question but refused to disclose scientific evidence or information. Canada claimed that our studies are proprietary and confidential, but surely transparency in matters relating to something as important as food is an important Canadian principle.

Canada argued that the burden of proof rests with countries that adopt higher standards than the Codex. That is tantamount to a reverse onus on those who want strong government standards, and it is a complete contradiction of what the government says at home. Fortunately, the appellate body disagreed with most of what Canada had to say.

Honourable senators, I share many of the concerns about rBST raised by farmers, by milk processors, by consumers, and by scientists. I have used my time to talk about this contradiction among government officials because I believe what they are doing is contrary to the public interest.

I want to mention one recent study that I think could be germane. It was conducted at the Cancer Research Lab of Montreal's Jewish General Hospital in conjunction with Harvard University. It was based on blood samples given by U.S. doctors. It found that men who had high levels of a hormone called IGF-1, insulin-like growth factor, were four times more likely to have prostate cancer than men whose IGF-1 levels were low. The findings were published in the prestigious U.S. journal *Science* in January. At this point, the researchers say they do not know whether IGF-1 causes prostate cancer or simply indicates its presence. More work needs to be done.

It is relevant to this debate because treating cows with rBST increases the level of IGF-1 in milk. How much is too much? Science cannot yet answer the question. Until this question is answered, it would be unacceptable, I think, for the Government of Canada to approve a drug which makes no claim to improve milk. The late Irving J. Selikoff, a world renowned epidemiologist, once said that absence of proof of harm is not proof of safety. We should not license rBST until we have long-term studies that assure us it is safe.

I would urge all honourable senators to support Senator Whelan's motion.

On motion of Senator Milne, debate adjourned.

The Senate adjourned until Wednesday, March 18, 1998, at 1:30 p.m.

CONTENTS

Tuesday, March 17, 1998

	PAGE		PAGE
New Senators		State of Financial System	
Introduction.	1168	Interim Report of Banking, Trade and Commerce Committee Tabled. Senator Kirby	1178
Senator Graham	1168	Canada-Yukon Oil and Gas Accord Implementation Bill (Bill C-8)	
Senator Lynch-Staunton	1170	First Reading.	1178
Senator Perrault	1170	The Estimates, 1997-98	
Senator Lewis	1171	The Estimates, 1998-99	
Senator Callbeck	1171	Notice of Motion to Authorize National Finance Committee to Study Main Estimates 1998-99, and Supplementary Estimates (B), 1997-98. Senator Carstairs	1178
Visitors in Gallery		The Estimates, 1998-99	
The Hon. the Speaker	1171	Notice of Motion to Refer Privy Council Vote 25 to the Standing Joint Committee on Official Languages. Senator Carstairs	1178
The Late Gabrielle Léger		Notice of Motion to Refer Vote 10 to the Standing Joint Committee on the Library of Parliament. Senator Carstairs	1178
Tributes. Senator Graham	1171	Business of the Senate	
Senator Beaudouin	1172	Adjournment. Senator Carstairs	1178
<hr/>			
SENATORS' STATEMENTS		Senator Murray	1178
International Women's Day		Senator Kinsella	1179
Senator Carstairs	1173	Canada-Taiwan Parliamentary Friendship Group	
Canadian Flag		Report of Canadian Delegation to Taiwan Tabled. Senator Grimard	1179
Ruling of House of Commons Speaker on Reform Party Initiative. Senator LeBreton	1173	Canada-Japan Inter-Parliamentary Group	
Paralympic Winter Games		Sixth Annual Asia-Pacific Parliamentary Forum, Seoul, Korea— Report of Delegation Tabled. Senator Hays	1179
Participation of Canadian Athletes in 1998 Games at Nagano, Japan. Senator Fairbairn	1174	Canadian War Museum	
Unemployment in Rural Canada		Notice of Motion to Authorize Social Affairs, Science and Technology Committee to Extend Date of Final Report. Senator Murray	1179
Senator St. Germain	1174	Privileges, Standing Rules and Orders	
St. Patrick's Day		Notion of Motion to Authorize Committee to Meet During Sitting of Senate. Senator Maheu	1179
Felicitations. Senator Whelan	1175	Civil Code of Quebec	
Canadian Flag		Difficulties and Problems Arising from Section 35— Notice of Inquiry. Senator Hébert	1179
Ruling of House of Commons Speaker on Reform Party Initiative. Senator Prud'homme	1176	Legalization of Industrial Hemp Cultivation	
Euthanasia		Notice of Inquiry. Senator Milne	1179
Dismissal of Murder Charge Against Dr. Nancy Morrison in Halifax, Nova Scotia. Senator Oliver	1176	International Francophonie Day	
Pages Exchange Program with House of Commons		Notice of Inquiry. Senator Robichaud	1179
The Hon. the Speaker	1177	Canada-Japan Inter-Parliamentary Group	
<hr/>			
ROUTINE PROCEEDINGS		Sixth Annual Asia-Pacific Parliamentary Forum, Seoul, Korea— Notice of Inquiry. Senator Hays	1180
The Estimates, 1998-99		<hr/>	
Tabled. Senator Carstairs	1177		
The Estimates, 1997-98			
Tabling of Supplementary Estimates (B). Senator Carstairs	1177		

QUESTION PERIOD**Post-Secondary Education**

Harmonization of Millennium Scholarship with Admission Process— Government Position. Senator Oliver	1180
Senator Graham	1180

Transport

Decision on Relocation of Marine Atlantic Headquarters— Government Position. Senator Oliver	1180
Senator Graham	1180

Industry

Possible Crisis in Failure to Adjust Government Computers to Year 2000. Senator Roberge	1180
Senator Graham	1181

Energy

Sable Island Gas Projects—Decision of National Energy Board—Guarantee of Supply to New Brunswick. Senator Simard	1181
Senator Graham	1181

Prince Edward Island

Possible Appointment of Acadian Senator. Senator Simard	1181
Senator Graham	1181

Visitor in Gallery

The Hon. the Speaker	1182
----------------------------	------

Delayed Answers to Oral Questions

Senator Carstairs	1182
-------------------------	------

National Finance

Proposed Merger of Royal Bank and Bank of Montreal— Government Position. Question by Senator Atkins. Senator Carstairs (Delayed Answer)	1182
--	------

Prime Minister's Office

Appointment of Ethics Counsellor Responsible to Parliament— Government Position. Question by Senator LeBreton. Senator Carstairs (Delayed Answer)	1182
--	------

Labour

Review of Canada Post Corporation—Request for Progress Report. Question by Senator Robertson. Senator Carstairs (Delayed Answer)	1182
--	------

ORDERS OF THE DAY**Depository Bills and Notes Bill (Bill S-9)**

Report of Committee Adopted. Senator Kirby	1183
--	------

Tobacco Industry Responsibility Bill (Bill S-13)

Second Reading—Point of Order—Speaker's Ruling Reserved. Senator Lynch-Staunton	1183
Senator Stollery	1184
Point of Order. Senator Stollery	1184
Senator Kenny	1184
Senator Lynch-Staunton	1187
Senator Kinsella	1188
Senator Carstairs	1188
Senator Bryden	1188
Senator Murray	1189
Senator Gigantès	1189
Senator Stewart	1189

Visitor in Gallery

The Hon. the Speaker	1190
----------------------------	------

Canada Human Rights Act (Bill S-11)

Bill to Amend—Second Reading. Senator Chalifoux	1190
Senator Pépin	1191
Senator Kinsella	1194
Senator Forest	1194
Referred to Committee.	1194

Transport and Communications

Committee Authorized to Meet During Sitting of Senate. Senator Bacon	1194
---	------

Cape Breton Development Corporation

Consideration of Final Report of Special Committee— Debate Adjourned. Senator Murray	1194
Senator Gigantès	1197
Senator Carstairs	1197

Agriculture

Motion Urging Deferral of Licensing of Recombinant Bovine Growth Hormone Pending Study—Debate Continued. Senator Spivak	1198
Senator Kinsella	1200
Senator Carstairs	1200

Appendix	i
-----------------------	---



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9