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OFFICIAL REPORT
(HANSARD)

Thursday, May 28, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, May 28, 1998

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

Prayers.

SENATORS' STATEMENTS

CUBA

Hon. Donald H. Oliver: Honourable senators, *The Financial Post* reported on Tuesday, May 26, that Cuba is looking to boost Canadian investment, and to that end the Minister for Foreign Investment, Ibrahim Ferradaz Garcia, spent two days in Toronto meeting senior business people.

Since the 1960s, Canada has maintained links with this island nation. This has not been easy because the U.S. government has consistently expressed its displeasure with this relationship, preferring that Canada join its economic embargo which was originally imposed in October 1960.

Recently, we have seen a further demonstration of the determination of the U.S. government to reduce Canadian economic and trade activities with the passage of the now infamous Helms-Burton bill, which enacts penalties on foreign companies doing business in Cuba, permits U.S. citizens to sue foreign investors who make use of American-owned property seized by the Cuban government, and denies entry into the U.S. to such foreign investors. Neither the Canadian government nor Canadian investors have accepted the terms of this bill. We continue to strive to improve our relationship with Cuba in both the political and economic spheres.

Today, we are reaping the benefits of three decades of friendship with Cuba. We continue to improve our trade and economic relationships with this island nation, a relationship that has become even more important since the termination of Soviet economic subsidies to Cuba in December 1991.

Canada is well placed to benefit from expanded trade with Cuba. I attended a luncheon yesterday in Toronto with Minister Garcia who spoke warmly of Canada's important trade relationship with Cuba. With indirect investment of about $700 million in Cuba, Canada, along with Italy and Spain, is one of Cuba's most important sources of foreign capital.

Today, Cuba has an immediate need to continue to develop and expand several sectors of its economy, including power generation, tourism, sugar by-products, paper, technology and communication. The minister encouraged Canadian businesses to consider investments therein. These are areas in which Canada leads the world in expertise and practical applications. Canada, by remaining firm in its commitment to improve and expand relations with Cuba, has offered our investors and companies the opportunity to benefit financially from trade with Cuba. Of course, this creates more jobs for Canadians.

Since 1993, Canadian exports to Cuba have tripled in value from $146.2 million to $359.6 million in 1997. This amount could reach as high as $500 million, if goods shipped by way of third countries are included in this total. Today, Canada ranks fifth in the world in exports to Cuba, following Spain, Russia, Mexico and France.

Cuba remains a favourite destination for Canadians wishing to escape the harsh realities of our winter. Each year, more and more Canadians avail themselves of the opportunity to enjoy hospitality in Cuba. In 1997, some 169,000 Canadians visited the island nation. Yesterday, the minister gave figures on revenues anticipated from increased tourism by the millennium.

Cuba has benefited as well from its trading relationship with Canada. In 1993, Canada imported merchandise worth $171 million. Today, that figure is almost double that amount at $353 million, making Canada the second most important destination for Cuban goods. Our major imports from Cuba are nickel products, raw sugar and molasses, seafood, shellfish and tobacco. Companies from Atlantic Canada are actively pursuing some of these opportunities.

[*Translation*]

CANADA-LEBANON RELATIONS

Hon. Pierre De Bané: Honourable senators, recently, from April 16 to 20, I had the opportunity to be in Lebanon, on the invitation of the President of the National Assembly of Lebanon. He had invited parliamentarians of Lebanese extraction from all over the world, 53 in all from many countries.

At that time, I had the opportunity to read a speech prepared by the Department of Foreign Affairs on relations between Canada and Lebanon.

My audience comprised all members of the government, all the parliamentarians, all members of the diplomatic corps, and the key decision-makers of the country. This was, I think, the first time they had the opportunity to have a complete overview of the relations between Canada and Lebanon. I will touch on only the main points of my speech here. These were, respectively, as follows: Canada-Lebanon relations; the reconstruction of Lebanon; Canada and the Middle East peace process; the task force on refugees; Canadian aid for development; and finally, human rights, good government and democracy.

I would like to thank the department for preparing this substantial speech on all facets of our relations with that country. As you know, there are many Canadians of Lebanese origin in this country as a result of the troubled times Lebanon has experienced. My speech was televised live throughout the country and copies were made available in both official languages of Canada, as well as in Arabic.

I felt that I should report on this trip because it was financed in part by the Senate. I have the honour of tabling, in both official languages, copies of the speech I delivered on that occasion.

THE SENATE

ALLOCATION OF OFFICE SPACE TO RETIRED SENATOR

Hon. Michael A. Meighen: I am sorry that the Leader of the Government in the Senate is not present today and that consequently there will be no Question Period.

[*English*]

•(1410)

Honourable senators, the answers that the leader gave yesterday in this chamber to a very legitimate concern with respect to the provision of public resources to retired senators, a concern which I believe is shared by many on both sides of this chamber, have regrettably led to widespread misinterpretation. One merely need read the press reports of today to see how this issue has been perceived.

Having informally polled many senators with more seniority than I have, I can report that none are aware of what *The Globe and Mail* states on its front page this morning, and I quote:

> Like many other retired senators, Liberal Allan MacEachen has been allowed to keep an office in Ottawa since he stepped down two years ago...

I challenge any senator to provide evidence of "many other retired senators" receiving treatment similar to that afforded to Mr. MacEachen.

The leader's suggestion that by providing Mr. MacEachen with office space and other amenities at the expense of the taxpayer for a period exceeding two years is somehow a matter of parliamentary convention, is, honourable senators, wrong and baseless. I would hope that the Leader of the Government will provide to the members of the Senate next Tuesday any precedents which could conceivably justify this government's decision to provide a senator with resources at public expense for a lengthy time after retirement.

The failure, indeed the impossibility, of providing adequate justification for this decision relating to Mr. MacEachen brings this institution into disrepute and should therefore be reversed without delay.

NATIONAL REVENUE

TREATMENT OF TAXPAYERS—PURPOSE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, yesterday Senator Kinsella very generously promised me that he would take up after my departure — which Senator Lynch-Staunton says will make the Senate much more popular, which itself drives me to self-pity, as I walk the corridors, a poor, suffering, little old senator, — and Senator Di Nino said he would help, and I urge more senators to help — the launching of an investigation of the administration of the tax system. I speak not of the contents of it, but the administration. It will bring the Senate closer to the public, and will make it hugely popular. Senator Di Nino has the right instincts on this, and so have I.

ROUTINE PROCEEDINGS

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1998

REPORT OF COMMITTEE

Hon. John B. Stewart, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, May 28, 1998

The Standing Senate Committee on Foreign Affairs has the honour to present its

SIXTH REPORT

Your committee, to which was referred the Bill S-16, An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, has examined the said bill in obedience to its Order of Reference dated Tuesday, May 12, 1998, and now reports the same without amendment, but with observations.

The committee has two specific concerns. First, committee members propose that, in advance of the Government of Canada presenting similar legislation in the future, the Department of Foreign Affairs and International Trade assure the Senate of Canada that it has conducted pre-screening of signatory countries' institutional capacity to implement successfully the provisions of the relevant agreements and conventions.

Second, a key component of the tax agreements and conventions included in Bill S-16 is an exchange of information between tax authorities in Canada and those in the other signatory countries. This transfer of data can be a useful tool with which countries can minimize or even prevent tax evasion. While recognizing the merits of such an information exchange, the committee has some concern that the information in question may, in some instances, be improperly used in some countries. The committee suggests that the Government of Canada, when seeking the enactment of similar bills, provide the Senate, through the committee to which the bills are sent, with any information available to the Government about inappropriate use of tax information exchanged as a result of tax agreements and conventions entered into by Canada. Also, the committee encourages the Government of Canada to attempt to ensure that an adequate level of privacy is accorded the tax information shared by Canada with the other signatory countries.

Respectfully submitted,

JOHN B. STEWART
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.

BUDGET IMPLEMENTATION BILL, 1998

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-36, to implement certain provisions of the budget tabled in Parliament on February 24, 1998.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Tuesday next, June 2, 1998.

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-410, to change the name of certain electoral districts.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 3, 1998.

CANADA ELECTIONS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-411, to amend the Canada Elections Act.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 3, 1998.

QUESTION PERIOD

THE SENATE

ALLOCATION OF OFFICE SPACE TO RETIRED SENATOR—
AUTHORIZATION BY INTERNAL ECONOMY COMMITTEE—
POSITION OF CHAIRMAN

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to ask the Chairman of the Standing Committee on Internal Economy, Budgets and Administration whether he or his committee have any knowledge of the space which is presently being occupied by former senator MacEachen and whether that space was authorized by the Standing Committee on Internal Economy, Budgets and Administration.

Yesterday, as Senator Rompkey is aware, there was quite a discussion here as to how it came about that a former senator would be privileged to have such extensive space with certain privileges accorded to senators. We are still in a bit of a dilemma as to who authorized the space. I would ask Senator Rompkey if the Standing Committee on Internal Economy, Budgets and Administration was party to this act.

Hon. Bill Rompkey: Honourable senators, I have read with interest the discussion that went on, although I was not here yesterday. I can say that the matter has not come up for discussion since I have been Chairman of the Standing Committee on Internal Economy, Budgets and Administration.

DELAYED ANSWER TO ORAL QUESTION

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 14, 1998 by the Honourable Senator Kelleher regarding the agreement on internal trade, failure to cover procurement in the MASH sector.

INDUSTRY

AGREEMENT ON INTERNAL TRADE—
FAILURE TO COVER PROCUREMENT IN THE MASH SECTOR—
REQUEST FOR TABLING OF AGREEMENT

(Response to question raised by Hon. James F. Kelleher on May 14, 1998)

On May 14 it was asked whether the Leader of the Government would be willing to table the recently announced agreement on procurement in the so-called MASH sector.

A legal analysis of this agreement is currently underway. The intent of this review is to ensure that it is both clear and consistent with the broader Agreement on Internal Trade. Once this work is completed, likely within a month's time, the Leader would be honoured to table it so that all senators may review its contents.

Concerns were also expressed about the amount of time required to reach this agreement. The federal government was not a party to the agreement, for obvious jurisdictional reasons. Essentially, the federal government's role amounted to one of interested observer.

The agreement we are discussing was negotiated by the provinces and territories, and is subject to ratification by provincial and territorial Cabinets — not the federal Cabinet. Despite the federal government's encouragement and desire to see an agreement reached, the provinces and territories were not able to come to an agreement on procurement in this sector until quite recently.

ORDERS OF THE DAY

CANADA MARINE BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bacon, seconded by the Honourable Senator Joyal, P.C., for the third 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,

And on the motion in amendment of the Honourable Senator Johnson, seconded by seconded by the Honourable Senator Spivak, that the Bill be not now read a third time but that it be read a third time on November 25, 1998 in order to give Ports in Canada the opportunity to put their cases regarding the disastrous effects of this Bill before the Government.

Hon. Lise Bacon: Honourable senators, I should like to thank the members of the committee for the tremendous work they did in completing a thorough study of Bill C-9.

•(1420)

We certainly had long days of hearings, since many witnesses had requested to appear before us.

[*Translation*]

The Standing Senate Committee on Transport and Communications took a long hard look at this bill in a spirit of equity. We heard a considerable number of witnesses from every region in the country representing the entire Canadian shipping industry, and they had every opportunity to express their opinions on the bill.

The senators in attendance could ask all the relevant questions and thus get a fair idea of the bill.

[*English*]

On two occasions, the Minister of Transport appeared before the committee, accompanied by his officials.

[*Translation*]

And the members of the committee had the opportunity to thoroughly question the Minister of Transport. In addition, in reading the bill clause by clause, the committee had the help of department officials, who responded to some of the committee members' concerns.

In presenting its report on the bill, the committee made recommendations and observations to the Minister of Transport, which summarize the concerns expressed by both witnesses and senators.

The minister responded by letter to most of the concerns raised.

I think, therefore, honourable senators, that it is time to move on. This bill has been long debated and the subject of much consultation. The committee had the opportunity to consider this same bill, called Bill C-44 in the last Parliament. I do not think we have anything to add to what has already been said. I have moved the committee report be adopted.

[*English*]

We should vote as soon as possible on this bill.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, might I ask whether Senator Bacon would reply to a question?

Senator Bacon: Yes.

Senator Kinsella: Honourable senators, the other day a minority report was tabled and appended to the *Journals of the Senate.* Has the chairman of the committee had an opportunity to read that minority report? I would indicate that the honourable senator is nodding her assent. Might I enquire what are the honourable senator's views as to the parts of the minority report with which she disagrees?

[*Translation*]

Senator Bacon: Honourable senators, I have just said the questions mentioned, even in the minority report, were raised at the meeting with the minister and his officials. They were discussed at length during the deliberations of the Standing Committee on Transport and Communications. I think the required answers to these questions were given to some of the commission members. I do not think another debate will add anything to what has already been said or to the answers provided by the minister and his officials.

[*English*]

The Hon. the Speaker: If no other honourable senator wishes to speak, it was moved by the Honourable Senator Bacon, seconded by Honourable Senator Joyal, that this bill be read the third time.

In amendment, it was moved by the Honourable Senator Johnson, seconded by the Honourable Senator Spivak, that the bill be not now read a third time but that it be read a third time on November 25, 1998 in order to give Ports in Canada the opportunity to put their cases regarding the disastrous effects of this bill before the Government.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those in favour of the amendment, please say yea?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the amendment please say nay?

Some Hon. Senators: Nay.

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

Some Hon. Senators: On division.

The Hon. the Speaker: The motion in amendment is negatived on division.

Honourable senators, we are now back to the main motion.

It is moved by the Honourable Senator Bacon, seconded by the honourable Senator Joyal, that Bill C-9 be now read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Will those in favour please say yea?

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

Some Hon. Senators: On division.

The Hon. the Speaker: The motion is carried on division.

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

CANADA SHIPPING ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mercier, seconded by the Honourable Senator Milne, for the second reading of Bill C-15, to amend the Canada Shipping Act and to make consequential amendments to other Acts.

Hon. J. Michael Forrestall: Honourable senators, it gives me a great deal of pleasure, in some respects, to take part in the debate on Bill C-15. I want to begin today by adopting, if I might, many of the important things that my colleague Senator Mercier, who began the debate, had to say about this bill. I have had the great pleasure of working with Senator Mercier as a member of the Subcommittee on Transportation Safety, a subcommittee which I have the privilege of chairing.

As recently as February 1998, the subcommittee, including Senator Mercier and myself, had the opportunity to attend a conference in the Netherlands on the international aspects of transportation safety. Indeed, many of the ideas that came out of that conference have been captured in this bill, especially the ship registration system.

I also want to pay tribute to Senator Mercier's knowledge in this area and, of course, to his wonderful sense of humour which made our work on the subcommittee all the more tolerable and enjoyable.

I must tell you that early on in the deliberations of the subcommittee, I thought it would be important for the subcommittee to recommend and, if at all possible, take part in the drafting of a new shipping act and a new aeronautics act. As you know, the shipping legislation goes back to the last century and the aeronautics legislation goes back to the 1920s. Both are ancient, archaic pieces of legislation, and have outlived their usefulness.

I am left today to begin lobbying the government, or perhaps the Transportation Safety Committee, to begin work on a new aeronautics act, because here we are today, taking the first of two major steps to tidy up the Canada Shipping Act.

Unlike Bill C-9, the Canada Marine Act, which was before us a few moments ago, one of the major complaints raised before the Subcommittee on Transportation Safety by the Harbourmaster of the Port of Saint John, New Brunswick, was the inability to identify the owners of abandoned boats and ships. At the transportation safety conference in the Netherlands, one of the main issues in relation to marine safety was the lack of someone who would assume the responsibility for a ship, or someone who could be held accountable if something went wrong. Both these matters are addressed in this bill in a positive fashion.

As well, I join with Senator Mercier in breathing a sigh of relief that this bill has addressed the issue of the pension fund administered by the Corporation for Pilots for and below the Harbour of Quebec.

However, as with all things that are attempted, there may be some issues or problems which need to be explored by the Standing Committee on Transport and Communications. As was the case with Bill C-9, the hearings on this bill in the other place were not extensive. It is our job here to study in some detail the proposals put forward by way of new legislation and attempt, through amendment, to correct the flaws, if any, that we find. That is the essence of sober second thought, the task given to us in the Constitution and which we perform particularly well.

•(1430)

I regret that Bill C-15 presents only the first small part of the rewrite of the Canada Shipping Act, and that it does not cover important matters such as ship registration, ownership and mortgaging of interests in ships. It is difficult to deal with these matters in isolation.

Honourable senators, I hope that by the spring of next year the balance of the rewrite will appear before us and that we can then deal with issues of safety, certification, conditions of work, navigation, accident investigation, wrecks, salvage, environmental issues and other economic matters. It would have been easier if these matters had been included in Bill C-15; however, the fact that Bill C-15 is before us marks a historic step. We have been trying to get to where we are today since the 1970s.

I remember when the proposed maritime code was being presented in the other place. It was so flawed that on one occasion I wrote and presented more than 100 amendments to that code. In the final analysis, my efforts were all for nought, because the legislation was such a mess that it had to be cast out. We now have this major offering from the government.

I congratulate the government for the objectives of the bill that are set out in clause 5. I note that the objective of fostering and promoting a shipbuilding industry in Canada is not specifically listed. As well, I believe an objective of the Canada Shipping Act should be to develop an indigenous group of Canadian merchant mariners.

The Senate's Subcommittee on Transportation Safety learned during its hearings in Halifax that few Canadians are entering the vocation of merchant mariner. We should be encouraging young Canadians through incentives to consider life at sea as a career. I believe this to be a proper objective of any proposed shipping legislation that we might ultimately pass.

Honourable senators, clause 8 provides wide powers to the minister with no oversight of their usage nor for any review after action has been taken. I refer particularly to the powers of the minister to exempt shipowners, ships or classes of ships from the operation of the act. This is a significant amount of authority to give blindly to the minister.

Clauses 17, 18 and 19 — and especially 18 — give me particular concern. These are the clauses that deal with the registration of ships in Canada. Clause 18 seems to allow any company resident in Canada to bare-boat charter foreign vessels, vessels flying foreign flags, register them in Canada and then substitute the Canadian flag for the foreign flag. That sounds convoluted and in fact is, but nevertheless, it is a ruse that is possible and may well be a weakness in the bill. If we have the minister before us, I am sure he can correct it, or perhaps he can reassure us that we have indeed been reading it incorrectly.

The question is there: Are we trying to establish the Canadian flag as one of convenience? I do not think so. How would such provisions affect Canada's shipbuilding industry? By virtue of the United States' Jones Act, Canadian shipyards are already denied access to the American domestic market. Bringing in ships from abroad and allowing them to fly a Canadian flag would only hurt our shipbuilding industry, which is struggling, particularly in Quebec and the Maritimes.

Honourable senators, clause 18 must be read with clause 241 of Bill C-28 which is presently before the Standing Senate Committee on Banking, Trade and Commerce for scrutiny. Under Bill C-28, which amends the Income Tax Act, companies are exempt from taxation on international shipping operations. At worst, what we might be creating by these two bills is a Canadian flag international fleet built abroad, crewed by non-residents paying no Canadian taxes. Is this what the government wants? We will again await the comments of the Minister of Transport and his officials on these questions.

Honourable senators, clause 48, among other clauses in the bill, gives to the Governor in Council power to make regulations. Given the importance of this bill, and the fact that it is part of a major reform or rewrite of the Canada Shipping Act, surely these regulations should receive the scrutiny of the Standing Senate Committee on Transport and Communications before they become active.

Proposed new sections 317.1 and 317.2, of the Shipping Act give the minister the power to:

> ...authorize any person, classification society or other organization to conduct inspections under this act...

I believe this relates to safety inspections.

This morning we were privileged to have had a good hour with departmental officials. Much of that time was taken up with detailed discussion over these more technical points. I stress again, they are questions which we will want to put to the minister and his staff when they are before us.

While we do not object to safety inspections by classification societies per se, I am concerned about this privatization of inspection. We were given assurances, as I mentioned a moment ago, and I hope that we can rely on them. We would not want the result that companies hiring would be able to hire even the cheapest possible inspectors and thereby undermine Canadian ship inspection standards which, incidentally, are very high. I would like more information on this clause and perhaps it will be forthcoming.

I am also not sure why proposed new section 379.1 is to be placed in the Shipping Act. This proposed new section provides the minister the power to designate ships or classes of ships and persons on board as "special purpose ships." We were told this morning that this was a clause to bridge anomalies. There may be a very large training ship under sail in every other respect, possibly subject to commercial registration. However, because of the nature of its activity, it is really neither commercial nor pure pleasure because of its size. We have some questions in this area.

To some degree we were reassured by staff this morning at the briefing. However, it does leave open the question. That is just one example they use. The first question I have is: How many other examples are there? Second, is this authority that the minister has been delegated subject to appeal or review? We wonder if it is linked to the concept of foreign ships in any degree with foreign crews operating in Canadian waters and flying a Canadian flag. This bill should set out conditions under which the special status designation may be used and indicate the consequences of its usage.

Those are some of my concerns. I am sure my colleagues will raise other concerns. I know Senator Angus is keenly interested in the content of this bill.

We look forward to dealing with this bill in more depth in committee.

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

•(1440)

CANADA LABOUR CODE CORPORATIONS AND LABOUR UNIONS RETURNS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Shirley Maheu moved the second reading of Bill C-19, to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts.

She said: Honourable senators, I rise today to speak in support of Bill C-19, which proposes to amend Part I of the Canada Labour Code so that the code will continue to reflect the realities of the federally regulated workplace.

As honourable senators know, Bill C-19 is the successor to Bill C-66. That bill was not able to make it through this chamber last year before the election call. While Bill C-19 is very similar to its predecessor, the Minister of Labour did make some important changes to the draft legislation in response to certain concerns, including those expressed in the report of the Standing Senate Committee on Social Affairs, Science and Technology on Bill C-66.

[*Translation*]

The proposed amendments in Bill C-66 now contained in Bill C-19 are the result of a lengthy and extensive consultation process involving a number of people, including:

[*English*]

First were the experienced and knowledgeable members of the federal task force who reviewed Part I of the Canada Labour Code, otherwise known as the Sims Task Force, set up by former labour minister Lucienne Robillard.

[*Translation*]

Then there were the representatives of unions and businesses who made suggestions with respect to Part I and who tackled difficult and complex issues in the labour-management consensus group.

[*English*]

Third were the members of the House and the Senate who considered the legislation and who ensured that the public interest, not only the interests of labour and management, was always taken into account.

Last, but certainly not least, were those citizens of Canada who are concerned about what goes on in the world of work and who submitted their ideas and comments to the government.

The consultations resulted in a well-crafted, widely supported bill. Much of its contents reflect the consensus views of labour and management. I am convinced that the proposed amendments will ensure that Part I of the code will remain relevant well into the next millennium.

Let me briefly outline the bill's more significant features.

[*Translation*]

As for implementation of the code, a Canada Industrial Relations Board will be set up to replace the existing board, which is not representative.

The new board will consist of a neutral chairman and vice-chairman, and an equal number of employer and employee representatives.

[*English*]

The new board will be given greater flexibility to deal quickly with routine or urgent matters. Its powers will be clarified or extended to ensure that complex industrial-relations issues, such as those arising from the review of bargaining units or sales of businesses, can be fully addressed.

[*Translation*]

Other amendments will rationalize the conciliation process. The existing two-stage process will be replaced by one with a single stage not to exceed 60 days.

The right to strike or lock out will be subject to a secret ballot, which must be held in the 60 preceding days and for which 72 hours' advance notice is required.

[*English*]

With respect to the right to strike and lockout, parties involved in a work stoppage will be required, as a result of the passage of Bill C-19, to maintain activities necessary to protect public health and safety. Such a provision is not now in the code but it will be inserted because of the privatization and commercialization of some federal public service activities, such as airport fire-fighting, previously covered under the Public Service Staff Relations Act.

Three of the proposed changes have attracted a good deal more attention than the others. One involves services affecting the shipment of grain. Bill C-19 stipulates that grain shipments will continue to be moved even in the event of legal work stoppages by any third parties in the ports.

Another change will allow for the use of replacement workers, but not if they are used to undermine an union's representative capacity.

The third change will give off-site workers the opportunity to express their views regarding the unionization of their workplace. I shall have more to say on these latter two issues in a moment.

I believe that, with these proposed amendments to the code, the federal government is taking a proactive stance, setting in place new structures and processes that will assist the parties involved in labour disputes to settle their differences and disagreements in a more constructive and less disruptive fashion. The end result will be an environment that is more conducive to problem-solving, to creative negotiation, and to mutual-gains solutions. I need not tell honourable senators that such a positive labour-relations atmosphere would be of immense benefit to both employees and employers, helping them to survive and thrive in a very competitive world economy.

[*Translation*]

As I have already mentioned, Bill C-19 is essential and is similar to Bill C-66. However, the minister took into account the questions raised by senators last year at committee stage.

[*English*]

One of these concerns has to do with union certification as a remedy. Clause 46 of the bill before us allows the Canada Industrial Relations Board to certify a trade union as the remedy for serious, unfair labour practices committed by an employer. Some in this chamber were concerned that this provision of Bill C-19 would run counter to the principle that certification ought to be based solely on the majority support of the employees in the bargaining unit. Senators urged the Minister of Labour to carefully monitor the application of this clause.

[*Translation*]

The concerns of senators and other stakeholders are understandable and justified, for union democracy is in the balance. The following are some justifications for this provision, showing that Bill C-19 does not compromise the principle of certification based on the support of a majority of employees.

[*English*]

In a number of provincial jurisdictions, a representation vote among employees is mandatory before the labour board in the province may certify a trade union. However, under the federal labour code and five provincial labour codes, the board may certify a trade union as the bargaining agent without holding a vote, if the union produces membership evidence demonstrating that the majority of employees favour certification.

[*Translation*]

In short, the federal board may hold a representation vote, but is not obliged to do so, unless between 35 per cent and 50 per cent of employees in the bargaining unit are in favour.

[*English*]

•(1450)

Senators may be aware that the Sims task force, after carefully examining this issue, concluded that the federal arrangement has been an effective way of determining employee wishes, and they recommended that the board's authority to certify a union based on concrete evidence of majority support remain. Therefore the principle of majority support as the basis for certification remains in the code.

However, if employer interference is such that employees have been threatened into believing that the exercise of their rights would be injurious to them, then a representation vote is not likely to result in an accurate expression of their wishes. In these cases, it seems only reasonable that the board have the authority to certify a union without calling for a representation vote.

It is important to note here that in Ontario, which has a remedial procedure similar to the one outlined in clause 46, the Court of Appeal upheld the decision of the Ontario Labour Relations Board to certify a union when it found, after 35 days of hearings, that a certain company had committed unfair labour practices during a union organizing drive. Not only did the Court of Appeal uphold the board's decision, but also the Supreme Court of Canada decided that it would not hear the company's appeal.

[*Translation*]

Accordingly, honourable senators, clause 46 has a solid legal footing. However, the minister is aware of the senators' concerns and has agreed to monitor carefully the application of this provision.

[*English*]

Another concern of senators, expressed last year during committee hearings, relates to with clause 50, which deals with off-site workers. Here, the bill is proposing that the Canada Industrial Relations Board have the discretion to grant an authorized representative of a labour union a list of the names and addresses of employees who normally work in locations other than the employer's premises, and to grant access to these off-site workers in whatever way is practicable. This access order which the board will now be able to issue will need to spell out the necessary conditions under which communications with off-site workers can take place, so that their privacy and security are protected.

This addition to the code has been proposed because of the growth of non-standard employment, particularly home-based employment. While this work arrangement has advantages for many people, others may find themselves in a particularly vulnerable situation, in that they are unable to acquire the traditional employment benefits and are open to abuse. Through this amendment, access to collective bargaining may be more readily available to those off-site employees who want it.

[*Translation*]

Modernization of the Canada Labour Code would not be complete without having it take into account the growing numbers of off-site workers. They are part of the working life of the 1990s and probably the next century as well. Federal legislation must make provision for them.

[*English*]

The Senate committee members, while recognizing that off-site workers should have the opportunity to express their views regarding unionization, shared the privacy concerns raised by several committee witnesses, including the Privacy Commissioner of Canada. As a result, the minister decided to modify clause 50 of the bill. The board will still have the

opportunity to give an authorized representative of a trade union a list of the names and addresses of the off-site workers. However, the board now will also have discretion to act as the transmitter of information itself, if it finds that the individual's privacy and safety cannot otherwise be assured.

[*Translation*]

According to the amendment passed by the standing committee of the House of Commons, the board can also offer each employee the choice of giving his name and address to a union, or not.

[*English*]

In addition, a statutory prohibition against the use of information provided under this section for other purposes has been inserted into the bill, and the part of the bill relating to the transmission of information to off-site workers via the employer's electronic mail system has been amended to clarify that the union will not have physical access to the system.

[*Translation*]

By adding these safeguards, we have managed, I am sure, to protect the right to privacy of off-site workers, while affording them the possibility of saying whether they want union representation or not.

[*English*]

The third concern of the Senate committee centred around the issue of replacement workers. Without a doubt, this issue has been most controversial and contentious. Unfortunately, labour and management could not arrive at a compromise. The government, therefore, had to develop a compromise solution, and I think it did a good job.

Bill C-19 states essentially that while employers are free to use replacement workers during a strike situation, such workers cannot be used for the purpose of undermining the trade union's representational capacity. If they are used to undermine the union, the Canada Industrial Relations Board will have discretion to declare such action an unfair labour practice and to prohibit the further use of replacement workers in the dispute.

From its study of the legislation, the Senate committee concluded that the wording in Bill C-66 did not reflect the intent of the recommendation of the majority of task force members. It was concerned that if the wording in Bill C-66 was not changed, the mere presence of a replacement worker would become unlawful. That certainly was not the intent of the Sims task force.

[*Translation*]

The provision on replacement workers was therefore formulated to ensure that Bill C-19 faithfully reflected the majority recommendation of the Sims task force. The hiring of replacement workers to weaken a union is still prohibited, but not if it is done to pursue the legitimate goals of collective bargaining.

[*English*]

Honourable senators, Canadians have discussed this legislation for a long time. Parliamentarians have now debated it twice. All of us, parliamentarians, trade unionists, management and employer representatives, as well as labour relations experts, have scrutinized the issues very carefully. The result of our work is Bill C-19. If I may say so, we have done our work well. I believe that Bill C-19 will make Part I of the Canada Labour Code a point of reference for other jurisdictions here in Canada and elsewhere.

Fashioning labour law is never easy. Important institutions and significant principles are involved. Employees' livelihoods and the viability of enterprises are often at stake. I think that in Bill C-19 we have come up with a balanced bill that is fair to both labour and management. It also ensures that the collective bargaining system will continue to serve this country well. The time has come to end the debate and make this bill the law.

Hon. Mabel M. DeWare: Would the Honourable Senator Maheu entertain a question?

Senator Maheu: Certainly.

Senator DeWare: First, I wish to say that, yes, I agree with my honourable friend's statement that we have a bill that will certainly do some things to upgrade the Canada Labour Code. However, I read the minister's statement in the House of Commons on this issue, and he said that he had spent the summer and much of the fall consulting the very same parties that had dealt with the Sims report. When I read the bill, and perhaps I am reading it differently than some people, I feel that the government has only given lip service to the changes in the bill.

I have only one question, and it relates to replacement workers. Clause 42 of the bill states, in part, that "No employer or person acting on behalf of an employer shall use..." It does not say that they can use replacement workers.

The Financial Post said at one time that the vagueness of the wording of the replacement worker provision has business worried, and the limited ban, in effect, would turn into an outright ban, which would unfairly interfere with a company's right to operate during a strike.

My honourable friend tells us that the bill does not say that employers can use replacement workers. However, the majority of witnesses and business representatives that appeared before us at committee stage on Bill C-66 were concerned that it did not include the complete wording used in the majority task force. Everyone asked us, "Why did they not use the recommendation in the Sims report, to which the task force agreed?" That recommendation begins with the wording, "there should be no general prohibition in the use of replacement workers." It then goes on to say what would happen if you used them.

I should like to know if the honourable senator can tell us why this recommendation from the committee was not taken up by the minister?

Senator Maheu: Honourable senators, I thank the honourable senator for her question.

•(1500)

As recommended by the majority of the Sims task force, the bill does not include a general prohibition on the use of replacement workers. While holding firmly opposing views on the replacement workers issue, both labour and management agreed that their use for the purpose of undermining a union's representational capacity rather than the pursuit of legitimate bargaining objectives should be an unfair labour practice.

Concerns were raised during the study of Bill C-66 that the provision as drafted effectively did not capture the true intent of the majority recommendation and could have been interpreted to apply to other than the exceptional circumstances identified by the task force. These concerns have been addressed by adding the words used by the task force in its majority recommendation. Unfortunately, I do not have the article before me, but the words from the task force have been added.

Senator DeWare: Honourable senators, I beg to disagree because the first bill did not use the task force recommendations either. Nevertheless, we will deal with it in committee and later.

I should like to go to the section on certifying a trade union without a majority vote. The honourable senator said that it is reasonable. What is reasonable about certifying a union without majority support? Where in this country, either in any province across Canada or in the Canada Labour Code, would that be allowed? The honourable senator indicated that the minister will be a watchdog; well, that is not reasonable. I do not know of any situation in which you can certify a trade union or a union in this country without a majority of the members wanting to become a union or to be certified. Yet this measure will give the board the right to do that. That is an incredible situation to me and to anyone to whom I have spoken, including the people who are dealing with this bill.

Senator Maheu: Honourable senators, perhaps that matter should be reserved for committee work. However, the principle of majority support remains the basis for certification. This authority will be used by labour boards only in those exceptional cases where an employer is engaging in serious unfair labour practices that would make it impossible to measure employee support through a representative vote. We will have ample time to discuss that matter in committee.

Senator Lynch-Staunton: We are talking about the principle of the bill!

Senator Maheu: I do not interrupt you when you are speaking, Senator Lynch-Staunton.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, this certification procedure is an important principle of the bill. Second reading is about the principle of the bill, so I will not ask a detailed question.

Is it the government's position that under the implementation of this new provision a minority vote might be adjudicated by the board as a majority vote, or might be found to be unacceptable by the board, so that the board could replace that democratic vote taken by the union?

When the government introduced the amendment to the Human Rights Act, Bill S-5, which has passed this house and received Royal Assent, it was the government's argument and position that the members of the human rights board had to be lawyers. That argument was made because we raised questions such as, "Why do these members have to be members of a bar?" The government's argument was convincing — because the bill passed — namely, that lawyers have had some training in administrative law, natural justice, et cetera, and it is important to have someone who is trained in the legal field and is able to make these kinds of decisions.

In this bill, honourable senators, there seems to be a violation of the government's own principle because only the chairman and the vice-chairman need to have "experience in industrial relations." They do not even have to be members of a bar. Worse than that, the members of the board, other than the chairman and vice-chairman, are not even required by this bill to have experience in the field of industrial relations. Yet they will be able to rule contrary to the fundamental democratic principle of majority rules. How do you explain this inconsistency in principle?

Senator Maheu: I thank the honourable senator for that question. I know the honourable senator's background in the labour field is well established, and I invite him to come to the committee, which is the proper forum for entering into this type of debate.

Senator Kinsella: I thank the honourable senator for her kind invitation. Indeed, I hope to be able to attend the committee's meetings and will want to pursue this matter there.

I apologize if I was getting into some detail, but I did want my colleagues in the chamber to grasp this principle. There is a contradiction here somewhere.

Let me ask this question of the honourable senator, which is related to her field of expertise. Would the honourable senator not agree with the principle articulated by the government that she supports, in the Throne Speech of 1996, that the government wants to modernize Part I of the labour code? In her speech, did the honourable senator not say that the purpose of this bill is to modernize the labour code? Furthermore, I heard the honourable senator say that the code will now become relevant well into the next century.

Modernizing a labour code that is to take us into the next century should be based upon the principle of eliminating sexist language within that code. If this review of the labour code that we are conducting is to make it a modern labour code, then why has the government failed to seize the opportunity to amend section 105 of the act, which talks about the minister. It states that on "his" request, the minister may appoint "his" people. It refers to "him." Section 105, again, refers to "him" and "the mediators," as does section 106, under "Inquiries regarding industrial relations," et cetera. Why are we modernizing Part I of the Canada Labour Code and not seizing the opportunity now to get all this sex specific language out of the act?

Senator Maheu: I thank the honourable senator for his comments. He may rest assured that I will make sure this is attentively studied, once again, in the committee phase of the bill.

On motion of Senator DeWare, debate adjourned.

[*Translation*]

THE ESTIMATES, 1998-99

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Sharon Carstairs (Deputy Leader of the Government), pursuant to notice of Tuesday, May 26, 1998, moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in Supplementary Estimates (A) for the fiscal year ending March 31, 1999.

Motion agreed to.

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Donald H. Oliver moved the second reading of Bill S-17, to amend the Criminal Code respecting criminal harassment and other related matters.

He said: Honourable senators, I was speaking on the phone to a lawyer friend of mine a few months ago, and suddenly our conversation was terminated when he said, "I have to run. My daughter and wife want to go skating on the pond and the stalker might be there."

I phoned him back a few days later to find out what he meant, only to learn that his wife had been stalked for years, and that the entire family was in constant fear and terror. Regretfully, honourable senators, this is a common circumstance in Canada.

Bill S-17 attempts to rectify a serious problem in Canada with respect to our existing laws on criminal harassment. Too many Canadians have suffered the consequences of our not having a law in place that adequately protects people against a terrible crime that can have devastating and long-lasting effects on its victims.

In the United States, it all began in California where stalking legislation was first passed in 1990. The legislation was enacted as a result of three highly publicized murders of stalking victims. One of them was a popular television star, Rebecca Schaeffer, and the other two victims were women murdered by their estranged husbands. After that, legislation quickly emerged throughout all of the other 49 states.

In Canada, historically, criminal harassment was not even recognized as an offence at common law. However, in recent years, as in the United States, there has been widespread media attention on stalking crimes. Several politicians and other public figures, such as television broadcasters, have been stalked. Many lawyers and judges have also been the victims of this offence. Recently, it has become an identified area of behaviour, even in literature on psychological behaviour.

In early 1993, Ms Dawn Black, a member of Parliament and victim of stalking, introduced a private member's bill that would have made stalking a crime. Soon after, in April of 1993, the then minister of justice, Pierre Blais, introduced legislation on behalf of the Conservative government creating the offence of criminal harassment. The bill quickly received passage in both the House of Commons and the Senate. On August 1, 1993, criminal harassment, commonly known as stalking, finally became a criminal offence in Canada, something which had been long overdue.

The passage of such a law was a victory for Canada because, finally, the criminal justice system would provide some legal protection for future victims of this crime. Unfortunately, since then, the effectiveness of this relatively recent legislation has been tested and found to be inadequate. The latest study was done in October of 1996 by the federal Department of Justice. The department published a review of the new law that attempted to determine specifically its effectiveness in prosecuting harassment behaviour, and in protecting victims and potential victims.

The report concluded that the crime is not treated seriously enough by prosecutors, lawyers and judges. The study cites a number of examples to illustrate this fact. One of these is that the number of criminal harassment charges that have been withdrawn or stayed by the Crown, and the number of charges that have been withdrawn in exchange for a peace bond, are extremely high when compared with charges for other specific categories of crimes. In fact, almost 60 per cent of criminal harassment charges are withdrawn or stayed.

Also disheartening is the fact that 75 per cent of those convicted of criminal harassment receive either probation only or a suspended sentence. The report of the Department of Justice indicates that sentences imposed by courts in such cases have been extremely weak relative to what was expected by many, including those involved in the development of the legislation.

A previous criminal record, a record of violence against the same or another victim, or a record of breaching court protective orders by no means assures a stronger sanction from the justice system. Moreover, the great majority of accused are released prior to trial, even though many of them had previous criminal records, and a significant number have records of breaches of court orders and are reported to have been violent with their partners in the past. Interestingly, courts view the removal of a person's liberty as a serious matter and set a high standard for pre-trial detention. Unfortunately, and as the report of the Department of Justice confirms, the courts do not place as great an emphasis on the personal liberty of criminal harassment victims, which can be effectively removed if the accused is at large.

All these facts illustrate that the strong message the legislation was supposed to convey, namely, that criminal harassment is a serious offence and will not be tolerated in this country, is not being effectively understood. On the contrary, to date, the data conveys a message that, in the large majority of cases, offenders will be let off with no penalty, and even if they are convicted, the justice system will treat offenders leniently. Indeed, when compared with the figures for most other crime categories in terms of strength of sentence, it is clear that harassment is not considered serious by the judges.

Reversing the perception held by many within the criminal justice system that stalking is not a serious offence is difficult because, until recently, stalking was not viewed as problematic in Canada at all. Changing attitudes will require much more than a law on the books which prohibits the conduct, although this is clearly important and a necessary first step. A complete education process for the key players in the criminal justice system and the public is probably required.

It is important that people become sensitized to the nature of the crime. It is a crime perpetrated mostly by men, in particular by estranged husbands and partners, which can have devastating effects on its victims who are generally, but not always, women. There should be workshops and training sessions available to judges and lawyers to enhance their understanding of criminal harassment and the serious impact it can have on the lives of victims.

The investigation process for, and prosecution of the offence must also be improved. This could be done by developing guidelines for police and Crown prosecutors. The guidelines could set higher standards for the investigation and prosecution of such cases. These are only a few of the changes that must be made if we are to make a serious attempt at resolving the entire problem.

In my view, the bill I have introduced takes another positive step toward addressing the problem of harassment. Specifically, it would increase the penalties provided for the offence of harassment and related offences. First, it addresses criminal harassment which is found in section 264 of the Criminal Code. That section defines the offence as repeatedly following or communicating with another person; repeatedly watching another person's house or workplace; or directly threatening another person or any member of their family, causing a person to fear for their safety or the safety of someone known to them. This offence is generally defined as behaviour that causes the complainant to fear for his or her safety, or the safety of someone known to them. The courts have defined safety as including psychological, emotional and physical well-being.

The bill would increase the maximum penalty for criminal harassment on summary conviction from 6 months' imprisonment or a fine of $2,000, or both, to a term of 18 months' imprisonment, with no fine option. On indictment, the maximum penalty would be increased from 5 years' to 10 years' imprisonment. Although a maximum sentence is rarely imposed, a maximum 10-year term serves as a strong indication of Parliament's view of the offence. It would be a clear signal to the Canadian public and to the courts that this behaviour will not be tolerated. Also, increasing the maximum penalty to 10 years would be more consistent with the sentences available for comparable offences such as sexual assault and assault causing bodily harm, both of which carry a 10-year maximum.

•(1520)

A further change in Bill S-17 with respect to section 264 would be to include the offence within the definition of a serious personal injury offence under section 752 of the code. Section 264 is presently excluded from this definition because the maximum penalty available for the offence is only five years. Offences for which the maximum penalty is 10 years or more qualify as "serious personal injury offences." This is important because dangerous offender proceedings are only available in cases involving serious personal injury offences. Therefore, by increasing the maximum penalty for criminal harassment from 5 to 10 years on indictment, dangerous offender applications will automatically be permissible in cases involving the offence.

The bill would also specifically list criminal harassment as an offence under the definition of "serious personal injury offence" for added certainty and to emphasize the seriousness of the offence. The effect of dangerous offender proceedings where they are successful is that the court has the discretion to impose a penitentiary term for an indeterminate period in lieu of any other punishment imposed upon the offender. This would be appropriate in extreme cases involving people like Paul Bernardo.

These changes to section 264 have been publicly advocated by the British Columbia Attorney General, the Honourable Ujjal Dosanjh, and by others who have studied the effects of the existing law. It is felt by many that the courts have limited sentencing options in criminal harassment cases and that these should be expanded to include possible dangerous offender designations.

The link between stalkers and dangerous offenders is based on factual evidence. Forensic experts have noticed that there is a high risk of actual physical violence in a significant number of cases of criminal harassment. It is important that in cases in which the offender's history and psychiatric profile make it clear that dangerous offender proceedings are appropriate and in the public interest, such proceedings be made available before actual physical violence is again perpetrated.

The link between stalking and other serious violent crimes committed by high-risk offenders has become even more apparent since the passage of the legislation. In fact, in British Columbia, a high-risk offender program to monitor both dangerous offenders and potentially dangerous offenders was established well before the passage of the stalking legislation. I was advised that the program manager has noted that criminal harassment is a significant factor in several of the files presently being monitored. Since January 1998, he has identified and is monitoring 28 such offences in British Columbia. Others are likely to be identified in the coming years.

The bill would also list criminal harassment under section 753.1 as an offence for which long-term offender applications may be made. This seems like a logical extension of the amendment to include the offence under the definition of "serious personal injury offence." If an application to declare an offender a long-term offender is successful, the court must impose a minimum sentence of two years for the offence for which the offender was convicted and order the offender to be supervised in the community for a period of time not exceeding 10 years.

The maximum penalties for other offences relating to criminal harassment, namely making indecent and harassing telephone calls, would also be raised. Presently both offences may only be prosecuted by way of summary conviction with maximum penalties of imprisonment for six months or a fine of $2,000 or both. The bill would make both offences hybrid offences so that the Crown could elect to proceed either by way of summary conviction or, in more serious cases, by way of indictment. On summary conviction, the maximum penalty would be increased to 18 months with no fine option. On indictment, the maximum sentence available would be two years' imprisonment.

The offence of intimidation would also be addressed. Currently it is an offence punishable on summary conviction only. It carries a maximum penalty of six months' imprisonment or fine of $2,000 or both. This bill would make the offence a hybrid Crown option offence leaving the existing maximum on summary conviction but would add a maximum penalty of two years' imprisonment for an indictable offence.

While these changes are not a complete solution, they are a step towards improving the effectiveness of the law in the area. They go a long way towards communicating to police, prosecutors, lawyers, and members of the judiciary and the public that Parliament does not view stalking as a minor offence. It would send a strong message that Parliament would like to see those offenders properly punished.

I cannot, however, emphasize enough that with the bill there must also be a change in attitude. In order to do this, we must begin by looking at ourselves and the people around us. When you think about the issue, first take a look at the people who are most dear to you and think seriously about this offence. We tend to assume that this is a crime that affects entertainers, people who are constantly in the public eye. It is not something that we need to worry about because it could never happen to us, but I remind you of my lawyer friend from Nova Scotia who had to hang up the phone in a hurry because he was afraid that his wife and his daughter would be stalked.

On motion of Senator Callbeck, debate adjourned.

HEALTH

COMMISSION OF INQUIRY ON THE BLOOD SYSTEM IN CANADA— COMPLIANCE WITH RECOMMENDATIONS— MOTIONS IN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator DeWare:
>
> That the Senate endorses and supports the findings and recommendations of the Commission of Inquiry on the Blood System in Canada;
>
> That the Senate for humanitarian reasons urges the Government of Canada and the Governments of the Provinces and of the Territories to comply with these findings and recommendations; and
>
> That a copy of this motion be forwarded to each federal, provincial and territorial Minister of Health,
>
> And on the motion in amendment of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella, that the motion be not now adopted, but that it be amended in paragraph two by removing and replacing the words "to comply with these findings and recommendations" with the following:
>
> > "to not exclude in determining compensation any person who has contracted Hepatitis C from blood components or blood products."—(*Honourable Senator Grafstein*).

Hon. Eric Arthur Berntson: Honourable senators, my sense is that the motion as originally placed on the Order Paper and the subsequent amendment still does not bring the debate into a sharp enough focus to determine just what it is that we would like to see done now to respond to the Krever report.

MOTION IN AMENDMENT

Hon. Eric Arthur Berntson: I therefore move:

> That the motion be not now adopted, but that it be further amended in paragraph one by removing the words "the findings and recommendations" and replacing them with "Recommendation 1"; and adding after the words" in Canada," "and recognizes the role of the Government of Canada in contributing to its implementation."

With the two amendments and the original motion, the motion would ultimately read as follows:

> That the Senate endorses and supports Recommendation 1 of the Commission of Inquiry on the Blood System in Canada and recognizes the role of the Government of Canada in contributing to its implementation;
>
> That the Senate for humanitarian reasons urges the Government of Canada and the Governments of the Provinces and of the Territories to not exclude in determining compensation any person who has contracted hepatitis C from blood components or blood products; and
>
> That a copy of this motion be forwarded to each federal, provincial and territorial Minister of Health.

On motion of Senator Carstairs, debate adjourned.

•(1530)

TRANSPORT

LERNER REPORT ON CANCELLATION OF PEARSON AIRPORT AGREEMENTS—INQUIRY—DEBATE ADJOURNED

Hon. Marjory LeBreton rose pursuant to notice of May 5, 1998:

> That she will call the attention of the Senate to the report, "Cancelling the Pearson Airport Agreements," by Stephen D. Lerner.

She said: Honourable senators, I rise today to draw the attention of the Senate — and through this institution to the public to whom we are all accountable — an independent case study conducted by an eminent Canadian, Mr. Stephen D. Lerner. The study is entitled: "Cancelling the Pearson Airport Agreements — A Case Study," and it was published in an international industry legal journal, *Annals of Air and Space Law.*

For the record, Mr. Lerner obtained his Master of Law at the Institute of Air and Space Law at McGill University and specializes in aerospace law.

To set the scene, let us reflect on the issues surrounding the development of Pearson Airport, more precisely, Terminals 1 and 2; the politicization of the issue, in 1993, as we approached and were then in the midst of the 1993 election; the subsequent cancellation of the agreement by the newly elected Chrétien government; the legislation in the form of two separate bills, Bill C-22 and Bill C-28; and, finally, the Senate hearings.

"This is all about integrity in public life," said Jean Chrétien, as reported in *The Toronto Star* on October 6, 1993. It turns out that this was one of the Prime Minister's few accurate statements. However, it was his integrity and that of his government that became the burnt offerings of his excessive rhetoric and the actions of the government.

I do not mind telling you, honourable colleagues, it took considerable courage, as Progressive Conservative senators, to pursue this issue given the propaganda, abuse, verbal assaults, innuendoes, smears and outright lies that were routinely, systematically and deliberately spread throughout the country over the whole Pearson Terminal 1 and 2 privatization issue and which were heightened after the ill-advised decision to cancel.

When referring to my colleagues on this side of the house, Mr. Doug Young, then a minister now a lobbyist, had this to say:

> They're defending principles, and you can imagine how frustrating it is to have Tory senators defending principles and I have to sit there and listen to them. It is a little bit like being lectured by Henry VIII on the sanctity of marriage.

Honourable senators can see by this example what I mean. That was mild, compared to some of the scurrilous remarks thrown our way.

For the first few days of the Pearson airport inquiry in the summer of 1995, senators on our side wondered if the evidence would or could be heard in a truthful, objective way. The tactics of those who supported the government's position continued. The government believed they had the benefit of a compliant media and thus would have no difficulty in convincing the public that the Prime Minister had acted in the interests of Canadians.

As Doug Young said on more than one occasion when speaking of senators on this side, we were only trying to ensure "one last trip to the trough for our friends." He even went so far as to suggest that the signing of the Pearson agreements by the Progressive Conservative government "resembles what might be done in a banana republic."

We, with our limited resources and without the power of the government behind us, could not help but remember what Doug Young had said. Doug Young had said that the Pearson inquiry would be a messy affair that would backfire on its Conservative sponsors. "If they want an inquiry, it ain't going to be a patty-cake," he thundered.

However, as is the case at all times, truth is the best defence. It was a proud day for the Senate when the inquiry was set up and we established, as part of our mandate, the summoning of witnesses, all of whom would be required to testify under oath. I believe this is a first for a Senate committee.

Mr. Lerner's study did not receive a significant amount of media attention. However, it was reported in *The Financial Post* on April 28, 1998, when it was said that Mr. Lerner:

> ...delivered more withering criticism of the Liberal government's cancellation of private-sector contracts for redevelopment of Pearson Airport in Toronto which resulted in a direct cost to Canadian taxpayers of $873 million over 20 years and therefore killing it was not in the public interest.

The highlights of the study as reported in *The Financial Post* are: First, the government will receive $328 million less in revenue over 20 years as a result of cancelling the agreements. It will get $300 million less as a result of devolution of the airport to the Greater Toronto Airport Authority. Second, the federal government is giving the Greater Toronto Airport Authority $185 million in rent relief over nine years — another form of forgone revenue for Ottawa. Third, its out-of-court settlement of the lawsuit brought forward by the Pearson Development Corporation cost $60 million; and, fourth, 750 people lost their jobs because of the cancellation and the anticipated employment of up to 1,000 people during the private sector development did not occur.

Honourable senators, my reason for this notice of inquiry was to specifically put this case study on the record and, once and for all, make it crystal clear that the results of this highly political decision has turned out to be very costly to the Canadian taxpayers, not to mention the black eye given to Canada in international circles. I remind senators of Minister Young's banana republic comment. The question is legitimately asked: Which government "resembles what might be done in a banana republic"?

Other colleagues have indicated they wish to speak to this issue. For my part, I will read into the record portions of Mr. Lerner's study, which begins with the following by way of introduction:

> Should Prime Minister Jean Chrétien's Liberal government have cancelled the Pearson Airport Agreements, which would have privatized Terminals I and II at Lester B. Pearson International Airport? As a result of this cancellation, the Pearson Development Corporation launched legal proceedings against the federal government in 1993 which were recently settled for CDN $45-million in out-of-pocket expenses and CDN $15-million in interest and legal costs. Approximately 750 people lost their jobs and the anticipated employment of up to 1,000 people during the redevelopment process did not occur. Over the same period, Pearson Airport has continued to deteriorate.

Mr. Lerner continues:

> Pearson Airport is the central hub of air transportation in Canada. Congestion at Pearson Airport regularly causes back-ups and delays, some of which affect traffic at other Canadian airports and possibly at some international airports. Thus, traffic needs at Pearson Airport warranted airport redevelopment and significant investment many years ago.
>
> The issue facing Prime Minister Mulroney's Progressive Conservative government in the later 1980s was how to finance the redevelopment of the terminal buildings in light of its overall governmental deficit-reduction initiatives. The government decided to seek private sector proposals for the refurbishment of Terminals I and II and, on 30 August 1993, the government announced that an agreement had been reached with the Pearson Development Corporation to redevelop and operate these terminals.

•(1540)

Mr. Lerner's report continued:

> By closing the Pearson Airport Agreements in the midst of the election campaign, when the Progressive Conservative Party was low in the polls, the public predictably interpreted this act as an attempt by the government headed for defeat to saddle Canadians and a subsequent government with the burden of the Agreements. Jean Chrétien, leader of the Liberal Party of Canada, seeing that a short-term political advantage could be obtained, vowed to review the Agreements if elected. Once in power, the new federal government was obliged to review the Pearson Airport Agreements with a view to acting in the public interest. It failed to meet this standard.

It failed, Senator Taylor.

Mr. Lerner's report continued:

> Based on the government-commissioned *Nixon Report*, the federal government soon cancelled the Pearson Airport Agreements. However, the overwhelming weight of evidence obtained through hearings before the Special Senate Committee on the Pearson Airport Agreements

supports the view that the *Nixon Report* was fundamentally flawed and that the government was wrong to rely on this report. It is the author's thesis that the *Nixon Report* provided an insufficient rationale to warrant cancellation of the Agreements.

Honourable senators, in his report, Mr. Lerner referenced the following: the appointment of Robert Nixon, former leader of the Ontario Liberal Party and Liberal cabinet minister; the procedures he followed, according to his sworn testimony, during his less-than-one-month review of the Pearson agreements; the selection of the proposal which was completed on August 28, 1992; the whole issue of financial viability and the resulting merger between Claridge and Paxport in February, 1993, later known as Pearson Development Corporation; and the final report and go-ahead to Transport Canada on August 17, 1993, followed by Treasury Board approval and the announcement by the government on August 30, 1993, with the closing date of October 17, 1993. In fact, the final documents were signed on October 7, 1993.

The study reported on Mr. Nixon's findings in favour of cancellation, and also reported that on December 3, 1993, Prime Minister Chrétien announced that the Pearson airport agreements would be cancelled, using the Nixon report as the basis for this decision.

In Mr. Lerner's case study, a key phrase he used best describes the actions of the Prime Minister, the Minister of Transport, Mr. Nixon, the members of the government caucus, and the senators opposite who clearly tried to justify the actions of their political masters and colleagues:

> The rationale for the cancellation of the Pearson Airport Agreements can be characterized as a maze designed to confuse. Clearly, the federal government's approach was to raise and rely on every possible rationale for cancellation, regardless of its merits.

He continued:

> The federal government was not counting on the Senate action, which would force it to account for its decision. Although the Special Senate Committee report was split along party lines, the Progressive Conservative majority and Liberal minority reports do not cancel each other out. The overwhelming weight of evidence, derived from the testimony of witnesses given under oath during three months of hearings, supports the view that the government was wrong to cancel the Pearson Airport Agreements.

Honourable senators, I repeat Mr. Lerner's words: "a maze designed to confuse;" and "the federal government's approach" — the Chrétien government's — "was to raise and rely on every possible rationale for cancellation, regardless of its merits."

In closing, I should like to say that my colleagues, some of whom were members of the special committee, will follow me in this debate and will undoubtedly put on the record other aspects of Mr. Lerner's case study, including the odious bills — Bill C-22 and Bill C-28 — which would have denied Canadian citizens the right to be heard before the courts.

For my part, I was proud to be a member of the special committee studying the Pearson agreements, hearing, as we did, 65 witnesses during 130 hours of sworn testimony. I am particularly proud that our work has stood the test of scrutiny by an expert in the field of aerospace law, who independently conducted a fair and objective study.

On motion of Senator Kinsella, for Senator Di Nino, debate adjourned.

SOCIAL HOUSING PROGRAMS

ABORIGINAL PEOPLES COMMITTEE AUTHORIZED TO STUDY CONSEQUENCES OF DECISION OF CANADA MORTGAGE AND HOUSING CORPORATION

Hon. Thelma J. Chalifoux, pursuant to notice of April 30, 1998, moved:

> That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the damaging consequences of the recent decision of the Canada Mortgage and Housing Corporation (CMHC) to terminate all of its "Social Housing Programs," excepting Rural Residential Rehabilitation Assistance Program (RRAP);
>
> That the committee take into particular consideration the impact of this decision on the housing needs of all aboriginal peoples, including the Métis, who now face the prospect of losing any government assistance as the Federal Government seeks to negotiate new arrangements with the governments of the provinces and territories; and
>
> That the committee make its final report no later than Wednesday, November 18, 1998.

She said: Honourable senators, I should like to explain to you my principal reasons for making the motion to examine and report upon the consequences of CMHC's terminating its social housing programs.

There have been no new housing commitments for aboriginal peoples, off reserve or in the urban areas, since December 31, 1993. Despite the rapid increase of the aboriginal population, the programs under which this social housing portfolio was built are no longer operative, and since 1993 no new commitments have been made under any off-reserve housing programs.

The vast majority of aboriginal households are single-parent households, with an average of four children, and their income is well below the Canadian average. While a number of studies have examined housing conditions on reserve, there have been very few studies of housing conditions off reserve or in the urban areas.

It is important to understand that CMHC's definition of "housing need" was developed in order to measure the population that is, at least in theory, eligible for social housing. Social housing seeks to provide needy households with shelter that is large enough for their family and that is in good physical condition, at a cost that the household can afford. CMHC's core need definition accordingly seeks to measure the number of Canadian households which could qualify for social housing on the ground that their current houses are unsuitable, because they are too small for their family size or are otherwise physically inadequate.

CMHC is in the process of negotiating with the provinces and territories to devolve to them its social housing programs. The following provinces and territories signed agreements with CMHC in 1997: Saskatchewan, New Brunswick, Newfoundland, Nova Scotia, and the Northwest Territories. Not all provinces and territories are accepting the responsibility of providing housing assistance to off-reserve aboriginal and Métis people, claiming that off-reserve First Nations and the Métis people are the responsibility of the federal government.

In Canada, the federal government and the provinces operated social housing programs of one form or another from 1949 to 1993, and in that time they managed to build a rather impressive stock of social housing units under the agreements with off-reserve housing corporations with the Métis and the First Nations. The devolution of social housing programs to the provinces and the territories is taking longer than predicted. It is uncertain whether all provinces and territories will accept the responsibility of the social housing programs.

Aboriginal people, particularly the Métis, are once again facing the risk of falling between the cracks of federal, provincial and territorial government policies.

•(1550)

The Government of Canada, in its Constitution Act, 1982, section 35(2), states that Canada's aboriginal people are First Nations, Inuit and Métis peoples.

CMHC, in its efforts to devolve social housing stock, which include rural and native housing stock, has a declining subsidy budget of $1.9 billion. There is concern that the provinces and territories can sell their social housing stock at will.

Currently, there are approximately 10,000 urban native housing units and approximately 9,000 rural and native housing units occupied by aboriginal households. Notwithstanding the present insufficient number of social housing units for aboriginal people, the very real danger of these numbers being further reduced by provincial and territorial sell-offs would indeed be further devastating.

The existing aboriginal housing stock under the social housing portfolio does not meet contemporary demands or basic requirements for aboriginal housing due to increased aboriginal populations and larger than average family size. There is evidence of serious overcrowding, which does lead to health and safety ramifications. For these reasons, the social housing portfolio must be expanded to include an extensive number of additional units throughout Canada.

The report of the Royal Commission on Aboriginal Peoples recommended expenditures over a 10-year period of $228 million the first year, rising to $774 million in the tenth year. Unfortunately, no one keeps count of the number of social housing units that are occupied by Métis. Some programs, notably the Rural and Native Housing Program and the Urban Native Housing Program, were designed primarily to assist native people. We can, therefore, expect a fairly large share of the units built under these programs to be occupied by First Nation, Métis and Inuit.

Examples of aboriginal housing societies in trouble have been brought to my attention. Community members of Trout Lake, Alberta wrote to my office outlining the very urgent issues facing this isolated area. It is reported that the repairs done on their houses from 1993 were deplorable, incomplete and unsatisfactory. Septic tanks were put right outside their doors. It was devastating for them. The false information given by representatives of CMHC to people who live in an isolated community, whose first language is Cree, is unacceptable. They were told that the moneys were total grants when in fact they were loans which the people could not afford to repay. Now CMHC staff in Alberta have taken steps to withhold any benefits to which community members are entitled, such as their income tax refunds and child tax credits, without any attempt to address these issues and reconcile with the people of Trout Lake. They have been doubly penalized.

The Prince George Métis Housing Society says that there is very little consultation between the British Columbia office of CMHC and the individual aboriginal housing societies within their jurisdiction. With regard to the 56.1 agreement with CMHC, the Aboriginal Housing Management Association has informed the federal government that they do not want to have their portfolios devolved to the provincial government. They are aiming at self-management of their housing stock.

CMHC has always taken a paternalistic stance in managing aboriginal housing societies. Many of the societies are experiencing extreme difficulties with their budgets, their relationship with CMHC, and the management of their housing stock. Compounding these issues is the fact that the manager of assisted housing for the British Columbia division of CMHC

refuses to recognize legitimate operating expenses of the housing societies in British Columbia. There is a definite lack of consultation with housing societies regarding year-end financial statements. When the housing society accessed training dollars for maintenance and youth employment programs, these training dollars were taken off their housing subsidies.

Onion Lake, Saskatchewan has issues with "Bill C-31 women." Prior to 1985, women who married non-Indians lost their status as an Indian within the meaning of the Indian Act, and membership in their reserves. In 1985, the Indian Act was amended, reinstating status to those women. They became what are now known as "Bill C-31 individuals." Additional funding was promised to assist bands in providing houses and other services for those people reinstated by Bill C-31. However, to date, insufficient housing has been provided to and for these members. Current funding levels to First Nations for off-reserve housing projects are woefully insufficient to operate and maintain these projects, let alone provide housing for off-reserve members who have been reinstated. In many cases, homes on reserves, where overcrowding is a problem or where new and better housing is required for health reasons, are allocated to persons already living on the reserve.

The Onion Lake, Bill C-31 women request that the Government of Canada and the Department of Indian Affairs address this issue and stop the discrimination. The 1985 amendments to the Indian Act were to end this discrimination by providing funding to those individuals reinstated under Bill C-31 to include housing, regardless of whether this house is located on the reserve or off the reserve.

Those are prime examples of housing societies struggling to remain viable under the current agenda of government devolution and downsizing. In closing, I should like to encourage each and every one of you to seriously consider this deplorable condition in our country.

Hon. Sharon Carstairs (Deputy Leader of the Government): Would Senator Chalifoux accept a question?

Senator Chalifoux: Certainly.

Senator Carstairs: Senator Chalifoux made reference to referring this motion to the Standing Senate Committee on Aboriginal Peoples. Have discussions taken place with that standing committee with regard to its availability of both time and resources to deal with this study prior to November of 1998, which is when I believe you asked for the final report?

Senator Chalifoux: I have discussed the matter with the chairman of the committee, who said that he would seriously consider it. That is all I have heard.

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

Hon. Senators: Agreed.

Motion agreed to.

ABORIGINAL VOLUNTEER ORGANIZATIONS

MOTION TO URGE GOVERNMENT TO REINSTATE FUNDING ADOPTED

Hon. Thelma J. Chalifoux, pursuant to notice of April 30, 1998, moved:

> That the Senate urge the Government to reconsider its recent decision to terminate funding to Frontiers Foundation Inc., Operation Beaver, a thirty year old Aboriginal volunteer organization, which has successfully provided new housing and rehabilitated existing housing as well as constructed training centres, schools and other community buildings for Aboriginal communities throughout Canada.

She said: Honourable senators, the reasons for urging the government to reconsider its decision to terminate funding to Frontiers Foundation Inc., Operation Beaver, are as follows: Operation Beaver is an aboriginal volunteer organization that has been in existence for 34 years providing new housing and rehabilitation to existing housing construction for aboriginal families in all provinces and territories. In all, over 2,800 volunteers, representing as many as 70 different countries and 17 Canadian aboriginal nations, have joined community volunteer builders in 541 projects.

Operation Beaver has inspired aboriginal people, particularly youth, in performing community-led volunteer work. Many volunteers, through the valuable experience gained working with Operation Beaver, have gone on to start their own businesses in the construction and renovation industry.

At a recent conference of the Canadian Housing Renewal Association, officials from Canada Mortgage and Housing Corporation stated that since federal government capital funding was non-existent for social housing, house building and renovations would have to be realized solely through donations, volunteer fund-raising, and actual construction and renovation volunteer workers.

•(1600)

Funding was requested from various governments departments, but those requests were refused by Heritage Canada, Human Resources Development Canada, CMHC, Secretary of State, Department of Indian Affairs and Northern Development, and Health and Welfare Canada. The funding would have enabled Operation Beaver to provide for building materials, travel, accommodation and food for the volunteers. Thus, the number of projects and volunteers have been drastically reduced.

The refusal of the government to fund Frontiers Foundation Inc. Operation Beaver prohibits the implementation of necessary planned projects which would provide adequate shelter for aboriginal people.

Once again, honourable senators, I urge you to seriously consider this request.

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

Hon. Senators: Agreed.

Motion agreed to.

HEALTH

MOTION TO ESTABLISH NATIONAL REPRODUCTIVE TECHNOLOGIES COMMISSION—DEBATE ADJOURNED

Hon. Thérèse Lavoie-Roux, pursuant to notice of May 27, 1998, moved:

> That the Senate urge the Government of Canada and the Department of Health in particular to take action to implement the following recommendations set out in the Final Report of the Royal Commission on New Reproductive Technologies, published in December 1993:
>
> > That the Federal Government establish a regulatory and licensing body, the National Reproductive Technologies Commission (NRTC), to oversee research, technologies and practices; and
> >
> > That the National Reproductive Technologies Commission establish committees which would be responsible for regulating how services related to reproductive technologies are provided.

She said: Honourable senators, I rise today to speak to my motion urging the government to take action to address the urgent need to regulate reproductive technologies in Canada.

Honourable senators, I wish to preface what I will say by stressing that for myself and for my colleagues who have been deliberating over it, the issue at hand is not a partisan one. I have been in touch with the Ministry of Health to relay our intention, which is simply to reintroduce the issue of reproductive technologies in a friendly, non-confrontational and non-partisan manner. It is certainly not my intention to embarrass the Ministry of Health or its minister by raising this question. In fact, I was pleased when we phoned the ministry to learn that they are presently revising Bill C-47, which died on the Order Paper in the last session of Parliament, and that they intend to present it once again in the fall. It is my hope that this motion will encourage them to continue moving down the path on which they have started. As I have often said in the past when faced with matters of similar magnitude, this is not a partisan issue, but a subject which I hope everyone in this room will appreciate. I am certain you share my grave concern that this societal problem has the potential to become a serious one with deplorable effects if we fail to bring to it the most immediate attention possible.

Worldwide, recent developments in reproduction and genetics have been rapidly expanding. The growth in scientific knowledge is most impressive. Consider how much more common it is to hear about surrogacy or *in vitro* fertilization or genetic engineering. In Canada, however, such technological practices are carried out without any controls, while in many countries they already have legislation to circumscribe this very difficult issue. I will cite some examples.

The commercialization of reproduction: There were advertisements in a university newspaper offering $2,000 to young women who were willing to sell their eggs by first undergoing an invasive and risky procedure. Men can receive payment for the donation of sperm, and yet fewer than half of surveyed sperm bank clinics carry out all the recommended health tests which screen for diseases such as tuberculosis or AIDS.

Another form of commercialization of reproduction is surrogacy: A women can be paid to embark on — and I think we read about this in the newspapers — and carry a pregnancy, later to hand over the resulting child to a commissioning couple in exchange for money.

Sex selection: The sex of a fetus can be identified in a prenatal diagnosis, and there is no regulation to prevent the abortion of a fetus of a less preferred sex.

Experimentation and genetic engineering: Research has been carried out on human zygotes, or embryos, with no clear legal or policy boundaries to direct such research. Freezing and thawing human eggs, and the cloning of human embryos are also not subject to regulation in Canada.

Honourable senators, reproduction is a field which is subject to unethical and exploitive uses of technology, and this is most alarming. The issue of reproductive technologies extends beyond the realm of health care; it is a question of an ethical, legal, economic and societal scope. It has the potential to change how we view procreation and how we view people. We must ask ourselves, “What kind of society do we want to live in?”

It was in this context that the Royal Commission on New Reproductive Technologies was established. From 1989 to 1993, the royal commission carried out wide consultations and gathered extensive evidence. It held public hearings in 17 cities, received hundreds of briefs, conducted a survey of 15,000 Canadians on their views and heard from 300 researchers. To these ends, it spent over $28 million. The royal commission submitted its final report to the Government of Canada in December 1993.

What were the findings? In the words of Dr. Patricia Baird, the former chairperson of the royal commission:

[*Translation*]

> The Canadian public made it clear to the commission that it did not want responsibility for setting policy in this area to be left entirely up to self-regulated professional medical bodies. Many technical and medical assessments have to be performed by physicians, but self-regulation of the medical profession, however necessary, is not enough. The Royal Commission heard a strong voice from many sectors throughout Canada calling for a regulatory framework.

[*English*]

Honourable senators, the recommendations of the royal commission were to establish legal limits around the use of certain reproductive technologies and to set up a licensing and regulatory body to manage the use of the technologies within those limits. It appealed to the leadership of the Canadian government, and I quote from the final report when I say:

> As guardian of the public interest and on behalf of individual citizens, the federal government has a responsibility to prevent harms. This means clear limits and boundaries must be placed around the use of reproductive technologies, and that only ethical and accountable use of permissible technologies be allowed within these boundaries.

[*Translation*]

Since the Royal Commission on New Reproductive Technologies tabled its report in 1993, the federal government has followed up on only two of these recommendations. The first is the voluntary suspension of nine practices requested by the then minister of health, which unfortunately did not produce the desired results, although the minister pointed out that these practices were contrary to human dignity, that they presented serious social, ethical and health risks, and that they reduced reproduction, women and children to the status of commodities.

The second exception, Bill C-47, to which I have already referred, did not survive second reading in the House of Commons. Had it been passed, it would have banned certain techniques and procedures. Bill C-47 did not address the aspects of authorization and regulation to ensure that reproductive techniques would be used sensibly and not misused. The motion I am proposing today calls your attention to the necessity of following up on one of the recommendations by the Royal Commission, which is to create a body for authorization and regulation.

[*English*]

Honourable senators, the government's inaction has been permitting the development and delivery of services related to reproductive technologies to be carried out without standards, without accountability, and without ethical safeguards. Dr. Baird warns that "the longer we go without action, the more difficult it is going to be." The problems identified by the royal commission are ever present and likely more acute now. Time is not on our side. In both legal and ethical spheres, technology is rapidly outpacing our ability to handle its consequences. As one journalist put it, "No one else is standing still; laboratories, doctors, researchers and infertile couples are pushing scientific and ethical limits in human reproduction." If left unregulated, reproductive technologies could potentially harm the health, safety and well-being of women and future generations of Canadians. Let us not think that it is only a woman's problem. It is a problem for our entire society.

•(1610)

Perhaps the most important role of government is to protect the lives of Canadians. It is imperative that we respond to this most urgent and consequential issue. Although the Minister of Health is reviewing the old Bill C-47, it cannot be tabled now and adopted before the summer break. I wish to suggest to the Minister of Health that when the Houses resume their work in the fall, this item not be placed lower on the list of bills to be dealt with or another year will go by.

This bill will involve much debate. Let us not forget that. It caused so much debate when it first came in that it never reached the Senate. It is important that it be tabled as soon as possible after we come back in the fall. I can assure the Minister of Health that, while we will look at it and all its consequences very carefully, he will have our support, because this is something that is important for society.

[*Translation*]

It is important for us to act in general agreement, while keeping a watchful eye on the new bill. I think most of us here are beyond the age for this, but it is important for the generations that follow and the future of our society.

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I wish to say a few words in support of the motion put forward today by the honourable senator.

Senator Lavoie-Roux raises an extremely important issue. The Royal Commission on Reproductive Technology made strong and necessary recommendations about the future of reproduction and genetic engineering not only in Canada but in the entire world. We know that more and more experimentation is being done — some of it of a very positive nature — in the whole field of genetics. New technologies are being developed every single day that will clearly make substantial improvements in the health care of all people on this planet.

At the same time, there is another force which deals with the issues of genetic manipulation and genetic usage that must be held to account. I thank the honourable senator for bringing this matter before the Senate today.

I also agree with my colleague that this piece of legislation that, unfortunately and regrettably, died on the Order Paper — and while it may have required amendments, it certainly required very broad debate and discussion — has not as yet been placed back on the Order Paper. I, too, have been assured by the Minister of Health — because I have the same concern that Senator Lavoie-Roux has — that this piece of legislation will be introduced in the fall. I am hopeful that this motion will be the spur necessary to bring it sooner rather than later.

[*Translation*]

Senator Lavoie-Roux: Honourable senators, I would like to say a few words in response to Senator Carstairs, if I may.

The Hon. the Speaker: Honourable senators, does Senator Lavoie-Roux have leave to speak a second time?

Hon. Senators: Agreed.

Senator Lavoie-Roux: Honourable senators, this has been a preoccupation for me.

[*English*]

On this side of the chamber, it has been a common preoccupation of many of my colleagues. I want to acknowledge the part that they played and their effectiveness in working this out.

Hon. Wilbert J. Keon: Honourable senators, I rise to support this motion and to say that I hope the Senate as a whole can be of assistance to the government in bringing forth this very necessary legislation in a way that is acceptable to all Canadians. This is an enormously complex subject. I can appreciate the difficulties that the government will have in trying to draft legislation that will be acceptable. I hope the Senate can play a useful role in this matter.

As you know, the commission reported in December of 1993. There was an attempt to develop legislation, namely, Bill C-47, but many people were unhappy with that bill. Let us hope that when it is revised, it will be more acceptable to everyone. Many of us could be useful in contributing something that will be acceptable.

The worrisome thing is that there has been an explosion of scientific knowledge even since 1993, when the commission reported. Yet there is no government regulation about the commercialization of reproduction, exploitation of students, pro-modification of children, and so on, in this field. There are no current mechanisms in Canada to insure the numerous and potentially dangerous activities related to new reproductive technology. We have in Canada, at this time, sex selective abortion; sex selective implantation; sex selective insemination; somatic cell gene therapy; germ line genetic alterations; and genetic alteration for enhancement and the use of foetal tissue in science. There is no regulation in any of those areas.

There were two specific recommendations of the commission: First, that there be boundaries or prohibitions around the use of new reproductive technologies; and, second, that there be an accountable system to manage them within those boundaries. The situation needs to be addressed urgently. Reproductive technologies are not a monolith. Some are beneficial and should be supported, some require outright prohibition, and some should be within particular limits.

I hope that all of us can join in making a useful contribution to this very necessary legislation.

•(1620)

Hon. A. Raynell Andreychuk: Honourable senators, I rise to lend my support to the motion before us.

As has been stated by the previous speakers, this is an urgent issue and one which affects many Canadians. Despite the difficulty of finding a consensus on these issues, nonetheless we should encourage the government to move forward.

I wish to underscore what Senator Keon has said. Since the report of the commission, the explosion of new technologies has been phenomenal. We do not know everything that is going on in Canada, or in the world, in this area. From the positive parts, of course, we gain benefit. However, we in Canada would not want to be put in a position where the negative parts are already in place and the consequences are being felt by families and children before responsible action is taken by the government.

There is a misunderstanding among the general public that there is some supervision of these technologies. The royal commission received a great deal of publicity, as did Bill C-47. In some quarters of Canada there is the feeling that something is in place, a feeling which is dangerous in some cases. It is dangerous for the people who are relying on the assurances of the government when no assurances are in place.

In my opinion, it is also critical that we protect the caregivers, those people who are working in the clinics where reproductive technologies are being used. To the best of their ability, they have put in place guidelines and systems of supervision. However, there is no outside scrutiny or guidelines they can use to determine whether they are within reasonable limits.

I am greatly concerned about our medical system. We have limited funds. I hope that the government will address the issues of the reproductive technologies that are necessary for many Canadians. There is much experimental and elective use of these technologies. While some of these technologies can be used in some communities and in some cases, should the taxpayer be subsidizing them? When health care is critical, when the funds

are limited, and when there may be some misconceptions about what is actually out in the field, it is necessary that the government move in this area.

As Senator Lavoie-Roux said, we must assure the government that this is an issue which requires all of our attention and our understanding. I am going on record now as saying that these issues must be dealt with in a fair and non-emotional way to the extent that is possible. This is not an area that we should politicize. Rather, we should carefully and constructively look at the legislation when it comes forward.

I trust all senators will support this motion and that the government will respond expeditiously to it.

On motion of Senator LeBreton, debate adjourned.

ADJOURNMENT

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

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, June 2, 1998 at 2 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

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

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)
Thursday, May 28, 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	98/04/02	four	98/05/27		
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	98/05/12	06/98
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 Senate agreed to Commons amendments 98/05/06	98/05/12	09/98
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		
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none			

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	98/05/14	five	98/05/14		
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
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	98/03/31	none	98/04/01	98/05/12	05/98
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	97/12/09	98/03/26	Transport and Communications	98/05/13	none	98/05/28		
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-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology					

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-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05							
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	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/05/28	Social Affairs, Science & Technology					
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	98/03/31	98/03/31	04/98
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-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce					
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources					

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	98/03/31	02/98
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	—	—	—	98/03/31	98/03/31	03/98
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998	98/05/28							

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					
C-410	An Act to change the name of certain electoral districts	98/05/28							
C-411	An Act to amend the Canada Elections Act	98/05/28							

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	98/04/30	two			
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	98/05/06	Legal and Constitutional Affairs					
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	98/04/02	Social Affairs, Science & Technology	98/05/14	seven			

S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02		
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12		

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