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Thursday, March 26, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, March 26, 1998

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

Prayers.

SENATORS' STATEMENTS

PREVENTION OF CHILDHOOD INJURIES

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I rise today to draw your attention to the release of *For the Safety of Canadian Children and Youth: From Injury Data to Preventative Measures*. Predicting and preventing childhood injuries is the goal of this new book, released by Health Canada on March 23, 1998. This is the first book of its kind in Canada. In one document, it brings together relevant data from various Canadian sources on childhood fatalities, hospitalizations and emergency room visits due to injury and poisoning.

Honourable senators, the death and hospitalization rates for most types of injuries among children and youth under the age of 20 are declining, but injuries are still the leading cause of death, and account for about 17 per cent of all children who are hospitalized. Many injuries are still occurring in seemingly safe situations. For example, more than one in five injuries among those under the age of 20 occurred in and around the home.

Most of the chapters in the book are written by experts in the field and deal with certain types of injury. The authors present and analyze the data on childhood injuries. In my view, the most important aspect of this book is that it raises awareness on the cause of childhood injuries by identifying risks and recommending steps that can be taken to prevent injury.

Honourable senators, although this book is primarily aimed at injury prevention professionals, the information is valuable to all Canadians. Sadly, the majority of childhood injuries are predictable and preventable.

Although most of us are at the age when we are having grandchildren rather than children, it is a good book for us to read in order to protect our grandchildren.

MR. JOHN MACPHEE

WINNER OF YTV ACHIEVEMENT AWARD FOR PIPING

Hon. Catherine S. Callbeck: Honourable senators, I wish to bring to the attention of this chamber the proud achievement of a young piper from Prince Edward Island who was among 16 Canadian youths chosen for the Ninth Annual YTV Achievement Awards. This Islander is John MacPhee who, at the age of 17, has amassed awards for his playing at competitions in the Maritimes and the United States. More than 1,300 nominations were submitted for the YTV Achievement Awards this year, and John is the first piper ever to win.

A grade 12 student, this YTV achiever excels in classical highland bagpipe music. As well, he plays the Scottish lowland small pipes, the alto and baritone saxophone, the tin whistle and the piano, all while keeping up his school work and other extracurricular activities.

Honourable senators, I am proud to tell you that this young Islander attends the College of Piping and Celtic Performing Arts in Summerside, Prince Edward Island, run by director Scott MacAulay. The College of Piping has positioned itself as the leading international institute in the world for the study of the great highland bagpipe and other Celtic performing arts. Currently, students come to the College of Piping from all over the world. Each year they arrive from New Zealand, Hong Kong, Singapore, Germany, the United States and, yes, even Scotland. Indeed, the college has built such a solid reputation that the children of former world champions from Scotland are coming to Summerside to perfect their craft.

Honourable senators, I hope that you will join with me in congratulating John MacPhee on his award, as well as Scott MacAulay on the success of the College of Piping.

QUEBEC

REDUCTION IN ENGLISH-LANGUAGE HEALTH CARE SERVICES

Hon. Dalia Wood: Honourable senators, English-language health care in Quebec is in peril again. When last I spoke to you on the subject, the Government of Quebec had not yet approved English-language health care access plans that had been formulated by the regional health boards, stating that it was concerned with the level of English-language services being recommended. Abundant were the claims that institutional bilingualism was becoming rampant in Quebec hospitals, and that the ability of Quebecers to work in French would be seriously compromised by the access plans. The plans had been returned to the regional boards for a reconsideration with a letter. The letter stated as follows:

> Allow me to remind you that, once adopted, the services indicated in your program become a right for English-language users.

It is no wonder that some boards were feeling pressure to reduce services, even if the minister is on record as stating that that was not the Quebec government's intention.

Yesterday's Montreal *Gazette* informs us that English-speaking people in the Saint Maurice region could see a reduction in English-language services — by as much as half. Because of the above letter, many of the institutions are unwilling to guarantee services in English.

Today's *Gazette* informs us that the Mauricie-Bois-Franc regional health board voted unanimously not to require any institutions to provide services in English. English-speaking Quebecers in that region will have to rely on the good will of individual employees to provide the services they are entitled to by law.

Before the Quebec government intervened, there were 17 institutions to provide services in English in that region: now there are none. English-speaking Quebecers in the Saint-Maurice region will now be forced to travel approximately 142 kilometres to Montreal if they want to be guaranteed services in their own language. All of this because, in the Quebec government's eyes, the right of people to work in French takes precedence over the rights of English-speaking Quebecers to receive health care in their own language. This is completely unacceptable.

I urge honourable senators to support the English-speaking minority in its quest to receive health care that they can understand, and with which they can feel comfortable. A hospital is not an appropriate political background. People's lives are at stake.

• (1410)

BLUENOSE

SEVENTY-SEVENTH ANNIVERSARY OF LAUNCH IN LUNENBURG, NOVA SCOTIA

Hon. Wilfred P. Moore: Honourable senators, I rise to make a statement with respect to a very important event that happened 77 years ago today. On March 26, 1921, the schooner *Bluenose* was launched at the yard of Smith & Rhuland in Lunenburg, Nova Scotia. The ship was designed by William J. Roué, a self-taught naval architect, of Halifax. She went on to become a highliner fisherman and sailed into our hearts and Canadian heritage forever as the undefeated "Queen of the North Atlantic," being victorious in every series of races in which she represented Canada against the United States of America for the coveted International Fishermen's Trophy. Her legendary skipper was Captain Angus Walters of Lunenburg. I wish to pay tribute to Captain Walters and all of the men who sailed with him on *Bluenose*. Those men, the ship and her designer represented excellence in ship design, shipbuilding and seamanship, whether as fishermen or racers. Had these men not done what they did, there would be no *Bluenose* legend, and there certainly would not be a *Bluenose II*. I, therefore, wish to make special mention of the surviving crew members of the original *Bluenose*: Don Bailly, Captain Perry Conrad, Robert Cook, Paul Crouse, Robert Crouse, Captain Ellswork Greek, Clement Hiltz, Captain Matthew Mitchell, Merrill Tanner and Paul Wentzell, all of Lunenburg; Harold Rafuse of Bridgewater; Clyde Eisnor of Mahone Bay, John Carter of Halifax, and Captain Claude Darrach of Herring Cove. These Nova Scotians were champions all.

It is also worthy of mention on this day that during the approaching summer, Canada Post Corporation will issue a stamp in recognition of William J. Roué and his design genius.

I can also advise that this summer the replica, *Bluenose II*, will depart her home port of Lunenburg, sail south, transit the Panama Canal, and make her way to British Columbia. She will sail in the waters of British Columbia for nearly one month in completion of her two-year national tour of Canada.

In closing, as you are aware, the Government of Canada announced last week various projects planned to celebrate the millennium. One of these projects is Tall Ships 2000, which will be the nautical event in Canada for that year and will see over 100 of the tall ships of the world gather in Halifax — always a hospitable liberty port. *Bluenose II* will participate in that event, which will draw tens of thousands of visitors to Nova Scotia. All senators will have received an invitation to Tall Ships 2000 in Halifax from July 19 to 24, 2000. I commend that historic event to you and suggest that you begin making your vacation plans now.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the gallery of a group of teachers from the United States who are on a field trip to Ottawa. The teachers are accompanied by Mr. John Preston of the Canadian Studies Program and Dr. William Metcalfe of the University of Vermont.

Welcome to the Canadian Senate.

Honourable senators will recall that this group visits us at least once a year. The host this year is the Honourable Senator Prud'homme, who has followed in the footsteps of a former senator who hosted this group each year. I am delighted that he is in the gallery as well; our past colleague Senator Heath Macquarrie.

Hon. Senators: Hear, hear!

THE SENATE

TRIBUTE TO DEPARTING PAGE

The Hon. the Speaker: Honourable senators, on another item of interest to the Senate, one of our pages, Terrence Schmaltz, who is from British Columbia, will be leaving us today. This is his last day in the Senate, at least as a page. He has secured employment with a senator.

Terrence has sent me a letter, from which I will read a small portion:

> Finally, I would like to thank all of the Senators and Staff of the Senate for all of their patience and kindness during my time as a Senate Page.

Terrence was with us for two years.

ROUTINE PROCEEDINGS

SMALL BUSINESS LOANS ACT

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, March 26, 1998

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

TENTH REPORT

Your committee, to which was referred the Bill C-21, An Act to amend the Small Business Loans Acts, has examined the said bill in obedience to its Order of Reference dated Wednesday, March 25, 1998, and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

THE ESTIMATES, 1998-99

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES PRESENTED

Hon. Anne C. Cools: Honourable senators, I have the honour to present the fourth report, being an interim report, of the Standing Senate Committee on National Finance concerning the examination of the Main Estimates laid before Parliament for the fiscal year ending March 31, 1999.

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

(*For text of report, see today's* Journals of the Senate, *appendix, p. 555.)*

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

Senator Cools: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(*g*), I move that this report be taken into consideration later this day.

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

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration later this day.

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 Tuesday next, March 31, 1998, at 2:00 p.m.

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

Motion agreed to.

QUESTION PERIOD

FISHERIES AND OCEANS

COLLAPSE OF ATLANTIC FISHERY—ACCOUNTABILITY OF SENIOR DEPARTMENTAL OFFICIALS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate.

The report of the Standing Senate Committee on Fisheries recommends that senior management of the Department of Fisheries and Oceans be transferred out of the department for their role in the collapse of the East Coast fisheries. Only the Liberal members of the committee did not agree with this recommendation.

Does the Leader of the Government in the Senate agree with these Liberal members or does he support the recommendation of the committee that senior managers be transferred out of the department and held accountable for their actions?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it would be inappropriate for me to comment on the transfer of any public servants.

The report of the Standing Committee on Fisheries and Oceans will provide the federal government with a useful tool in responding to the many issues facing the Atlantic fishery.

• (1420)

Senator Oliver: Honourable senators, I have a supplementary question. The Liberal members of the committee recommended that the minister demonstrate his will to restore trust between the Department of Fisheries and Oceans and the fishing community. They oppose the transfer of the bureaucrats. This means that the bureaucrats will not be held accountable for the collapse of the fisheries.

Is protecting the careers of a few bureaucrats more important than obtaining justice for the people of Atlantic Canada, who have had their careers ruined by the faulty decisions of the bureaucrats?

Senator Graham: Honourable senators, my honourable friend would know that the standing orders of the House of Commons require the government to provide a comprehensive response to the committee's report, and I suggest that we await the government's response.

CANADA-UNITED STATES RELATIONS

HARASSMENT BY U.S. CUSTOMS AND IMMIGRATION OFFICERS OF CANADIAN TRAVELLERS SEEKING ENTRY— GOVERNMENT POSITION

Hon. Norman K. Atkins: My question is to the Leader of the Government in the Senate. Recent reports in the media have revealed a distressing problem. According to a number of complainants, United States pre-clearance customs officers are acting in an aggressive and bullying manner towards Canadian travellers. Pre-clearance points are an important aspect of travel to the United States, since many American airports do not have customs and immigration facilities. Nevertheless, it is unacceptable for Canadian travellers to be harassed and intimidated by U.S. customs officers with denial of entry, strip search, confiscation of travel documents and personal effects, and detention without a bone fide reason. It is also unacceptable that travellers must suffer mistreatment on their own home soil without any clear, official recourse.

My question to the Leader of the Government in the Senate is: To what extent does the government monitor and react to potential mistreatment of Canadian travellers in airport pre-clearance areas?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would agree with my honourable friend that such behaviour is unacceptable. The Government of Canada monitors these situations on a continuing basis, but if my honourable friend Senator Atkins has any specific information to offer this chamber, or to bring to my attention directly, I would be very pleased to convey that information to the minister responsible.

FISHERIES AND OCEANS

DECLINE OF STOCKS ON WEST COAST—POSSIBLE CLOSURE OF FISHERY WITH CORRESPONDING ASSISTANCE FOR FISHERS—GOVERNMENT POSITION

Hon. Gerry St. Germain: Honourable senators, I, too, have a question for the Leader of the Government in the Senate with regard to fisheries. In view of the recent announcement that, due to the failure of stocks to return, the salmon fishery on the West Coast has been virtually annihilated, has the minister any information as to what corrective action the department will take? On the West Coast we are now faced with a situation similar to that which occurred on the East Coast: The officials and all of the experts allowed fishing to continue to the point where we ended up virtually without any fish at all on the East Coast.

After the fact, I would hate to think that those of us from the West Coast did not stand up and ask the government, and those others who are making the decisions, to shut down the fishery on the West Coast totally, if it were necessary, in order to save the various species that are in extreme danger of extinction. It is the coho and various other species that are being depleted. Their very existence is being threatened at this time. Does the minister have any information on that situation?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is a serious problem on both coasts in Canada.

As my honourable friend suggests, it is quite obvious that 1998 will be a difficult salmon season on the West Coast. This is as a result of poor marine survival, changing ocean conditions, and the continued downward trend in coho production in British Columbia.

Conservation concerns for coho will require additional restrictions in all salmon fisheries in 1998. I am not aware that any complete shut-down has been contemplated.

Senator St. Germain: Honourable senators, I have a supplementary question for the minister.

Will there be assistance for the Pacific fishery in the event that there is a shut-down? Will a similar package to that which was extended to the East Coast be offered to the fishermen on the Pacific Coast? Will the minister bring my concerns to the minister and to cabinet, in order to ensure that some of us will be prepared to examine the possibility of an entire shut-down for the sake of the fishery itself, in the long term?

Senator Graham: Honourable senators, with respect to the possible shut-down of the fishery, the Minister of Fisheries, Mr. Anderson, is closely monitoring the entire situation. With respect to the possibility of assistance, I am also aware that the Minister of Human Resources Development is working in close collaboration with the Minister of Fisheries and Oceans to determine what assistance might be given to fishers on both coasts of Canada because of the tragic situation that has developed.

FOREIGN AFFAIRS

UNREST IN CITIES IN NORTH KOREA—RAMIFICATIONS FOR TREATY OBLIGATIONS WITH SOUTH KOREA— GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I, too, have a question for the Leader of the Government in the Senate.

In recent weeks there has been a growing number of reports of fighting between the police and military units in the capital of North Korea. In the view of some, this could be a prelude to some type of mutinous revolt or uprising.

Will the Leader of the Government in the Senate indicate to us whether the government has taken note of this situation, and perhaps tell us what the present state of affairs is in North Korea? I ask that question because, as you will appreciate, I have a supplementary question with respect to contingency plans that Canada may or may not have.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the answer to my honourable friend's question is very much in the affirmative: that the government is monitoring the situation in North Korea very carefully. If there is any new information I can bring to my honourable friend, I will be happy to do so at the first opportunity.

Senator Forrestall: Bearing in mind, honourable senators, that one of the scenarios — perhaps the principle scenario — for North Korea involves a military attack on South Korea; that South Korea is a major trading partner with Canada and that the situation is grave on the peninsula, what are our treaty obligations to South Korea in the event of this type of conflict, given the other arrangements that are in place with respect to North Korea and South Korea?

Senator Graham: Honourable senators, I am not aware of the specific treaty obligations, but I will be happy to bring in a complete answer for my honourable friend at the first opportunity.

SOLICITOR GENERAL

SHOOTING BY RCMP OFFICERS OF MOTHER AND SON ON TSUU T'INA NATION RESERVE, ALBERTA—ESTABLISHMENT OF INDEPENDENT INQUIRY—GOVERNMENT POSITION

Hon. Willie Adams: Honourable senators, I should like to ask the Leader of the Government in the Senate about the incident which occurred just outside of Calgary at an Indian reserve.

We are concerned about this situation, about the aboriginal people, and especially about the mother and son who were killed by the RCMP. According to my information, and that given on the news, it was said that the aboriginal people would like to have an independent inquiry. I hope the government will support an independent inquiry regarding what happened at this reserve.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I thank the honourable senator for his question. I am sure that all honourable senators join with me in expressing our shock and sympathy: our shock at the developments, and our sympathy to the families concerned.

I know that a full investigation is being conducted at the present time by the authorities in the province. As to whether or not an independent inquiry will be instituted, I will be happy to bring my honourable friend's comments to the attention of my colleagues in order to determine whether such an inquiry would be a federal or a provincial responsibility.

• (1430)

ORDERS OF THE DAY

MACKENZIE VALLEY RESOURCE MANAGEMENT BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Forest, seconded by the Honourable Senator Fitzpatrick, for the second reading of Bill C-6, to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts.

Hon. Gerry St. Germain: Honourable senators, I rise today to join in the second reading debate on Bill C-6, the Mackenzie Valley resource management bill.

At second reading, we discuss the principle or the general thrust of the bill. When a bill has successfully passed second reading, we have approved the bill in principle. For me, Bill C-6 is the type of bill with which it is easy to agree in general principle. However, I find it hard to agree with the specifics which implement this overall principle.

Bill C-6 has a long history. It arises out of the settlement of two comprehensive land claim agreements in the Northwest Territories. On April 22, 1992, the former Progressive Conservative government signed a comprehensive land claims agreement with the Gwich'in people. In September of 1993, it concluded a similar agreement with the Dene and Métis of the Sahtu region. The bill before us is similar to a bill that was introduced by the previous government and died on the Order Paper with the call of the June 1997 general election.They implement certain covenants in these agreements.

Before I proceed any further with my remarks today, I wish to make it clear to honourable senators and to all of the groups that the Standing Senate Committee on Aboriginal Peoples will hear on this bill that I support wholeheartedly aboriginal self-government. Growing up, as I did, outside of Winnipeg and having made the contacts I have made in my career in the aboriginal community, I believe I can say that I understand, perhaps as well as anyone, most of the frustrations and aspirations of Canada's aboriginal community.

Having said that, I find it difficult to give my unequivocal support to Bill C-6. Through Bill C-6, the government seeks to establish a bureaucratic and patronage haven in Canada's Arctic. Bill C-6 creates four new administrative tribunals to manage water, resource and land use planning in the Mackenzie Valley.

First, we have the Land Use Planning Board which will be established in each of the Gwich'in and the Sahtu settlement areas. There will be a total of five members on each board: two First Nation representatives, two government nominees, and a chairperson nominated by the members — two boards with four government appointees, or perhaps six.

Next, we have the Mackenzie Valley Land and Water Board, which will have the jurisdiction to issue land permits and water licences for developmental activities in the Mackenzie Valley. It may have up to 17 members, including two permanent regional panels, one in each district, consisting of five members each. Here there is a minimum seven appointments by the government, either federal or territorial.

Finally, the Environmental Impact Review Board will have a minimum of seven members, of which at least half will be government appointees. This board will have the power to make recommendations to the government to accept, reject, or modify development proposals.

Nowhere in this bill does it clearly spell out the criteria to be used in the appointments to these boards, nor is there any test or benchmark against which one can measure the competence of someone to sit on these boards.

Honourable senators, from my reading of the bill, the appointees are responsible or accountable basically to no one. This is reminiscent of the Canada Pension Plan Investment Board which is presently being scrutinized by the Standing Senate Committee on Banking, Trade and Commerce. The possibility of patronage appointments looms large in relation to the Pension Plan Investment Board, and I would suggest it looms even larger in relation to the boards to be established by Bill C-6.

I do understand the need to protect the environment and the ecosystems in Canada's north from disruptive and unplanned development, but surely it is not necessary to establish all of these boards with the attendant bureaucracies that will be attached to them at a time when both government and industry are trying to streamline their processes. Surely one board dealing with the planning and development of the Mackenzie Valley area would suffice, one board that might even have one or two representatives of industry on it. Surely that would be more efficient from a timing and decision-making perspective and for consistency.

A single board doing the work of these three, four or five boards could have criteria set for its members, criteria that are relevant to the tasks before the development board. Perhaps its membership could be composed of representatives of industry, aboriginal peoples, the government of the Northwest Territories, and the federal government. With one board, there would be one supporting bureaucracy. However, what we have before us is an administrative maze which involves duplication of applications and procedures. In the end, it will discourage the type of development that will create meaningful, long-term, permanent jobs and opportunities for the people who live in Canada's north.

Honourable senators, I have another concern with this bill dealing with its territorial jurisdiction, and this concern is much more important. The purpose of the bill is to implement certain clauses in the Gwich'in Comprehensive Land Claim Agreement. Two aboriginal groups in this area have settled their land claims. However, other land claims remain unsettled. The groups which have not settled claims are concerned because a number of the structures established by this bill apply to their territories. I am referring, honourable senators, to the territories where there has been no settlement to date. In fact, it was this extra-territorial application of the bill which was raised most often in the objections presented before the House of Commons Aboriginal Affairs committee.

The Deh Cho First Nations, whose territory lies to the south of the Sahtu, stated:

> ...we are concerned that the state is trying to do an end run and pass this legislation affecting our territory without having an agreement with our peoples...
>
> We must state for your record that we have never given our consent — implied or actual — to the legislation. We are not giving our consent to this process.

The problem is that the Mackenzie Valley Land and Water Board, as well as the Environment Impact Review Board, cover the entire Mackenzie Valley. This includes not only the land of the Deh Cho people but the Dogrib people, the Treaty 8 Nations, and the Inuvialuit people.

The strongest opposition to having their territory included within the jurisdiction of this bill comes from the Akaitcho peoples, Dene whose territory covers over 100,000 square miles. These Dene people have not surrendered their claims to the land, nor do they intend to. In fact, they have been trying to enter into a coexisting agreement with the Government of Canada and have not been able to do so to date.

All of us in this place recognize the special relationship of the aboriginal peoples to their land. It is a gift or trust from the Creator. It is a relationship which is not to be disturbed lightly, but here we have a bill which effectively controls planning and development over lands which are not subject to any land claims agreement. For those of us who have travelled and worked with the people in this region, I cannot emphasize enough the importance of the land to these aboriginal peoples.

• (1440)

The answer that is thrown out by the government is that the bill contains a non-derogation clause. Yes, it does. Clause 5(2) states that nothing in this bill takes away from the protection provided in the Constitution for existing aboriginal rights.

There are two problems with this clause: First, it is not in the operative part of the bill, but only in the interpretive part. Second — and this is the argument presented by the Dene — the non-derogation clause only applies to existing rights and, until a land claims agreement is signed, the federal government does not recognize these rights.

There must be a simpler and less confrontational way to deal with the implementation of the two land claims agreements in question here. I believe we should find a way which does not threaten the aboriginal rights of those who have not signed land claims agreements. That, to me, is the most important aspect that will and should be addressed at committee hearings on this particular legislation.

Honourable senators, surely we can look at one development board for the Mackenzie Valley in a bill that does not affect territory other than that which is subject to concluded land claims agreements.

I believe that the Standing Senate Committee on Aboriginal Peoples should take the time that is necessary to thoroughly review the bill and deal with these concerns as effectively and quickly as possible.

The Hon. the Speaker: Honourable senators, I must inform the Senate that if the Honourable Senator Forest speaks now, her speech will have the effect of closing debate on the second reading of this bill.

Hon. Jean B. Forest: Honourable senators, I should like to thank Senator St. Germain for the comments he has made. The concerns he has brought to the Senate have been voiced already to the committee set up by the House of Commons. We have certainly looked into those concerns, and I can assure the honourable senator that they will undergo another review at committee stage in this place.

The reason for the two large, valley-wide boards is that one is looking after environmental impact and the other is looking after land and water use. In other words, there is a function for both of them.

I would also remind senators that the peoples whose land claims have not been settled have a right to representation on the board. In fact, there is a clause in the bill indicating that when their land claims are settled, adjustments to the bill may be made to accommodate such settlements.

Honourable senators, we are looking into all of those concerns. However, I thank the senator for bringing them to the attention of the chamber, and I am sure that they will receive a full airing in the committee hearings.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

CANADA MARINE BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator De Bané, P.C., seconded by the Honourable Senator Lucier, for the second reading of Bill C-9, for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

Hon. W. David Angus: Honourable senators, I rise to add my several comments to those made earlier this week by Senators Forrestall and Bryden respecting Bill C-9.

I should like to read through the formal title of this bill, because it says a lot and it is significant: This is:

> An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization —

— whatever that means —

> — of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

This bill is a successor to Bill C-44 which, to the widely expressed shock and outrage of Canada's maritime community, was unceremoniously left to die on the Order Paper here in the Senate when Parliament was prorogued on April 27, 1997, as the government raced — prematurely, and in such an unseemly manner — towards an election before responsibly completing important pending government business.

An Hon. Senator: Shame!

Senator Angus: This crass example of political expediency, along with the ham-handed and inept management of the legislative agenda by the last Liberal government, combined to keep a key sector of Canada's maritime transportation community, including those using, operating and relying upon Canada's ports, its pilotage system and the St. Lawrence Seaway system, in a legal limbo after they had been geared up and literally stampeded by the government and its bureaucracy to be ready for implementation of the new legislation by spring of 1997.

These Canadians and other users of our marine transport system are now, once again, dismayed and thrust into a similar legal limbo, their hopes of having the replacement legislation, Bill C-9, in place for the 1998 seaway opening — which, by coincidence, honourable senators, is today — dashed once more.

Such a let-down of Canadian taxpayers by the legislative system, by this Parliament, certainly does not enhance the image of the government or any of us as legislators. Confusion, unnecessary and substantial expense and instability are the clear and continuing consequences for those affected.

Bill C-9 essentially contains the enabling legislation needed to give effect to the long-awaited and overdue — and might I say generally welcome — National Marine Policy. Some of you might have been here five years ago when I made my first remarks in this chamber. At that time, I called for a national marine policy for this nation.

That policy was announced by Transport Minister Doug Young, midst great fanfare, in December of 1995. As the formal title of the bill suggests, the basic elements of this policy involve the commercialization — Doug Young's half-baked word — or privatization, and the introduction of cost-savings processes and operating efficiencies to three of the key systems in our nation's complex maritime network. They are the port system, the St. Lawrence Seaway system and the pilotage system.

The idea, as I understand it, is to create some 15 independently managed port authorities, known as CPAs, and to sell off or close various redundant, costly and/or otherwise no longer useful harbours and ports. Apart from involving profound restructuring of the ports network and the ports feeder system, for all of which I understand substantial preparations and preliminary implementation have already been carried out, this legislation will result in major manpower shifts, job losses, plus totally new corporate structures.

As to the seaway, Bill C-9 would clear the way for the privatization of its administration, management and operations, but not of its ownership or of its ongoing major capital costs, which would remain the responsibility of government.

Honourable senators, the provisions of this bill, which deals with the so-called commercialization of the St. Lawrence Seaway, are important and far-reaching. As we all know, the seaway is a great international waterway which was constructed in the 1950s as a marvellous joint enterprise of the Canadian and United States governments. When it was opened in 1959, it was heralded as one of the great engineering accomplishments of all time, rivalling the Panama and the Suez Canals. It was certainly a fine example of the international goodwill and cooperation which we enjoy with our neighbour to the south.

• (1450)

I am not opposed in principle to privatization or commercialization of the Canadian portion of the St. Lawrence Seaway. However, my instinct tells me that this action should be taken in cooperation with our American partners if it is to be successful and bear fruit.

The St. Lawrence Seaway has been much in the news of late. There are indications that our government has revised its policy respecting the seaway since this legislation was first drafted two ministers of transport ago. It is no longer clear that privatization of the waterway is the right thing to do at this time or that that procedure would have the support of the government.

It is reported in such respected publications as *The Wall Street Journal* and other leading media in the marine sector that the United States objects to privatization of the Canadian section of the seaway. I believe joint talks are being held to address the concerns of the United States and that a working group has been set up to review Canadian and American cooperation respecting the seaway and the Great Lakes system.

We ought to know what the current status is before Bill C-9 is enacted. I agree with Senator Forrestall and Senator Bryden that the Standing Senate Committee on Transport and Communications should take a close look at this matter.

The pilotage system, although overhauled radically with other changes several decades ago, has become a thorny problem and excessively costly both to government and to the shipping industry, especially in the St. Lawrence River and in the Laurentian region.

Urgently needed constructive and welcome changes are contained in the proposed legislation. Continued delay in implementation is of particular frustration to those operators who must continue to carry on business for a further shipping season. Another shipping season opened today under the current unwieldy system.

Most aspects of Bill C-9, formerly Bill C-44, are generally popular with, acceptable to and long awaited by the affected sectors of Canada's maritime community. In a general way, they tend to represent modernization, progress and streamlining of archaic and no longer appropriate laws and regulations affecting and impeding state of the art functioning of Canada's important domestic and international marine industry.

Honourable senators, there are two problems with this proposed legislation. On the one hand, it is imperfect, unbalanced and flawed technically in several of its key respects, as was so well pointed out by Senators Forrestall and Bryden in Tuesday's debate in this chamber. As well, certain policy aspects of the bill, particularly as regards the seaway, may already be outdated and rendered obsolete due to changed policy and other circumstances and attitudes being expressed publicly by our American partners in the seaway. Second, the legislation comes into this chamber for a second time, a full two and one-half years after the "new" National Marine Policy was announced by Doug Young.

On April 25, 1997, Bill C-44 was reported to the Senate by the Standing Senate Committee on Transport and Communications, two days before the election was called. I am not clear as to how much in-depth study was done in committee on that occasion, but I do know the bill was referred to this chamber without amendment on April 24, after Senator Cochrane's motion that

additional groups and individuals be called to appear before the committee was defeated. Perhaps with only two or three more days of Parliament's time last April, and even just a modest delay of the government's shameful pre-election tactics, we could have avoided much of the anger, outcry and frustration expressed at the time by the users. But that is water under the bridge — or through the seaway!

The problem today is that we are faced with a new dilemma. Do we aggravate the impatience and frustration of Canadian consumers and those affected in marine and related industries by delaying the bill further for an in-depth study, including hearings and consultations which could and should have taken place before this legislation was drafted? I understand that at this late stage the vast majority of those affected would like the bill passed even with its flaws and imperfections. This is indeed a sad commentary.

Honourable senators must remember that Bill C-9 contains far-reaching and substantive legislation. It is a complex bill. Some of its provisions are controversial, and there continue to be protests from neighbouring communities, regional ports and other groups which claim they will suffer negative economic impact and consequences if Bill C-9 passes as it stands. Our dilemma is, do we subject Canadians to relatively short-term pain for ultimately long-term gain in the form of a better, fairer and more balanced piece of legislation or do we rush the bill through? Perhaps there is an alternative measure.

Honourable senators, my intent today is to make it absolutely clear to you that this legislation is urgently needed and awaited by a significant number of Canadians. At the same time, I believe this factor should not deter us from doing our duty in conducting a proper and critical study of the bill, including the holding of hearings, if necessary, and the proposal of amendments if deemed necessary, constructive and/or appropriate.

Therefore, I recommend that Bill C-9 be referred immediately to the Standing Senate Committee on Transportation and Communications with a request that it be given preferred or fast-track attention. I hope that a careful and full study can be carried out and completed during April and May so that the bill can be reported back to this chamber and dealt with definitively before Parliament's summer recess.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

APPROPRIATION BILL NO. 3, 1997-98

THIRD READING

Hon. Anne C. Cools moved the third reading of Bill C-33, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998.

Motion agreed to and bill read third time and passed.

TELECOMMUNICATIONS ACT TELEGLOBE CANADA REORGANIZATION AND DIVESTITURE ACT

BILL TO AMEND—THIRD READING—
MOTION IN AMENDMENT—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved the third reading of Bill C-17, to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act.

She said: Honourable senators, I am pleased to sponsor Bill C-17. This bill involves amendments to the Telecommunications Act and the Teleglobe Act. These changes in the two existing acts are needed to reflect our treaty commitments to the World Trade Organization.

Bill C-17 will modernize Canada's legislative and regulatory framework to meet the new realities of a more liberalized global telecommunications marketplace.

Honourable senators, this legislation has gone through close scrutiny by the Standing Senate Committee on Transport and Communications. The Senate committee found strong support for this well-crafted, technical bill from the industry.

Honourable senators, Canada's advanced telecommunications know-how shows that we are at the forefront of technology. We are in the vanguard of liberalizing open competition. This bill will allow us to capitalize on our technological knowledge and seek out new markets. I respectfully ask you to endorse this important legislation.

Hon. Donald H. Oliver: Honourable senators, during my comments in this chamber on second reading of Bill C-17, I made my apprehensions known concerning the proposed licensing regime of international telecommunications service providers. Specifically, this proposal is found in clauses 1, 3, and 7 of the bill, wherein the government purports it is necessary to guard against potential anti-competitive conduct on the part of foreign monopolies in concert with their Canadian reseller affiliates. The alleged violators would be the telephone monopolies of countries that are not signatories to the Agreement on Basic Telecommunications, a codicil to the General Agreement on the Trade in Services, GATS.

At that time, I claimed that the licensing of service providers amounts to excessive and redundant regulation that is best characterized as a solution looking for a problem. Indeed, there is absolutely no public policy justification for such a licensing regime to be administered by the Canadian Radio-television and Telecommunications Commission, the CRTC.

Despite these misgivings, I was hoping that the detailed scrutiny possible at the committee stage would shed more light on Industry Canada's and the CRTC's motivations behind the bill. I was also hoping that, through frank discussions with government and industry stakeholders, their unique and expert views and perspectives would allay most of my concerns.

Unfortunately, I am sad to report to you that, in terms of the latter, this was not the case. My original conclusions remain robust. On the whole, the explanations provided by Industry Canada, the CRTC and industry officials at committee hearings were wholly unsatisfactory. For example, when questioning officials of Industry Canada and the Stentor association on the CRTC's ability to exercise direct control over facilities owners, and indirect control over resellers, on matters relating to certain anti-competitive conduct under the existing regulatory regime, the answer was an unequivocal "yes." Both parties, however, qualified their answers in light of a recent case involving Hong Kong Tel's offering preferential call-termination rates to its reseller affiliate over that of its competitors. I dealt with the Hong Kong Tel case in some detail at second reading.

Industry Canada stated that "everyone felt it was a long, laborious and not terribly efficient process." The Stentor association, for its part, stated that nder the present CRTC regime:

> ...all the facilities-based carriers —

— would be —

> — caught in the Hong Kong Tel situation...as ham in the sandwich...to get at resellers, we are the players who have to pull the plug on a nefarious reseller such as Hong Kong Tel, and that presents a major public relations problem for us.

However, honourable senators, the Industry Department and Stentor overstate the relevance of the Hong Kong Tel case to the competition problem at hand. Indeed, the Hong Kong Tel case was not about abusive, anti-competitive behaviour. This was a case of a Canadian affiliate of a foreign monopoly telco circumventing the CRTC's routing restrictions that prohibited Canadian telcos from engaging in the practice of switched hubbing their Canadian traffic over the switching facilities of their foreign affiliates before sending it off to their final destinations. It was, therefore, these routing restrictions, which are themselves anti-competitive in nature since they deny the efficient transport of signals, which created the problem.

What is needed to resolve this problem is less regulation, not more as is proposed by Bill C-17. Indeed, in December of last year, the CRTC saw fit to eliminate these routing restrictions so that there will no longer be any motivation for this type of case to reappear in the competitive international telecommunications environment made possible under the GATS.

In any event, the protracted resolution of the Hong Kong Tel case was the result of the time-consuming discovery stage of the CRTC investigation involving the determination of two main questions: First, what exactly did Hong Kong Tel do? Second, how did it go about it?

What was interesting about Industry Canada's and the CRTC's testimony before the committee was that they neglected to inform us that this discovery stage is common in all regulatory regimes. In other words, upon receiving a complaint of anti-competitive behaviour, the CRTC will need to initiate this very same kind of discovery phase in its investigations under the licensing regime that the CRTC would administer, so Bill C-17 will not speed up the regulatory process, and the licensing regime has no special advantage over the existing regulatory environment.

Let us look more closely at the impact of the CRTC's order that had BC Tel end the sublease of the Teleglobe international phone line to Hong Kong Tel, thereby putting an end to the rate savings Canadian consumers were getting from Hong Kong Tel's reseller. Subsequently, Hong Kong Tel's customers were left to use either Teleglobe or some other reseller that leased Teleglobe's facilities as their service provider. These customers were, therefore, subject to paying the much higher phone rates charged by Teleglobe, and this is what Hong Kong Tel's customers were complaining about: Teleglobe's monopoly prices were too high.

It is therefore misleading to suggest that these consumers were upset over the matter of who provides international phone service and how the CRCT implements its cutting off of services of a rogue reseller. Alternately put, Canadians tasted the fruits of competition but were subsequently let down by their public servants, who forced them to return to the monopoly price era promoted by the CRTC's barrier-laden regulatory environment.

Clearly, the arguments of a protracted resolution period and the collateral damage inflicted on Canadian facilities owners under the existing CRTC regulation framework are red herrings.

Moving to the question of the applicability of the Competition Act in what is essentially a competition issue, the committee was told that the act would not apply as it would constitute an extraterritorial application. Specifically, in the case of a foreign telecommunications monopoly providing favourable call-termination charges to its Canadian reseller affiliate relative to competitors, could this qualify as price discrimination, which, as everyone knows, is an offence under section 50(1)(*a*) of the Competition Act? Could it qualify as an abuse of a dominant position, an offence under sections 78 and 79 of the Competition Act? Could it also qualify as predatory pricing, a criminal offence under section 50(1)(*c*) of the Competition Act?

These are questions that I put to many of the witnesses who appeared before the committee. The answer to these questions was an unequivocal "yes," but that there would be a jurisdictional issue in some circumstances.

The Bureau of Competition confirmed that, where Canada did not have a bilateral cooperation agreement on antitrust enforcement with other countries, the Competition Act would be an *ultra vires* extraterritorial application.

We now have all the components to the decision-making process that led Industry Canada to conclude that the existing CRTC regulatory regime and the Competition Act were both inadequate to the task of governing potential anti-competitive conduct by foreign telephone monopolies operating in Canada through an affiliated reseller. The Government of Canada is, therefore, seeking a new CRTC regulatory licensing regime for international telecommunications services providers.

However, the calculus of the government's decision on the application of the appropriate public policy instrument is flawed, in my opinion, for two reasons. The first reason is that the Industry Department's cost-benefit analysis omits recognition of the disadvantages of a regulatory licensing regime which improperly weighs this criterion against the probability of predatory behaviour by foreign telco monopolies, which is very small, as history attests. Indeed, the Government of Canada, in proposing such a regulatory licensing regime, would be boxing at shadows, as I suggested to one of the witnesses.

• (1510)

Clearly, Industry Canada officials failed to appreciate the extreme risks entailed in a predatory war and, consequently, the rarity of such reckless behaviour in the forthcoming competitive international telecommunications market. It has been more than 100 years since Canada adopted its first antitrust law, and over this past century there have been less than a handful of predatory pricing cases brought successfully to trial. This is not an accident. Predatory behaviour is an extremely rare market phenomenon precisely because it is fraught with dangers; indeed, it even courts corporate suicide.

The second reason is that Industry Canada's conclusion in favour of an overlapping CRTC licensing regime is the result of a flawed methodology that is based on looking at either economic instrument in isolation of the other. When viewed independently, both the existing CRTC regulatory regime and the Competition Act can appear inadequate. Here, there is almost universal agreement among industry stakeholders, but when viewed as complementary economic instruments rather than as alternatives, the existing regulatory and competition policy institutions, backed by their governing acts, are sufficient to the task at hand. Indeed, considering the disadvantages of a licensing regime and given the possibility of cooperation between the CRTC and the Bureau of Competition, which should be more easily accomplished today with the reorganization of the bureau within Industry Canada, a more cohesive, effective and efficient governing framework will likely emerge.

Honourable senators, in terms of its disadvantages, licensing has been the tool of choice by many a cartel. It is under this restricted entry condition that monopoly clubs flourish. Even now, as the CRTC is engaging in its licence rule-making proceedings, Teleglobe and others have requested the adoption of a detailed tariff reporting regime to be made public and subject to stakeholder comments. To some, this may seem benign, but to others, there is nothing surprising about this request that would facilitate price-fixing agreements within this market segment.

Finally, no matter how well-intentioned a licensing regime may be, it is always subject to subversion, as it can be used as a strategic business weapon to gain an advantage in the marketplace by making an allegation against an important rival that is unwarranted. Canada would be far better off avoiding a licensing regime that would engender competitors from engaging in such privately rewarding but socially wasteful game-playing tactics.

In conclusion, the Competition Act is the more appropriate public policy instrument in dealing with abusive, anti-competitive conduct with respect to foreign monopolies of countries where Canada has a bilateral, cooperative, antitrust enforcement agreement. For the monopolies of other countries, the current regulatory regime that would have the facilities-based carriers cut off service to the Canadian reseller affiliate of a foreign monopoly will suffice. That, honourable senators, is precisely what happened in the Hong Kong Tel case.

This framework will provide for a smooth transition from a monopoly to a competitive environment. Thus, the existing regulatory regime is the more efficient system, as was explained by the Stentor association in its testimony to the committee as follows:

> I wish to address the concept of licensing carriers because this has been a topic that has been raised in various quarters. Although common access across the globe, licensing has not to date been the Canadian way. Indeed, the original draft of the Telecommunications Act, as tabled in the House of Commons, envisaged the licensing regime. Wisely, in our view, those provisions were removed from the bill when the act was passed in 1993 in favour of a substitution of direct authority over Canadian carriers. The direct power of the commission to make orders against telecommunications service providers is quick, cheap and efficient. It constitutes a delicate instrument for tailoring orders for the particular circumstances that pertain to a particular service provider.

In this way, the tools and remedies afforded the Bureau of Competition as set out in the Competition Act, and the CRTC as currently set out in the Telecommunications Act, are all that is required to correct what is essentially a competition issue in the transition period from the monopoly to competition.

As the Stentor association clearly acknowledged in the committee hearings:

> We certainly agree with the intent...and the spirit...that, over time, industry-specific regulation can be dealt with under broad-based competition law. That is certainly part of the process that we accept. The question is over what period of time and under what rules...

> On balance, the preferred way to go is to use the current regulatory body which understands the industry and can act faster to deal with it.... Over time, those kinds of issues should be dealt with both domestically and internationally under the competition law, much the same as has been done in the energy sector or the transportation sector, or any other sector of the economy.

Honourable senators, Industry Canada, in its insistence on the new regulatory licensing regime, is merely "boxing at shadows." The proposed regulatory licensing regime represents excessive and redundant regulation.

MOTION IN AMENDMENT

Hon. Donald H. Oliver: Therefore I move, honourable senators, that Bill C-17 be amended by severing clauses 1, 3 and 7 from the bill so that the remainder of Bill C-17 can quickly proceed to Royal Assent.

The amendments are as follows:

That Bill C-17 be amended

(*a*) on page 1 by deleting lines 4 to 10; and

(*b*) on pages 1 to 12 by renumbering clauses 2 to 24 as clauses 1 to 23, and any cross-references thereto accordingly.

That Bill C-17 be amended

(*a*) on page 1, by deleting lines 18 and 19; and

(*b*) on page 2,

(i) by deleting the heading preceding line 1, and

(ii) by deleting lines 1 to 40;

(*c*) on page 3, by deleting lines 1 to 15; and

(*d*) on pages 3 to 12, by renumbering clauses 4 to 24 as clauses 3 to 23, and any cross-references thereto accordingly.

That Bill C-17 be amended, on page 4, by replacing line 36 with the following:

"person who provides basic telecommunications services to con-".

That Bill C-17 be amended

(*a*) on page 5 by deleting lines 10 to 18; and

(*b*) on pages 5 to 12, by renumbering clauses 8 to 24 as clauses 7 to 23, and any cross-references thereto accordingly.

On motion of Senator Carstairs, debate adjourned.

THE ESTIMATES, 1998-99

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the fourth report, an interim report, of the Standing Senate Committee on National Finance concerning the examination of the Main Estimates laid before Parliament for the fiscal year ending March 31, 1999.

Hon. Anne C. Cools moved the adoption of the report.

She said: I wish to thank honourable senators opposite for granting unanimous consent for us to consider this report today.

As honourable senators know, this is an interim report. However, although that is the case, it is quite thorough. It is intended to assist the progress of Bill C-34 and to grant the government interim supply. The committee shall continue its examination of the Main Estimates in the weeks to come, and shall report to the Senate.

Motion agreed to and report adopted.

• (1520)

APPROPRIATION BILL NO. 1, 1998-99

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-34, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999.

She said: Honourable senators, I rise to speak to second reading of Bill C-34, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999. When given Royal Assent, Bill C-34 will be known as Appropriation Act No. 1, 1998-1999. It is also called the interim supply bill, and grants supply for the first quarter of this new fiscal year, that is, April, May, June, 1998.

Honourable Senators, the Main Estimates report the government's proposed spending for the fiscal year 1998-1999, which commences in a few days, on April 1, 1998. The Main Estimates for 1998-1999 were introduced in the other place on February 26, and introduced in this chamber on March 18, 1998. They were referred to the Standing Senate Committee on National Finance. Our committee met on March 25, 1998, to study the Main Estimates. In so doing, our committee heard from Mr. Ovid Jackson, Parliamentary Secretary to the President of the Treasury Board. Mr. Jackson appeared with officials from the Treasury Board Secretariat. All of them answered questions from the senators on the committee. The committee adopted an interim report, which was adopted by the Senate a few moments ago.

Honourable senators, the government is making efforts to improve the quality of information that is provided to Parliament through the Estimates. The Estimates process provides more detailed information about the government's projected spending and also provides for measurements to see how the government achieved its plans.

Honourable senators, there are four parts to the Main Estimates. They are Parts I, II, III and IV. Part I, provides an overview of federal spending by summarizing the key elements of the Main Estimates. Part II, which is traditionally referred to as the "Blue Book," directly supports the Appropriation Act. It lists in detail the moneys that individual departments and agencies require for the upcoming fiscal year. It also identifies the spending authorities and the amounts to be included in subsequent appropriations. For this new fiscal year 1998-1999, Part I and Part II are published in a single volume. Part III is made up of 80 volumes which identify the individual expenditure plans for each of the departments and agencies of the federal government. These volumes will become available by the end of this month. Part IV of the Main Estimates will become available in the fall and will describe the results that were achieved against the expectation contained in Part III.

Honourable senators, since 1993, the government has exercised commendable discipline in controlling federal spending. As a result, a more cost-effective federal government has been created which is more efficient at delivering quality services to Canadians. Federal government spending, as a percentage of the gross domestic product, has been reduced from 16.6 per cent in 1993-94 to 12.4 per cent in 1997-98. In sum, federal government spending is headed back to where it was in the post-war era of the 1940's.

Honourable senators, Minister Paul Martin's February 1998 budget provides for planned expenditures of $148 billion. Of this total, $43.5 billion is for public debt charges, a reduction of $2.5 billion from last year's Estimates of $46 billion; $104.5 billion is for program spending; and $103 billion, or 71 per cent, is statutory expenditure. The three largest departmental expenditures are the Department of Finance at $62.8 billion, the Department of Human Resources Development at $25.3 billion, and the Department of National Defence at $9.4 billion. The government has ushered in a profound cultural change in the public service that will take a number of years, modernizing the comptrollership function. This is at the very heart of the public service's effectiveness and the government's responsibility to Parliament. The government is moving the comptrollership function from a narrow and specialized function to one that seeks to integrate financial and non-financial performance information. The focus of modern comptrollership will be on results, accountability and managing risk. Over the past years, the government has shifted the role of the public service. At the same time, several new initiatives will support the dynamic, motivated, and flexible workforce that the public service is moving towards. The new Universal Classification System within the public service will give public servants greater mobility, and will reduce costs, and simplify pay and staffing systems. The Parliamentary Secretary to the Treasury Board also told us that collective bargaining is an important component in the government's fostering a positive labour relations environment. To that effect, he told us that the government has signed seven collective agreements to date.

Honourable Senators, the bill before you today, Bill C-34, known as the interim supply bill, is seeking $14.7 billion of spending authority for government expenditures between April 1 and June 30, 1998. This Bill C-34 is seeking authority from Parliament for new funding to cover government expenditures, including, but not only, those related to the ice storm of 1998 and the avoidance of computer problems arising in the year 2000. The government's total forecast expenditure for this ensuing year is less than what had been forecast last April for the year that is over on March 31, 1998. The government is again showing its commitment to control the public purse by reducing the costs of government for two consecutive years. Such efforts need not only our favour and our support but also our commendation. Again, I would like to thank Minister Paul Martin for his excellent fiscal management.

Honourable Senators, the new financial year begins in a few days. We have been under another time constraint, so in point of fact, we have had very little time in which to consider Bill C-34. The passage of Bill C-34, the interim supply bill, is necessary to the government's business. However, the Senate Committee on National Finance will continue to study and examine the Main Estimates over the coming weeks, and will report their findings to you. I thank all honourable senators on both sides of our committee for their support of this interim supply bill.

Honourable senators, I urge you to pass Bill C-34.

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 Cools, bill referred to the Standing Senate Committee on National Finance.

TOBACCO INDUSTRY RESPONSIBILITY BILL

SECOND READING—ADJOURNED AWAITING SPEAKER'S RULING—POINT OF ORDER—ORDER STANDS

On the Order:

> Motion of the Senator Kenny, seconded by the Honourable Senator Nolin, for the second reading of Bill S-13, to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsiblity Foundation.—(*Speaker's Ruling*).

The Hon. the Speaker: Honourable senators, this matter is standing in my name for a ruling. Yesterday I was asked if I was prepared to listen to further presentations, which I did, with the agreement of the Senate.

Honourable Senator Cools indicated that she wished to add her views, and I am prepared to hear the Honourable Senator Cools at this time, with the permission of the Senate. However, I should like to make my ruling next week, before we adjourn for two weeks. I am prepared to hear more representations, but at some point I must cut it off so that I can finalize my ruling.

Hon. Anne C. Cools: Your Honour, I did not hear most of what you said but I understand that you are prepared to hear more submissions and discussion on Senator Kenny's bill?

• (1530)

The Hon. the Speaker: With the agreement of the Senate.

Senator Cools: Do you mean this moment, or in the future? I would love to speak to the issue, but I am unable to do so today.

The Hon. the Speaker: I would like to make my ruling next week, which I think I should do in fairness to the Senate. The matter has been before me for a little while. Next week we will adjourn for two weeks. I would be prepared to hear someone now, but no later than Tuesday, which would leave me Wednesday and Thursday to complete my ruling.

Senator Cools: Your Honour, I thank you for your consideration, and for the opportunity. Unfortunately, next week I am away travelling with the Special Joint Committee on Child Custody and Access. I am quite sure senators would have agreed, but I could not speak next week. At the same time, I understand there is some urgency in giving your determination. I will reluctantly forfeit the opportunity to speak.

The Hon. the Speaker: Then the matter stands in my name, and I hope I will be able to report Wednesday or Thursday of next week.

Order stands.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved the second reading of Bill S-12, to amend the Criminal Code (abuse of process).

She said: Honourable senators, I rise to speak to second reading of my Bill S-12, to amend the Criminal Code (abuse of process). Bill S-12 had been Bill S-4 in the last Parliament, and, having passed second reading unanimously, was in committee for examination when Parliament was dissolved last April for the federal election. Bill S-12 will amend Canada's Criminal Code Part IV, Offences Against Administration of Law and Justice, to make it an offence for lawyers in judicial proceedings to:

> (a) make public statements outside the tribunal that are known by counsel to be false or that counsel failed to take reasonable measures to ascertain were false;
>
> (b) institute or proceed with proceedings known by counsel to be brought primarily to intimidate or injure another person; or
>
> (c) knowingly to deceive or participate in deceiving the tribunal or to rely on false, deceptive, exaggerated or inflammatory documents.

Honourable senators, Bill S-12 is my parliamentary response to a heart of darkness that has grown up in our midst recently and very swiftly. It is the mischief, deceit, and fraud perpetrated upon the courts as certain barristers deploy false allegations within judicial proceedings. The mischief is that certain barristers use false allegations as an instrument of injury to gain an advantage for their clients in a legal dispute while relying on their barristers' privilege to shield them from any criminal or civil liability for their actions. A prevalent form of false allegations is the false accusation of child sexual abuse where one parent falsely alleges that the other parent has sexually abused the child. In one particular Ontario case, that of Anglican minister Reverend Dorian Baxter, Mr. Justice Somers referred to the use of false accusations as the weapon of choice in child custody proceedings.

My Bill S-12 was inspired by the questionable behaviour of certain barristers and the Law Society's hesitation to confront the problem. Bill S-12 is a response to the Supreme Court of Canada's judgement in *Casey Hill v. Church of Scientology of Toronto*. Troubled by this case and Reverend Baxter's case, I studied the matter carefully, and, with this country's finest legislative drafter, developed my bill. I have spoken on these matters often in this chamber, including July 13, 1995 on the Ontario Civil Justice Review Report and the Reverend Baxter case, and on November 23, 1995 on the *Hill v. Scientology* decision, and on March 26, 1996, and October 28, 1996 on Bill S-4 itself. The fundamental issues in Bill S-12 are the conduct of court proceedings and the bending of practice by certain barristers. The larger issues are, first, lawyers' ethics, professional conduct, and the duty owed by lawyers as Officers of the Court to integrity, truth, and justice itself; and second, the duty owed by Parliament to the courts and judges to defend them from falsehood, deceit, prevarication, and subornation in court proceedings. Parliament must uphold the principle which underpins the administration of justice, that is, truth itself. Parliament must assert that the contrivance of deceit and fraud upon the courts is no part of the duty of any solicitor-barrister, and further, that lawyers owe a duty of truth and integrity to the courts. I refer senators to a timely 1997 article by lawyer Marvin Huberman in the *Canadian Bar Review*, Volume 76, entitled "Integrity Testing for Lawyers: Is It Time?" He wrote:

> This is not to say that the problem is one of perception alone. There is a problem with professional behaviour amongst lawyers, and this may be linked to a basic integrity problem. A consideration of the Law Society's Discipline Digest shows the existing problems.

He concluded:

> It is clear something has to be done to improve the image of lawyers. Integrity testing might help. It could be used to identify which lawyers are deficient in that regard.

Across this land, there is the sentiment that there is something needing correction at the Bench and the Bar in the conduct of judicial proceedings and in certain lawyers' practices.

Honourable senators, in speeches I have cited Mr. Justice Blair's 1995 Ontario Civil Justice Review Report on falsehood in family law proceedings and the crisis in the civil justice system in Ontario. I now add the 1996 Manitoba Civil Justice Review Task Force Report. Appointed by then Manitoba Minister of Justice Rosemary Vodrey and chaired by Manitoba MLA David Newman, it included Manitoba Justices Guy Kroft, Gerald Mercier, and Jeffrey Oliphant. The Task Force Report's Chapter Three entitled "Court of Queen's Bench Family Division" addressed the use of false accusations in civil justice proceedings, saying:

> The Task Force heard horror stories about the traumatic impact on the accused person, on the immediate family and children affected by malicious false allegations designed to achieve sole custody, prohibit or restrict visiting privileges, and to punish the other parent.

Further:

> When false allegations are discovered, strong and effective sanctions are necessary to discourage such conduct. ...Lawyers, of course, must never assist in making false allegations and should be on guard against becoming the tool or dupe of an unscrupulous client.

This phenomenon, the aggressive hurling of the weapon of choice during child custody proceedings, is well documented. This phenomenon is the devil's own work. For those terrorized by false allegations of child sexual abuse, for those accused of something so terrible and so repugnant to them as parents, it is soul destroying.False accusations are used by one parent to injure and damage emotionally in an effort to destroy the parent-child relationship of the other parent and even the other parent. This technique is employed mostly in civil proceedings, simply because the standard of proof in civil proceedings is lower than in criminal proceeding. It is the newly identified form of child abuse and child maltreatment. It is also the newest form of civil molestation and civil harassment, using the courts as instruments of injury and malice in civil litigation.

Today I cannot address the enormous financial burdens borne by our citizens personally and by the public treasury collectively, nor the emotional and psychological costs to citizens, particularly to children, but these are of enormous magnitude, as are the social consequences.

In speeches, I have cited some case law and the judges. I have quoted the judges in the cases of Ontario's Reverend Baxter's *B(D) and B(R) and B(M) v. Children's Aid Society of Durham Region and Marion Van den Boomen,* 1994; British Columbia's *Lin v. Lin,* 1992; Manitoba's *Plesh v. Plesh,* 1992; Saskatchewan's *Paterson v. Paterson,* 1994, and Ontario's *Allen v. Grenier,* 1996.

• (1540)

I shall now continue with other cases of false accusations of child sexual abuse. In *Pott v. Pott*, a 1997 Manitoba Court of Queen's Bench case, Mr. Justice Jewers concluded:

> In all of the circumstances, there can be no finding — even to the lower civil standard — that the father ever sexually abused his daughter Cheryl.

Ominously, this is a multiple, recidivist, false accusations case. Mr. Justice Jewers said:

> The mother had a history of sexual abuse — or alleged sexual abuse — having at one time or another accused her father, brother and sister of sexually abusing her...The City of Winnipeg Police had received a total of seven complaints from her alleging sexual abuse — involving some eleven persons — and only one was prosecuted — with an acquittal.

Further, Mr. Justice Jewers said:

> Having regard to the mother's sexual history and the fact that the first disclosure was made in the context of ongoing domestic fights and quarrels between the mother and father, one cannot exclude the possibility that the mother influenced Cheryl, either directly or indirectly, to make the allegations that her father had been abusing her.

Honourable senators, I should explain that when I read a case name composed of letters, that is a method used to protect the children involved. I move now to the case of *P.(G.L.) v. P.(J.M.)* in the British Columbia Supreme Court. In his 1990 judgement, Justice Rowles stated:

> Before the action was set for trial the mother had made allegations of sexual and physical abuse of the children by the father.

The father here is G.L.P. and the mother is J.M.P.

> G.L.P. was given supervised access. Two psychologists have observed the father with the children.

Mr. Justice Rowles continued:

> From her evidence given during the review hearing regarding the access, it appeared to me that J.M.P is either obsessed with the belief that G.L.P. is abusing the boys or, alternatively, for whatever reason, she is determined that G.L.P not have access.
>
> Her attitude and behaviour regarding G.L.P.'s having access may pose a serious risk of emotional harm to the boys, particularly the older child.

Honourable senators, my next case is *L.B. v. R.D.,* a 1998 Ontario Court of Justice Provincial Division case in which Judge Patrick Dunn said:

> The issue of L.B.'s opposition to access also arose in a context of sexual abuse allegations which she brought forward against R.D. in November 1995 and again in March 1996. The children's aid society investigated both allegations and concluded that neither could be verified.

Judge Dunn continued:

> ...L.B. obfuscated; she misconstrued evidence and even tried to mislead the police...I found L.B.'s evidence to be entirely self-serving, manipulative and a condemnation of R.D. and his good parenting skills and person...
>
> Another serious event that strained L.B.'s credibility was that she gave a false written statement dated 5 January 1995...The statement purported to come from N.T., L.B.'s mother...L.B. admitted in her evidence that she wrote the letter and signed her mother's name to it.

Judge Dunn concluded:

> L.B. has taken the law into her own hands and has repeatedly denied access. By doing so, she deprived her child of a right that this child has to maintain contact with her father...Her contempt for the court process and her neglect for the need of her child to see her father cries out for punishment.

Judge Patrick Dunn, in the face of 41 access denials and repeated court order violations, and for other reasons he stated in his judgement, sentenced the child's mother, Lisa Barbosa, to 60 days in jail for contempt of court.

Honourable senators, I move now to the case of *Martha Metzner v. Dr. Louis Metzner*, a 1993 British Columbia Supreme Court case of false allegations, not of child sexual, but of child physical abuse. Mr. Justice Preston stated:

> Since she decided to leave her husband, Mrs. Metzner has inappropriately used her control over Kate and Jamie to gain her own ends in this litigation. This was most marked in the Kate incident when she concocted an allegation of physical abuse of Kate as a basis to have Dr. Metzner removed from the matrimonial home...

Mr. Justice Preston continued:

> Mrs. Metzner was interviewed by Sergeant Armstrong of the West Vancouver Police Department on January 8, 1990. The officer's notes indicate that she told him that there was no history of abuse and that Dr. Metzner had never hit her or the children. His notes also contain the entry, "Martha said lawyer told her that this would be enough to get him out of the house because he wouldn't leave."

In 1997, at the British Columbia Court of Appeal, Mr. Justice McEachern cited Justice Preston, saying:

> "The judge said he was struck by the lengths she would go to demean the husband and that, in the judge's view, she is likely to continue to frustrate the children's access to their father and to undermine their relationship with him if it is in her power to do so." The most obvious manifestation of this attitude on the part of the wife was the Kate incident mentioned by the trial judge when she persuaded Kate to make false, and later recanted allegations of physical abuse against her father to the police.

Honourable senators, the heart of the problem is the misuse of the privileges that are entrusted to lawyers as Officers of the Court. This privilege, both the absolute and the qualified, including solicitor-client privilege, shelters lawyers from criminal and civil liability for unsworn statements made within court documents and court proceedings.

This privilege originates in Her Majesty's sovereign prerogative and is bestowed upon solicitor-barristers when they are admitted by Her Majesty as Officers of Her Court. These privileges are not wholly owned. Officers of the Court hold these privileges in trust from Her Majesty. They are grants from the Sovereign to protect the Sovereign's public interest in justice. Officers of the Court hold this privilege as part of the Sovereign's protection for the procedures of securing the truth and for securing justice itself. Her Majesty's privilege cannot be enlisted to defeat truth or to defeat justice.

Honourable senators, Bill S-12 imposes no new standard on barristers. Bill S-12 upholds and affirms the standard of the barristers' code of ethics. The drafting language of Bill S-12 borrows from the language of the Law Society of Upper Canada's rules of professional conduct. Bill S-12 simply elevates that same standard, an informal one, to law. Bill S-12 codifies these ethics and standards as law and places them into statute.

Honourable senators, Bill S-12 has its origins in the *Hill v. Church of Scientology* case, which lasted eleven years and cost countless millions of dollars. In September 1984, Scientology and its lawyers instituted contempt of court proceedings seeking to imprison Casey Hill, the Crown prosecutor associated with investigating the Church of Scientology. Casey Hill is now Mr. Justice Casey Hill.

In November 1984, Mr. Justice Cromarty ruled that Scientology's allegations against Casey Hill were untrue and unfounded. This terrible case is known for the inordinate financial cost, the longevity, and the mean-spiritedness of Scientology through its several lawyers and their unstoppable campaign to destroy Casey Hill. Their persistent, reckless and unconscionable repetition of vicious and untrue accusations against Casey Hill, despite the judicial determination to the contrary, were shocking.

Mr. Justices Griffiths, Catzman, and Galligan in their 1994 Ontario Court of Appeal decision revealed Scientology and its lawyers contumacious actions. They said regarding the Church of Scientology:

> It continued with unfounded contempt proceedings against Casey Hill when it knew, no later than September 27, 1984, that its principal allegation was untrue. It hid its knowledge of the falsity of that allegation from the court, from Casey Hill and from counsel whom it had retained to prosecute the contempt charges.

• (1550)

That counsel is Mr. Manning. The justices continued:

> Counsel for Scientology suggest that the unfounded charges of contempt of court against Casey Hill were laid as a result of the advice, albeit misguided, of Scientology's solicitors, and that therefore those charges could not constitute evidence of specific malice on the part of Scientology against Casey Hill.

Finally, the 1995 Supreme Court of Canada judgment upheld the Ontario Court of Appeal decision in Casey Hill's favour and awarded him the largest damages award in the libel history of Canada.

About a nasty, threatening letter written by Scientology's counsel, Mr. Clayton Ruby, to Casey Hill, Mr. Justice Peter Cory said:

> It should be noted that at the time this letter was written, Clayton Ruby was a Bencher of the Law Society and Vice-Chairman of the Law Society's Discipline Committee.
>
> The letter implied that there could be disciplinary proceedings brought before the Law Society of Upper Canada and that a contempt action might be instituted.

Honourable senators, Bill S-12 is a legislative response to a modern pathology. This psychopathy in the body politic of our courts needs our political and parliamentary study and action. While I do sincerely believe that lawyers and lawyers privileges must be upheld, that lawyers privileges must be maintained, and that the majority of lawyers are honest professionals, the minority who are abusing the process, namely, the deviants, need sanctions.

I urge honourable senators to pass Bill S-12.

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventeenth report of the Standing Committee on Internal Economy, Budgets and Administration (*Budget 1998-99—Special Joint Committee on Child Custody and Access*) presented in the Senate on March 25, 1998.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move that the report be adopted now.

On motion of Senator Carstairs, for Senator Rompkey, report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report of the Standing Committee on Internal Economy, Budgets and Administration (*Budget 1997-98—Special Joint Committee on Child Custody and Access*) presented in the Senate on March 25, 1998.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move that the report be now adopted.

On motion of Senator Carstairs, for Senator Rompkey, report adopted.

THE SENATE

CONCERNS OF ALBERTANS—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Ghitter calling the attention of the Senate to the concerns expressed by Albertans with regard to the Senate as an institution: (a) its effectiveness, usefulness and viability; (b) alternative means by which to select members of the Senate; (c) the nature of its regional representation, particularly a desire to see equal numbers of Senators representing each province; (d) the length of term of office; (e) the role which a revised Senate might take at a national level; and (f) the powers which would be appropriate for it to exercise in harmony with the House of Commons.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I thank you for the privilege of allowing me to speak on this issue. I will probably go over my 15 minutes, so I hope you will grant me leave to continue.

I rise to join our colleagues who have participated in the debate begun by Senator Ghitter. Senator Gigantès believes that Senator Ghitter failed to give serious consideration to this issue before bringing it to the attention of this chamber. To no one's surprise, I do not agree with him.

Senator Ghitter has put forth a thought-provoking analysis of the state of the Senate today. I do not agree with all that he says, but his inquiry should be applauded for starting some soul-searching by us, the occupants of the Red Chamber, which should lead to concrete, substantive recommendations for reform of this institution.

The widespread criticism once again directed at the Senate — this time because of Senator Thompson's non-attendance — should not be taken lightly, even if the outrage and condemnation has been mostly without substance, and of the knee-jerk reaction type. Andrew Thompson has served as a lightning-rod for public discontent. He became a symbol of what many people consider, rightly or wrongly, to be the average senator. His reprehensible behaviour and irresponsible actions have earned this institution much disgrace.

This is compounded by the fact, as Senator Murray mentioned in his remarks before the break, that we are all, in differing degrees, accomplices to Andrew Thompson's egregious behaviour. For too long we have seen nothing, said nothing and done nothing. We accepted his absence as part of the way things were done around here. This must change.

Honourable senators, it has long been my desire that the issue of Senate reform be discussed more fully by those most intimately concerned. Since I arrived here in 1990, we have touched on the subject from time to time, most notably in the run-up to the Charlottetown referendum. To my recollection, there has never been a full-scale debate. Perhaps this inquiry will open the door to a long overdue airing of the subject.

We, the institution of the Senate, are in trouble. We are the subject of public ridicule, public misunderstanding, and public anger. Many of us here do not seem willing to realize this. We carry on oblivious to the rancor surrounding us, or hoping that it will somehow simply go away. Obviously, this will not happen.

I should like to make it clear that I do not consider myself an expert on Senate reform. I do not for a moment pretend to have all, or even any, of the answers nor, perhaps, will I add anything new to what has already been said. My desire today is more to provoke reflection and dialogue than to supply definitive answers. It is my hope that through this inquiry we will be able to have a constructive and meaningful discussion on the issue before us. I am equally hopeful that this discussion will be free from the extreme partisanship that robs parliamentary debate of so much of its value as an instrument for consensus and a force for change.

Partisanship is a necessary evil of parliamentary democracy, but it can be carried too far, and particularly so in the Senate. The Senate should get away from this way of doing business. There is far too much that we can accomplish without wasting our energies attacking one another for no reason other than, "That is the way things have always been done."

The record shows that not that many years ago, the Senate was much more a place of calm reflection, reasoned debate, and civil and courteous interaction.

Honourable senators, a number of years ago a former member of this place, Senator Eugene Forsey, gave a speech outlining some of his thoughts on Senate reform. Forsey argued that there were two types of reform: the impractical and the practicable. Among the impracticable were ideas such as changing the number of senators, moving to an elected Senate — that is, one filled with provincial appointments — and renegotiating the Senate's power.

Forsey called such ideas a waste of time. He said that they had just about as much chance of becoming law as they had of becoming the Archbishop of Canterbury. The reason for this was that each required amending the Constitution, and attempting that was simply not in the cards. Forsey felt it was better to make changes that did not require unleashing the constitutional bogeyman.

I will not cite all of his proposals, but among them was setting a fixed term for Senate appointments. A second change proposed was to allow any senator reaching the age of 65, and with 15 years of service, to retire on full pension, as judges are permitted to do. A third proposition was to oblige any senator who failed to attend at least one-third of the Senate sittings for two consecutive years to vacate his or her seat. Other proposals included abolishing both the property qualification and the 24 separate senatorial divisions in Quebec; giving the Senate the power to disallow subordinate legislation; and establishing regional all-party caucuses.

I cite these proposals because, in addition to being a clear and cogent expression of a former senator's thinking on the subject, they represent positions that can be studied and debated. It is my hope that all senators will commit their thoughts and ideas to paper and submit them for discussion, for I believe it is essential for our survival.

It is in this vein that I decided to rise and offer my thoughts on this long-standing issue.

• (1600)

While I do not pretend to have the same constitutional knowledge that many colleagues possess, I have given the subject of Senate reform a great deal of thought over the past few years. My thinking has led me to four general conclusions. In no particular order, these are: First, to succeed, Senate reform must have the backing of those most directly affected by it; second, an appointed Senate is better than an elected one; third, the idea of an equal Senate is unacceptable; and, fourth, Senate reform cannot occur without parliamentary reform.

Honourable senators, Senate reform in any guise is difficult business. The Senate is an institution; it has its own authority, traditions and prerogatives. The same is true of the House of Commons, the Supreme Court, the civil service and the provincial administrations. Together, these institutions form a system of power relationships that make up the legal, political and constitutional framework of our country. Within this system, everything and everyone has their place. Attempts to change the status quo, to increase power here or to diminish it there, do not go unnoticed. They create reaction and opposition. In other words, change does not occur within a vacuum. The Meech Lake and Charlottetown accords are two classic examples of this.

In the case of the Senate, would any Prime Minister willingly yield to the provinces the patronage tool of appointing senators? Would a Liberal Prime Minister agree to fill Senate seats with Conservatives? Would the House of Commons rush to pass legislation allowing or encouraging the Senate to use its awesome powers of disallowance more frequently? Would provincial premiers be happy to see elected senators usurping their role as spokesmen for the provinces in Ottawa?

Any reform of the Senate — and by "reform" I mean fundamental changes and not simple tinkering — must take into consideration some critical questions. For example, how will the changes alter the powers and prerogatives of the people and institutions affected by reform? Will these people agree, will the institutions be able to adapt successfully? These are important issues.

Honourable senators must also remember that change does not occur by itself. The key to successful change is building consensus. Members of both houses and all others who will be affected by Senate reform must come together first before any thought can be given to attempting to sell the idea to Canadians at large. If we are not convinced, if we do have the political will to see the thing through, then we are wasting our time.

The second conclusion I have reached concerning Senate reform is that, despite all the rhetoric to the contrary, it remains my firm conviction that an appointed Senate is better than an elected one. An elected Senate would be little more than a second House of Commons, which in my opinion is not necessary.

It is my belief that a parliamentary system of government with a majority representation in the house from any political party invariably gives too much power to the Prime Minister. It leads to a form of dictatorship. An elected Senate would only add to this power, particularly if the majority belonged to the same party as the Prime Minister and functioned under the usual rules of party discipline.

Ultimately, I feel that an elected Senate would add little value to the public policy process because elected senators would have the same political agenda as our colleagues in the House, would face the same pressures from special interests and would spend much of their time working on their re-elections.

In cases where the Senate majority was in opposition to the party in government, as would likely be the case more often than not if elections were held at different times, then because of our parliamentary system of caucus solidarity and party discipline, I fear that Parliament would often be deadlocked.

Let us remember that political parties, regardless of their public pronouncements, exist to be elected and re-elected, first and foremost. The rewards of victory are enormous, and there is little value in losing. This is not to say that people seek public office for personal gain; far from it. I am simply saying that the adversarial system leads to intense feelings of competition and rivalry as people and parties strive to win electors over to their point of view.

As I stand here, I can almost hear the arguments forming around me to the effect that appointed representatives lack legitimacy. Is this really so? If it is, for whom?

As senators, too often we tell ourselves that we lack legitimacy. It is an interesting point. It is easy to defend and difficult to refute. However, I am not sure how valid an argument it is among ordinary Canadians, those who are not members of the media and simply looking for something easy to be negative about. I also not referring to special interests being unhappy about something and using rhetoric as a means of gaining attention. Both of these groups use the legitimacy argument as if it were some sort of great, self-evident truth.

I see no self-evident link between appointment and lack of legitimacy. Members of our judiciary are appointed, and yet they are widely respected and do not suffer from lack of legitimacy, so why not senators? If the truth be known, it is not legitimacy we lack, but a good image.

Honourable senators, this chamber contains representatives from all parts of Canada and from all walks of life. We are not an elite, and though some of us are wealthier than the average Joe, the majority of us are not. We are average Canadians who happen to be senators. Most of us work hard at our jobs. You and I know it, but the public does not.

To the public at large, we have failed miserably and abysmally. In our silence, we have allowed others to define us. As a result, today our credibility and popularity are at an all-time low. In part, this is due to the widespread perception that the Senate is little more than a dustbin for party hacks. In part, it is a result of the constant denigration of the institution by ourselves for political gain, and I cite the examples of the free trade and GST debates. However, the major cause of our present predicament, in my humble opinion, is our fear to take on our critics, in the misguided belief that because we are not elected, we have no right to speak out. Nothing could be further from the truth. Nothing could be more harmful to the interests of this institution and the interests of Canadians.

Honourable senators, I am not here today to apologize for the Senate, or to try to cover up or excuse our sins. We are not perfect; we make mistakes. However, the gulf between public perception of the Senate and its reality is becoming dangerously wide. Something must be done, and it must be done by us. We must define the problem, study the options and draw up a course of action. We cannot sit here and hope to gain acceptance in the eyes of Canadian people simply by wishing for it. We must earn it. To achieve this, we must examine the institution thoroughly and change those things that we should — and can — while registering our concern about needed changes that require constitutional amendments. We must do a better job of communicating with the public about ourselves, our accomplishments and our commitment to do the best possible job for Canadians.

Honourable senators, the third conclusion to which my thinking on Senate reform has led me is that an equal Senate is unacceptable to me as an Ontarian; it is a non-starter. Much has been said in the past on this subject. Most of it, however, has had more to do with regional representation than with equality. The idea that all provinces are equal is acceptable to me in a constitutional or theoretical sense. The amending formula, for example, says it takes seven provinces equalling 50 per cent of the population to ratify any change to the Constitution. In this sense, all provinces are equal. I can accept that. However, I cannot accept that representation in the Senate be based on equal numbers from each province. I can no more accept that the numbers of Ontario senators be equal to those of Prince Edward Island than could Quebecers accept that their province have the same number of representatives as Saskatchewan. It would not happen. I am in favour of a more equitable Senate, but I cannot support an equal one.

My fourth general conclusion has to do with how Senate reform will happen. I believe firmly that any reform to this institution cannot, and will not, occur alone. To be truly successful, substantive Senate reform must be part of a larger effort at reforming our entire parliamentary system. The reason for this is that the Senate does not exist in a vacuum. Changes to its role and powers will affect people and institutions elsewhere. Success will only come through consensus and political will to change.

This leads to the obvious question: What kind of parliamentary reform should be sought? Do we readjust the powers of both houses of Parliament? Do we expand the role of the Supreme Court, the provinces and the federal decision-making process? Do we move toward an American system of separation of powers? Do we draw a completely different system, one based on our own history and geography?

• (1610)

To paraphrase my colleague Senator Kinsella, whichever route we choose we will have to respect four guiding principles. The first is liberal democracy: Any reform of the Senate must occur in accordance with the fundamental principles of our Constitution. The second principle is responsible government: Reform cannot include powers that undermine the principle that the government of the day must be responsible to the representatives of the people in the House of Commons. The third principle is federalism: Any reform must respect the rules and precedents that together constitute our federal system. The fourth principle is bicameralism: Senate reform will need to take into consideration that our Parliament provides for two representations: national representation in the House of Commons and federal representation in the Senate.

Honourable senators, there are two other points I should like to touch upon before offering some specific ideas of my own on how we could reform the Senate. The first has to do with attendance. I raise this issue not because I have anything startling to add to the debate, but rather it is because I wish to offer an observation.

We are all aware that Senate attendance does not the senator make, nor is it an accurate indication of the input or worth of a senator's contribution. There are members of this chamber who spend a lot of time working in their respective provinces, helping constituents, raising issues, participating in debates and public fora, teaching, and so forth. These people are marked as absent. They are criticized for their absence. In my mind, on most occasions this criticism is unjustified — not always, but most often — at least as far as my knowledge of my colleagues on both sides of this chamber is concerned. Of course, there are those senators who are absent when travelling on Senate committees. They are doing their job but not doing it here in Ottawa, so they are counted as missing, as were 20 or so members who were absent from the vote on Andrew Thompson a couple of weeks ago.

There are also members of this chamber who occasionally absent themselves for reasons other than strictly senatorial.

The Hon. the Acting Speaker: Honourable senators, I wish to advise that the honourable senator's 15 minutes are up.

Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Di Nino: Thank you, honourable senators. I appreciate your indulgence.

This poses a more delicate problem, at least on first glance. When a senator attends a meeting or convention outside of Ottawa during the time the Senate is sitting, related to his or her particular line of work or chief interest, that senator is clearly not doing Senate business. Strictly speaking, this is true. However, whether the senator deserves to be criticized depends largely upon one's point of view regarding what exactly they are doing, particularly if the absence is not directly related to personal benefit. No, they are not absent on Senate business, but if their presence results in jobs being created, investment opportunities being pursued, or in greater understanding and cooperation being achieved, should this not count, or is that opening the door too wide for abuse?

The point I am trying make here is that many of us play a variety of roles. We are senators, business people, human rights advocates, physicians, bankers, and educators. If one of us is asked to travel somewhere to speak because he or she is a senator and physician, should that senator decline for fear of criticism? If a senator is asked to lead a delegation of business people or academics abroad to secure trade opportunities or academic links, should that senator refuse to go because the Senate records will list him or her as absent?

Should such senators not, instead, weigh the good they can achieve elsewhere against what they can accomplish by sitting in this chamber? Should they not be trusted enough to make this decision? Should they not be believed and be taken at their word? I hasten to add that I refer obviously to occasional and specific absences, and not to long-term and repeated non-attendance.

I have a final comment to make on this issue. For all the criticism and snide comments I have heard from some members of the media and members of the other place about attendance in the Senate, I have yet to hear anyone stand up and call for attendance to be taken over there. Perhaps this is an issue that the Leader of the Government in the Senate would care to raise with his cabinet colleagues.

The second point I would like to make also concerns how we use our time as senators. Bluntly put, we spend a lot of time doing political work. We work on behalf of our parties. Like all members of Parliament, we spend a consider amount of time trying to improve our parties' chances for re-election. Some think such work is wrong. Senator Tkachuk was criticized last fall for admitting that he disbursed a fair sum of money travelling as campaign co-chair during the election campaign, but I do not recall any of this criticism coming from members of the other place.

Interestingly, our colleague Senator Taylor was quoted as saying that while he occasionally mixed official political business with party affairs, he would never have had the courage to come right out and say so, as did Senator Tkachuk. The reason I raise this matter is not to disparage Senator Taylor; far from it. I simply wish to highlight an issue for which we are sometimes criticized. We all do political work. It is part of our life and part of our job. We should not try to hide this. We should not try to deny it. We should be up-front about what we do. Why not? We are members of political parties, and these parties must be kept up. By not admitting that, in fact, we are doing either public or political work, we increase public cynicism. We open ourselves to criticism where none is justified. However, so long as we are honest, so long as the rules are clear and we respect them, I think Canadians will accept and understand this.

Honourable senators, I should now like to give you some suggestions on how I would reform the Senate.

We would do well to start with the way in which we are appointed. It is, I am sure you will agree, one of the chief criticisms directed at us. To overcome this, I would propose the appointment of senators by an independent, impartial body. This body could be made up, as an example, of chief justices from the various federal, provincial and territorial courts. A second option could be a group of Companions of the Order of Canada. The mandate of either group would be to choose people from a wide variety of fields and backgrounds, from academia and labour, from politics, business and all other walks of life to sit in the Senate — men and women who have something to contribute for the good of Canadians.

In my reformed senate, the term of service would be limited to a maximum period of, let us say, seven or 10 years, with certain appointments made for a shorter period if a full term were not necessary. I will get to this in a moment.

As for remuneration, I would propose a reasonable salary or a *per diem* plus reimbursement of expenses, such as travel and accommodation as per Treasury Board guidelines.

In addition to limiting the time senators serve, I think that the number of senators could be reduced substantially, and they could be reorganized to reflect more equitably the regions they represent. Personally, I feel that at the present time 66 permanent senators could effectively represent all regions, and I would divide them up as follows: There would be a maximum number of 15 senators for any province, regardless of increases in population, accomplishing the objective of making the institution more equitable. At the present time, I would suggest 15 senators from each of Ontario and Quebec, nine from B.C., seven from Alberta, three each from Manitoba, Saskatchewan, New Brunswick, Nova Scotia, and Newfoundland, two from P.E.I, and one each from the Yukon, the Northwest Territories and Nunavut.

In addition, the Governor General, under advice of the nominating body, could add a number of temporary senators for a specific term to conduct or be part of specific studies or reviews. The number of such temporary senators would be limited to a maximum of 10 at any one time. Each would be appointed for their expertise in a given area, regardless of province of residence. I think it would be impractical to impose regional representation for temporary senators, as many issues have a major impact only in specific areas or regions.

As for the Speaker, that position could be filled by rotation from region to region by periodic elections, perhaps every two years.

This new Senate would continue to review government legislation but it would only have a six-month suspensive veto. It would also be empowered to review all major political appointments made by the House of Commons, the Prime Minister and cabinet. Further, the Senate, augmented by experts, could conduct royal commissions. This offers the additional benefit of major cost savings. We already have the premises, the staff, the equipment, the researchers, and research facilities. We could use them rather than setting up entirely new structures each time a royal commission is established, as is the case now.

I also believe that the Senate's investigative powers should be expanded to include all major national and international issues such as free trade, education, abortion, euthanasia and so forth. I believe we all agree that our best work is done investigating issues. We have expertise often not available in the House of Commons. We have more time to study issues in detail, away from the lights and cameras. Admittedly, partisanship too often plays a role, but perhaps if we acted on previous recommendations to institute cross-party regional committees this could be avoided, or at least diminished.

• (1620)

While on the issue of the investigative role of the Senate, I should also mention the part played in the past few years by the Senate in amending and revising government legislation. On various occasions, the Senate has been called upon to fix bad or flawed bills that made their way here from the other place. These bills were not simply the consequence of poor execution and lack of professionalism on the part of government, although that played a part. What is far more important is that they were the result of a weak and ineffective opposition, an opposition more interested in separation and mariachi bands than in doing their job properly and diligently. The combination of the two left the Senate as the only effective monitor of imperfect legislation in the entire Parliament. Imagine that!

Examples of the type of legislation I am referring to include the Electoral Boundaries Acts, Bill C-18 and Bill C-69, Bill C-42, the Judges Act and, more recently, Bill C-220. I should like to take a moment and read a couple of comments made by some members of the other place. The Justice Minister is now saying that if she had another opportunity, she would not vote for the bill. Mrs. Fry, the Secretary of the State for the Status of Women, said:

> I don't think I would, no. We're talking about a complex problem and we're trying present a simplistic solution to it.

Another member of the House says:

> I'd say the House screwed up.

I could quote more, but really what we should say is: Folks, you screwed up; we did not.

The other matter that is before us right now is the Wheat Board issue, which is Bill C-4, and we will look forward to some interesting comments by our committee in the next few weeks.

Honourable senators, we cannot overlook the role played by the Senate in bringing to the attention of Canadians a number of important issues, such as the Pearson airport agreements, the Cape Breton coal industry and the Newfoundland schools question. Thanks to the Senate, these and other important issues that the government had been anxious to sweep under the carpet, or push through Parliament, were afforded a greater degree of scrutiny than had been the case in the other place.

The last reform I would implement concerns the way in which senators represent Canadians. Today, the Senate is composed to a large degree of career politicians and ex-parliamentarians from the House of Commons and provincial legislatures. For the most part, at least during the last dozen years or so, these people, and I include myself among their number, have too often fulfilled a role that, in its simplest form, boils down to facilitating the passage of legislation for the government of the day. The result, I think we all agree, is that the Senate as an institution has largely abandoned its role as protector or representative of the country's different regions and minority populations. To reverse this trend, I would propose grouping senators by region rather than by party. To do so would alter fundamentally the role we play here. Instead of being simply representatives of our political parties, we would fulfil the Senate role of safeguarding regional and minority interests; we would serve as bridges between our regions and our regions' legislatures and the federal government.

Honourable senators, I realize that many of the ideas I have raised today are contentious. Some would require constitutional amendments, which may be impossible to obtain in the short term. We should therefore consider looking for ways to effect changes that do not require constitutional amendments.

Time does not permit me to provide details to flesh out my different proposals. However, my intent is not to provide an in-depth blueprint for Senate reform. Many others far more knowledgeable than I have addressed this issue in the past. My hope is to build on their contribution, to add my ideas to theirs, to stimulate debate, to provide impetus towards action.

I said at the outset that I did not have all the answers. My remarks here today show that. While I do not have all the answers, I do have a keen and abiding interest in the welfare of this institution and, more particularly, in the health of our democracy. The Senate has an important part to play in Canadian life and politics. However, changes must be made in order for us to properly fulfil our role as a check on the government of the day. Ultimately, the Senate should become the repository, the meeting-place of the best and the brightest Canada has to offer: men and women who come together solely to serve the interests of Canadians.

At the same time, the Senate must become a far less partisan place. It must concentrate more on issues and focus on protecting and promoting regional rather than party interests. I feel that, to a far greater degree, the political role of the Senate should be taken over by the House of Commons. It is there that the major partisan battles should be fought, leaving us here in this chamber to refine legislation, improve it if possible, and to ensure that every bill passed by the Parliament of Canada is in the best interests of Canadians.

Finally, honourable senators, we must have the courage to confront what has become an unpleasant and untimely untenable situation. Our popularity and the people's confidence in us as an institution have descended to dangerous levels. We must act. If I were a physician, my prescription would be simple: Senate, heal thyself. To achieve this, we must involve the public. The people

must have their say. The boil must be lanced. We should not, and we cannot afford to be afraid to stand up and defend this institution. If the people want this place to change, then so be it, but let us be the leaders of the change rather than the reluctant followers. It will not be easy — major change rarely is — but I am confident that if there is a will, there is a way. We have the will; let us begin our search for the way.

Hon. Philippe Deane Gigantès: Will the honourable senator accept a question?

Senator Di Nino: With pleasure.

Senator Gigantès: The senators are named by the Governor in Council. This committee, you suggest, would make suggestions and the Governor in Council, that is the Prime Minister and his cabinet, must decide whether they follow the suggestions or not. Is that not right?

Senator Di Nino: Obviously, as I said before, I am not sure I have all the answers, but on this issue let me give you my thoughts. I believe that the Governor in Council, or the governing council, should not make the appointments. I believe the appointments should be the prerogative of the Governor General at the recommendation of a committee, an impartial independent committee, as I said; a body which would assess the needs of the country at that time and recommend, based on the needs of the country at that time, candidates for the Senate who could fulfil the role for the benefit of Canadians, and take away totally and completely the political aspect of the appointment.

Senator Gigantès: This is all very fine, sir, but how do you deal with what the Constitution says?

Senator Di Nino: I believe I made that very clear, that a number of my recommendations would require constitutional change. and I suspect that, in the short term, that would be impossible. I am only offering suggestions for consideration and debate. If we feel strongly enough, or if the Canadian public feels strongly enough, that these issues should be addressed, then, as we have done in the past, if we have the will, we can make constitutional changes.

Senator Gigantès: How about premiers who say "What will you pay me to accept this?" as has happened in the past?

Senator Di Nino: That is very interesting.

Honourable senators, I really appreciate the extra time I have been granted, and I will probably make a senator's statement about it, because I would like to thank you appropriately, though I know I may have abused my privilege.

I would have liked to expand a number of these issues in a way that would have taken half an hour, each and every one of them, and one of the issues is how does a provincial premier react to having an elected body called the Senate? How much of that provincial premier's power and role in the relationship between the provinces and the federal government would be affected by that? I do not know the answers, but that is a very good question.

Senator Gigantès: Unfortunately I do not wish to extend your time any further because my colleagues would like to go home. Maybe we can continue this discussion, you and I, over lunch.

Senator Di Nino: Honourable Senator Gigantès, as long you are buying, I will be there.

Senator Gigantès: That is a typical Tory comment, sir.

On motion of Senator Berntson, debate adjourned.

• (1630)

SECURITY AND INTELLIGENCE

ESTABLISHMENT OF SPECIAL COMMITTEE

Resuming debate on the motion, as modified, of the Honourable Senator Kelly, seconded by the Honourable Senator Prud'homme, P.C.:

> That a Special Committee of the Senate be appointed to hear evidence on and consider matters relating to the threat posed to Canada by terrorism and the counter-terrorism activities of the Government of Canada;
>
> That the Committee examine and report on the current international threat environment with particular reference to terrorism as it relates to Canada;
>
> That the Committee examine and report on the extent to which the recommendations of the Report of the Special Committee on Terrorism and Public Safety (June 1987) and the Report of the Special Committee on Terrorism and the Public Safety (June 1989) have been addressed by the Government of Canada;
>
> That the Committee examine and make recommendations with respect to the threat assessment capability of the Government of Canada relative to the threat of terrorism;
>
> That the Committee examine and make recommendations with respect to the leadership role, preparedness and review of those departments and agencies of the Government of Canada with counter-terrorism responsibilities;
>
> That the Committee examine and assess the level of international cooperation between Canada and its allies with respect to the evolving nature of the terrorist threat;
>
> That seven Senators, to be designated at a later date, act as members of the Committee;

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

That the Committee present its final report no later than September 29, 1998.—(*Honourable Senator Kelly*).

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I understand that if Senator Kelly speaks now, he would close the debate because he has spoken earlier. He wishes to speak immediately after me, and I just have a few words to place on the record.

When Senator Kelly first made this suggestion to the Senate of Canada, I think it was well received. The only difficulty we had on this side was that we were not exactly sure what would be the parameters of his study. Certainly, we supported the concept of his study.

Senator Kelly has worked extremely hard both with the leadership on this side and, I am sure, on his side. He has also worked with the Solicitor General in terms of detailing exactly the work that will be done by this committee. I want the Senate to know that his study has the full support of this side of the chamber.

The Hon. the Speaker: Honourable senators, as Senator Carstairs pointed out, if the Honourable Senator Kelly speaks now, his speech will have the effect of closing the debate on this motion.

Does any other honourable senator wish to speak? If not, I recognize the Honourable Senator Kelly.

Hon. William M. Kelly: Honourable senators, I tabled this motion to set up a special Senate committee on security and intelligence in December of 1997. As I indicated then, I see the purpose of the committee being to assess our ability to stop actions or activities that threaten the security of Canada before they happen or to respond effectively to those that do. In doing so, the committee could build on the substantial foundation of work done by the Special Committee on Terrorism and Public Safety of 1987 and 1989.

As I said on December 2, much has changed since the last committee on terrorism reported in 1989. The Cold War may be over, but we now face the prospect of proliferation of weapons of mass destruction, to renegade states and to any number of terrorist groups. We face a significantly higher risk from economic espionage. We also face an increasing threat from the convergence of criminal and terrorist organizations worldwide that increase the power of both. These are the types of issues the committee should examine.

Some have asked why the motion proposes a special committee on security and intelligence rather than another special committee on terrorism. The reason is to be able to cast the net of our review wider than terrorism in order to catch all the major security threats that face or may face this country.

A nation's security is important. It is important, therefore, that this committee conduct its review carefully, objectively and without partisanship. The committee's goal must be to be helpful and constructive, to help the government get ahead of security threats, rather than react to them. In my experience, periodic reviews of this kind, if properly conducted, can be worthwhile.

Honourable senators, since I tabled my original motion in December of last year, I have met with a number of senior officials of the government with responsibilities or knowledge in the field of security. These have included the Deputy Secretary responsible for security and intelligence in the Privy Council Office, the Deputy Solicitor General, and most recently with Mr. Andy Scott, the Solicitor General himself.

During these discussions, I was made aware that Minister Scott has already initiated a review of how well the government is prepared to respond to and manage terrorist threats to public safety and actual terrorist incidents. He has advised me that he welcomes the study proposed by the Senate committee but has asked that we might consider being somewhat more precise in our motion insofar as the areas to be covered are concerned. Accordingly, I amended the original motion to reflect the areas set out by Minister Scott as being those which will best augment the review which the Solicitor General has under way.

I have further amended the original motion because of the time which has elapsed, and I now suggest that the committee present its final report no later than September. This deadline will accommodate meetings which I believe may be necessary through the summer.

Honourable senators, I ask the approval of the chamber for this motion.

Motion agreed to.

INTERNATIONAL SUMMIT OF SEXUALLY EXPLOITED CHILDREN AND YOUTH

INQUIRY—DEBATE ADJOURNED

Hon. Landon Pearson rose pursuant to notice of March 19, 1998:

That she will call the attention of the Senate to the results of the International Summit of Sexually Exploited Children and Youth, held in Victoria from March 7 to 12.

She said: Honourable senators, two weeks ago, 54 young people from Canada, the U.S. and Latin America, all of whom had been sexually exploited in childhood, gathered in Victoria to speak out and be heard. For those of us who were there to hear them, the experience was both heart-rending and inspirational — heart-rending because of the tragic nature of what they had to say, and inspirational because of their courage and their collective determination that other children should be spared their grief.

"Out from the Shadows" was a most unusual conference, one of a kind. There is considerable interest in holding others like it in South Africa, in Eastern Europe, and in several of the Asian countries because the commercial sexual exploitation of children is, alas, a global phenomenon, an illicit trade worth hundreds of millions of dollars, and a trade in which large numbers of people profit from the unspeakable suffering of the innocent.

Organizing an effective conference to give voice to young people who have been exploited and marginalized is a delicate task. The challenge that confronted the planning committee, which included myself and my co-chair, Cherry Kingsley, a young woman who knows only too well from her own experience what it is to be sexually exploited, was how to create a safe and appropriate environment that would enable the young delegates to come out from the shadows and tell their stories truthfully, trusting they would be heard. With Cherry's help and with the help of some of her colleagues at PEERS, the Prostitutes Empowerment Education and Resource Society, I am happy to say we were able to construct a surrounding that worked.

Once in Victoria, the young people found themselves in pleasant and tranquil surroundings, with comfortable beds, three full meals a day, and an extraordinary amount of emotional and practical support. We had a safe room open 24 hours a day, staffed by volunteer counsellors and doctors. We provided opportunities to the young people to express themselves through art, drama, music and creative writing, all with the help of gifted volunteers. The plenary sessions and the other activities were all adjusted to their specific needs. Support people and the few invited professionals were kept in the background, asked to listen and not to talk.

The young people responded with an extraordinary outburst of creativity. What they produced was painful, yes, and wrenching for them as well as for us, but deeply moving in the best sense. What struck me was that they were less enraged than outraged — outraged that a society fails to protect its children and allows the abuses, that they were strong enough to describe, to take place; outraged by the predatory nature of the trade, the thoughtless, often brutal self-gratification of clients, and the greed and cruelty of other exploiters.

Before they came to Victoria, the young delegates of "Out from the Shadows" had all engaged in informal but carefully structured group discussions. In fact that was how they were selected. Both the national and the international focus groups revealed a number of recurring themes in the life experiences of children and youth who enter the sex trade. I do not intend to recount their individual stories here, but you will not be surprised to learn that most of them involve poverty and abuse.

• (1640)

For some of the girls, early pregnancies had driven them on to the streets. For others, boys and girls alike, homelessness, low self-esteem, and drug and alcohol addiction had made them easy prey to pimps. A certain number had led double lives, for only a small portion of prostitution takes place on the street. Almost all complained of a lack of training and education, including education about human rights, and most of them had no one to talk to.

Summaries of both the national and international focus group discussions are available on my web site, sen.parl.gc.ca/lpearson/, as well as the Declaration and Agenda for Action and other documents related to the summit.

This was the baggage the young people brought to Victoria, the material from which they fashioned their Declaration and Agenda for Action, a document entirely of their own making. Cherry and the eight young delegates who chose to write it up stayed up one night until four in the morning and the next night until three. Then they emerged, somewhat bleary-eyed, to present their finished piece brilliantly to a group of politicians from the federal government, from the Government of British Columbia, from Brazil, along with some other political representatives and international officials. We were all profoundly moved by their presentation and determined to respond. The federal government will provide support for an international follow-up specifically involving the young people from Latin America. The B.C. government announced $3 million for safe houses. Other commitments were made, including personal ones from each one of us.

Honourable senators, please listen now to their own words.

> So many times our voices have not been heard. Here, at this Summit, we are united. Our voice is strong. This Declaration presents our united voice, the voices of sexually exploited children and youth. We represent a cross-section of society and we have many stories. Here you will hear our voice.
>
> **Declaration**
>
> We, the sexually exploited child and youth delegates gathered in Victoria, Canada for *Out From the Shadows — International Summit of Sexually Exploited Youth*, declare the following:
>
> We declare that the term child or youth prostitute can no longer be used. These children and youth are sexually exploited and any language or reference to them must reflect this belief.
>
> We declare that the commercial sexual exploitation of children and youth is a form of child abuse and slavery.
>
> We declare that all children and youth have the right to be protected from all forms of abuse, exploitation and the threat of abuse, harm or exploitation.
>
> We declare that the commercial exploitation of children and youth must no longer be financially profitable.

We declare that all children and youth have the right to know their rights.

We declare that the issue of child and youth sexual exploitation must be a global priority and nations must not only hold their neighbours accountable but also themselves.

We declare that governments are obligated to create laws which reflect the principle of zero tolerance of all forms of abuse and exploitation of children and youth.

Agenda for Action

Our Agenda contains actions that are based on our beliefs. Our beliefs have come from what we have lived. To understand why these actions will work, you must understand our beliefs and the life experiences that have led to these beliefs.

We believe that education is vital in our struggle against the sexual exploitation of children and youth.

We believe that the voices and experiences of sexually exploited children and youth must be heard and be central to the development and implementation of action. We must be empowered to help ourselves.

We believe that we have a right to resources that are directed towards sexually exploited children and youth and our very diverse needs.

We believe that as children and youth, we are all vulnerable to sexual exploitation whether male, female, or transgendered.

We believe that our laws must protect us as sexually exploited children and youth and no longer punish us as criminals.

We believe that we are all responsible for our children and youth, yet the issue is not ours alone. Governments, communities and society as a whole must be held accountable for the sexual exploitation of children and youth.

I will not go on through the rest of their Agenda for Action, but I urge it to your attention.

Honourable senators, the purchase and use of the body of a child for sexual gratification is an abominable act and a desecration of the human spirit. We must all do what we can to reduce this deplorable practice. I know you are busy, we all are, but I urge you to read the declaration and agenda for action and ponder what the young delegates found the words to say. I promise that you will never think about young people engaged in prostitution and the people who purchase sex from them in the same way again.

Hon. Consiglio Di Nino: Honourable senators, I would like to say a few words from my heart about this issue. I have spoken on it a little in the past.

Senator Pearson and her colleagues and all those involved in this summit should be congratulated. The exploitation of Canada's children is a tragic problem of enormous proportion one which too often, tragically and unfortunately is swept under the rug. It is something we do not want to confront. I do not know why we are afraid to deal with this issue, but we seem to be.

The honourable senator knows I had originally intended to participate. Unfortunately, that was not to be. In extending my congratulations to her, I should like to urge that this body not end this debate today. I think it is an issue which Canada and Canadians must face, if not for the sake of ourselves, for the sake of our children. Once again, congratulations, and let us continue the work.

On motion of Senator DeWare, debate adjourned.

The Senate adjourned until Tuesday, March 31, 1998, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)
Thursday, March 26, 1998

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications					
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20		
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	three	97/12/16		
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11		
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/12/16	Committee of the whole 97/12/17	97/12/17	none	97/12/18	97/12/18	40/97
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26	Agriculture and Forestry					
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce	98/02/24	none	98/02/25		
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26	Aboriginal Peoples					

C-7	An Act to establish the Saguenay-St.Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02	Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97
C-8	An Act 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	98/03/17	98/03/25	Aboriginal Peoples					
C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	92/12/09	98/03/26	Transport and Communications					
C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwelings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none			
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs					

C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none			
C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31,1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	98/03/26		
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26						

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Legal and Constitutional Affairs					

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the “Persons Case” (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to probihit coercion in medical procedures that offend a person’s religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology					
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology					
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs					
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10							

S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation (Sen. Kenny)	98/02/26
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25

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