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Tuesday, November 24, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, November 24, 1998

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

Prayers.

SENATORS' STATEMENTS

VANIER CUP

UPCOMING MATCH BETWEEN MONTREAL CONCORDIA STINGERS AND SASKATCHEWAN HUSKIES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, one of the basic requirements of caucus leadership is to abstain from taking sides on issues while those issues are still being debated, and consensus is being sought. At the risk of disrupting the harmony which following this policy has created since this caucus moved to the opposition side, even at the risk of attracting the enmity of five distinguished and loyal colleagues from Saskatchewan, I must nevertheless bring to the attention of this chamber that as a result of the brilliant, come-from-behind, last-minute, 25-24 victory of the Concordia Stingers of Montreal over the Acadia Axemen in the Atlantic Bowl national semi-final last Saturday, the Stingers will now play the Saskatchewan Huskies for the Vanier Cup on Saturday.

Normally, I would have alerted the Leader of the Government of this statement in the hope that he would have joined with me, if not in congratulating the Stingers for reaching the finals, at least in wishing them the very best in their first effort to bring the Vanier Cup to Montreal. If I did not do so, it was not through lack of courtesy. It is because I did not wish to contribute, however indirectly, to more dissension in his caucus, knowing how strongly his colleague from Saskatchewan can react to positions with which he does not agree.

In any event, I look forward to reporting on the Concordia Stingers' victory when we reconvene next week, on the assumption, of course, that the results will be known no later than right after the polls close in Quebec on November 30.

GREY CUP

1998 GAME HELD IN WINNIPEG, MANITOBA

Hon. Richard H. Kroft: Honourable senators, I rise today to bring to this house a report of certain events over the past weekend in the heart of Central Canada. I refer, of course, to Winnipeg, and in doing so, I apologize for a modest geographical inaccuracy. Winnipeg is, in fact, about 30 kilometres west of the exact longitudinal centre of our country.

While this is the first time honourable senators have heard me address them on the subject of my city and province — or indeed on any subject at all — it will not be the last. I believe strongly in the importance of Manitoba and Winnipeg, and in their very centrality to the whole idea of Canada.

In my short time here, I have learned that we senators have many roles, several of which are largely unknown to our fellow Canadians. I am serving notice that, while I have the company of five gifted and dedicated Manitoba colleagues in this chamber, I intend to accept more than my share of responsibility for making Winnipeg and Manitoba better understood and appreciated by all of you.

My particular focus today is the Grey Cup game held in Winnipeg last Sunday and the many events surrounding it. Once again we staged Canada's greatest annual sporting event with a degree of enthusiasm, total community spirit and involvement equalling — or some might say exceeding — that of any other city. A wonderfully mild and sunny day reminded all those present that Winnipeg has the least understood — and most unjustly maligned — climate in Canada.

We all know that Winnipeg is the natural place for the Grey Cup game and, indeed, for many other Canadian events. It is where East meets West, both geographically and culturally. In fact, over the years the Blue Bombers have moved between the Eastern and Western Conferences of the Canadian Football League with total ease and aplomb.

We are a natural part of both halves of our country. We live on the edge of the great western prairies, and holiday where the Canadian Shield spills over the Ontario border into Manitoba. Our English and French languages and cultures mix easily, in a way that enriches us all.

Last Saturday, leading up to the game, there was a hugely successful Grey Cup parade. All of you would have had a chance to see it had television economics not determined that the *Red Green Show* and *Mr. Bean* were more important to Canada than our opportunity for a shared experience.

•(1410)

Never fear; during the Pan-American Games next summer, you will all be able to see on television — or, even better, in person — how Manitoba will host the third largest multiple sports event in the history of North America, next only to the Olympic Games of Atlanta and Los Angeles. I promise you that it will be an event to make all Canadians proud.

VIMY HOUSE

STORE OF WORLD WAR I MEMORABILIA

Hon. Norman K. Atkins: Honourable senators, I had the opportunity last Friday to visit Vimy House here in Ottawa. I recommend very strongly that those members of the Senate who do not know about Vimy House familiarize themselves with this incredible facility.

Vimy House stores an enormous number of national war treasures that cannot be displayed at the Canadian War Museum. It was the personnel at Vimy House who supervised the restoration of the eight paintings that hang in this chamber. These are the paintings that were rededicated in the Senate on November 3, 1998.

During my tour of Vimy House, I was amazed by the number of war paintings by international and Canadian artists. There are literally thousands of oil paintings and watercolours, including some by our famous Group of Seven. I believe that the public would derive a great deal of pleasure from viewing these paintings, if they only had the opportunity to do so.

There is also a wonderful collection of small arms, medals, vehicles, armoured tanks and artillery pieces that were used in various wars, conflicts and peacekeeping missions in which Canada was a participant.

Over the last few years, there has been much discussion regarding the amount of space available to display this material. I urge members of this chamber to support the initiative announced recently to build a new Canadian War Museum facility adjacent to the Canadian Aviation Museum at Rockcliffe.

I should like to congratulate the Subcommittee on Veterans Affairs chaired by Senator Phillips, as well as the Honourable Barney Danson, Chair of the Canadian War Museum, and others who helped bring the inadequacy of the existing War Museum to the attention of the Canadian public. I believe that their efforts will lead to the building of a new home for the Canadian War Museum.

I believe that the Canadian public would support this project. The more exposure Canadians have to these artefacts, the more they will understand the incredible sacrifice and involvement of Canadians who served in the various theatres of war. This type of exposure would also help to educate Canadians, especially our children and others who did not live in a time when Canada was a participant in a war. It would assist us to better understand our peacekeepers. It would also allow Canadians to better understand the role that Canada's participation in wars throughout our history played in shaping this country. It would enable Canadians to understand more thoroughly why veterans and members of the Royal Canadian Legion are so proud and believe so strongly that Canadians should never forget the contribution of Canadians to peace and freedom.

HUMAN RIGHTS

FAVOURABLE COMMENTS BY PRIME MINISTER IN MALAYSIA AND ASIA

Hon. Consiglio Di Nino: Honourable senators, I was very interested in, indeed, pleasantly surprised by, the actions and comments of the Prime Minister in Malaysia and China last week. Since coming to office, he and his government have all but abandoned Canada's longstanding tradition of speaking out in favour of human rights. When they have commented, it has usually been about minor issues and players of little consequence.

However, last week, Mr. Chrétien appeared to have had a change of heart. In Malaysia, he was quite forceful, at least until spoken to by some large corporate representatives. In China, he spoke to students about human rights and the link between those rights and economic development.

I would not call these actions a conversion equal to that made famous on the road to Damascus, but at least the Prime Minister did something — finally.

One might ask whether his speech was a heartfelt gesture or merely a political one. It would not be difficult for any right-thinking Canadian to dismiss the Prime Minister's comments as empty rhetoric, a belated attempt to overcome his lack of commitment to human rights and to deflate the growing criticism of his role in last year's APEC scandal, and they would perhaps not be far wrong, for we all know that Mr. Chrétien is, above all, a political animal. He is very well aware that his dereliction of the human rights issue has upset many of his party's traditional supporters, but not, apparently, the Chinese.

Last week, the Premier of China went so far as to say that Canada was China's best friend. Imagine that. Thanks to the efforts of the Prime Minister, our best friend today is a country that suppresses dissent, runs over student protesters with tanks, and ships critics off to distant parts for re-education. Mr. Chrétien is likely quite proud that his recent conversion to the cause of human rights in China has won for him and us such a good friend.

This aside, the season of peace and goodwill is once again upon us. In that vein, I would like to acknowledge the Prime Minister's decision to speak out on the issue of human rights. However small, it was a first step. It is to be hoped that it will lead to a broader engagement on his part in all areas of the world.

ROUTINE PROCEEDINGS

NATIONAL DEFENCE ACT

BILL TO AMEND—REPORT OF COMMITTEE

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

Tuesday, November 24, 1998

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

FIFTEENTH REPORT

Your committee, to which was referred Bill C-25, An Act to amend the National Defence Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, June 18, 1998, examined the said Bill and now reports the same with the following amendment and observations:

1. Page 89, Clause 96: Replace lines 1 to 6 with the following:

"**96.** (1) The Minister shall cause an independent review of the provisions and operation of this Act to be undertaken from time to time.

(2) The Minister shall cause the report on a review conducted under subsection (1) to be laid before each House of Parliament within five years after the day on which this Act is assented to, and within every five year period following the tabling of a report under this subsection.".

The committee is generally supportive of Bill C-25 which embodies much needed amendments to the *National Defence Act* and, indeed, constitutes the most significant package of amendments to that Act since it was first enacted in 1950. However, the Committee does have some concerns about certain aspects of the bill. Having amended clause 96 of the bill to ensure that regular independent reviews of the provisions and operation of the proposed legislation are conducted, the Committee expects the Department of National Defence to have considered and addressed these concerns in the course of the first legislative review, if not before.

While we appreciate the steps taken in clause 42 of the bill to strengthen the institutional independence of military judges (specifically, making military judges Governor in Council appointees, as is the case with other federally appointed judges; lengthening the term of appointment to a fixed term of five years; and establishing special advisory committees on the appointment, reappointment and remuneration of military judges), Committee members find the retention of renewable terms for military judges to be troubling, particularly when compared with other federally appointed judges who serve until a fixed retirement age. Moreover, members of the Committee are concerned that clause 42 of the bill would leave entirely to the regulations the composition of the proposed Renewal Committee as well as the criteria which that committee would use in making its recommendations to the executive on the reappointment of military judges. The Committee is of the view that such important matters should be spelled out in such a way as to clearly preclude the possibility of improper interference in the reappointment process.

Indeed, the committee has a general concern about the number of important matters pertaining to the military justice system which will continue to be implemented by means of regulations — to be specific, the *Queen's Regulations and Orders for the Canadian Forces* — that are exempt from the usual process of publication in the *Canada Gazette* and parliamentary scrutiny under the *Statutory Instruments Act*.

The committee is also concerned about the difference in the security of tenure between the proposed new positions of Director of Military Prosecutions and Director of Defence Counsel Services, which are dealt with in clauses 42 and 82 of the bill, respectively. It was noted that, while the recommendation of a special Inquiry Committee would be required for the removal from office of the Director of Military Prosecutions, the bill contemplates no such safeguard for the Director of Defence Counsel Services. This discrepancy is of concern in light of the Director of Defence Counsel Services' responsibility for the representation of accused persons who would then be in an adversarial relationship with the chain of command — a chain of command which includes the Minister of National Defence, the person responsible for the Director's appointment, reappointment and possible removal from office.

Finally, the committee supports the recommendation of the Special Advisory Group on Military Justice and Military Police Investigation Services headed by the late Brian Dickson, that the Code of Service Discipline be re-enacted as a separate statute. While the Committee appreciates the difficulty of incorporating such a change into the extensive set of amendments proposed in Bill C-25, we urge the Department of National Defence to proceed as quickly as possible with the implementation of this recommendation.

Respectfully submitted,

LORNA MILNE
Chair

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

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

ADJOURNMENT

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

That when the Senate adjourns today, it do stand adjourned until Wednesday, November 25, 1998, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

SOLICITOR GENERAL

SECURITY ARRANGEMENTS AT APEC CONFERENCE IN VANCOUVER—ROLE OF PRIME MINISTER'S OFFICE IN RELATION TO THE ROYAL CANADIAN MOUNTED POLICE ACT— GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, tomorrow is the first anniversary of the scandalous conduct during the Vancouver APEC summit. Yesterday, the focus in this saga of the forces of darkness returned to the shadowy world of the Langevin Block. Can the Leader of the Government in the Senate tell this chamber in very clear terms whether the Prime Minister or officials in his office were involved in the planning and execution of the security arrangements for the Vancouver APEC meeting?

•(1420)

Hon. B. Alasdair Graham (Leader of the Government): I understand that the Chief of Staff in the Prime Minister's Office, and his former director of operations, namely, Mr. Pelletier, and Mr. Jean Carle, have volunteered to appear before the Public Complaints Commission. It is to be hoped that all matters relating to the questions that have been raised by the Honourable Senator Kinsella will be answered at that time.

Senator Kinsella: Is the Leader of the Government telling the Senate that the conduct of officials in the Prime Minister's Office falls within the mandate of the RCMP Public Complaints Commission?

Senator Graham: I am saying, in response to questions raised today and to previous questions, that I am sure all of these matters will be answered fully and honestly as the commission hearings unfold, and perhaps those hearings will proceed forthwith.

Senator Kinsella: Honourable senators, the question Canadians want answered is whether or not the Prime Minister of Canada, or officials in the office of the Prime Minister, were involved in the suppression of the human rights of Canadians, and whether or not officials in the Prime Minister's Office, or the Prime Minister himself, gave direction to the Royal Canadian Mounted Police to achieve the political objectives that the Prime Minister had in mind. Therefore, it is the conduct of persons or officials in the Prime Minister's Office which is the focus that requires investigation. If the government is once again trying to hide behind a disguise, or use the diversionary tactic of the RCMP Public Complaints Commission, which reports to the Solicitor General, whoever he or she happens to be on that day, and also reports to the Commissioner of the RCMP, how will that result shed light on the conduct of officials in the Prime Minister's Office?

In posing my question, I draw your attention to section 45.35(1) of the Royal Canadian Mounted Police Act, which provides the following:

> Any member of the public having a complaint concerning the conduct, in the performance of any duty or function under this Act, or the Witness Protection Program Act, of any member or other person appointed or employed under the authority of this Act may, whether or not that member of the public is affected by the subject matter of the complaint, make a complaint to...

Can the Leader of the Government tell this chamber whether the Prime Minister's performance or conduct falls under the RCMP Act, or whether any of his staff are appointed or employed under the authority of the RCMP Act? If the answer is "no," could the Leader of the Government explain to this chamber what authority the RCMP Public Complaints Commission is using to investigate the role of the Prime Minister and his staff, and the tragic saga of human rights violations during that APEC meeting?

Senator Graham: To my knowledge, the answer to the first part of the last question — and you asked many questions in the preamble to your final question — would be no, they would not fall under the jurisdiction of the RCMP Act. You were suggesting that the Prime Minister and/or his officials were involved in suppression of the human rights of Canadians. The answer to that is a categorical no.

As my honourable friend would know, the Public Complaints Commission was established by an act of Parliament under the previous government, and that commission has enjoyed and earned the respect of Canadians and, indeed, has an enviable reputation for its work on the international scene. I suggest that we allow it to continue to do its work.

Senator Kinsella: Perhaps the Leader of the Government in the Senate would show members of this house where in the RCMP Act it provides for that commission to investigate the conduct of the Prime Minister of Canada, or officials in the Prime Minister's Office?

Senator Graham: My understanding is that, under its mandate, the public complaints commission is permitted to call any witnesses. However, they did not need to call the Chief of Staff in the Prime Minister's Office nor the former director of operations; those individuals volunteered on their own to appear as witnesses.

VETERANS AFFAIRS

EQUITABLE TREATMENT OF MERCHANT NAVY VETERANS— GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, four Merchant Marine veterans have returned to Parliament Hill this week in an attempt to focus attention on a miscarriage of justice that has continued for far too long. The Merchant Marine was the lifeline of Canadian troops during hostilities overseas. They brought munitions, food and various other supplies to our soldiers. They often sailed into very hostile combat zones and were the target of many attacks with often only limited means to defend themselves. Without question, these brave mariners deserve the retroactive pay and other benefits which they seek. It is shameful that their hard work and courage has gone without reward for so long.

I ask the Honourable Leader of the Government in the Senate to tell us what the government's position is on this matter, and how they can possibly justify denying these men the back-pay to which they are unquestionably entitled?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is my understanding that omnibus legislation will be introduced by the government in the very near future which will bring Merchant Navy veterans under the same legislation as Armed Forces veterans. Perhaps we will see that legislation as soon as next week, and I would suggest to my honourable friend that we wait and see what that legislation contains.

Senator Oliver: Is the Honourable Leader of the Government also suggesting that that legislation would be fast-tracked so that it might be passed before Christmas?

Senator Graham: I am sure that that could be accomplished if my honourable friend could persuade his friends and other members in the other place who have a desire to help the courageous and brave Merchant Mariners who served us so well for so many years, particularly during the war. If those members were to suppport such legislation, we could pass it quickly. It would indeed be helpful if we could send a message of cooperation to the other place. I am sure that the government would be prepared to act expeditiously on this very important piece of legislation.

AGRICULTURE

ECONOMIC CRISIS IN RURAL CANADA—EFFICACY OF EXISTING INCOME INSURANCE PROGRAMS—GOVERNMENT POSITION

Hon. Terry Stratton: My question is to the Leader of the Government in the Senate, and relates to one of his responses to questions from this side of the chamber on the ongoing farm crisis.

Last Wednesday, when asked to comment on the program similar to GRIP that has been proposed by the Progressive Conservative Party as a response to long-term price fluctuations, the Leader of the Government said that his government would give that proposal very serious consideration. In fact, he went so far as to say something to the effect that anything the Right Honourable Joe Clark proposed would merit his highest respect and consideration.

•(1430)

Unfortunately, the Minister of Agriculture does not appear to concur with the honourable leader's statements. For instance, in recent letters to the Ontario Corn Producers Association, Mr. Vanclief questions the justification for maintaining GRIP market revenue insurance in Ontario because it no longer exists in Western Canada. The minister has said this, even as the reasons for its continuance have become increasingly obvious, and as the pressure mounts to do so for similarly cash-strapped farmers in the west and other provinces. Unlike his colleague the Leader of the Government in the Senate, the Minister of Agriculture is on record as challenging the rationale for a grain-specific program like GRIP in Ontario, even though grain-specific programs continue in Quebec, Western Europe and the U.S.

[Senator Oliver]

Would the leader please investigate his colleague's position on the issue of such grain-specific programs, and could he then try to reconcile that position with his own views as expressed last Wednesday and report back to this chamber?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would be pleased to do that. As I said last week, the Minister of Agriculture is seized with the problem. He is having regular communications and consultations with his counterparts in provincial governments. I encouraged him personally to look at the proposals put forward by the Right Honourable Joe Clark on behalf of the party that he now leads once again. As I indicated last week, I am sure that those recommendations will be taken very seriously.

Senator Berntson: Roy Romanow killed GRIP. You do not have to take the blame for that.

ECONOMIC CRISIS IN RURAL CANADA—SEVERE DECLINE IN GRAIN PRICES—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, the headlines are now saying that, on a comparative basis, grain prices are even lower than during the Great Depression. Subsidies in the European Union and the U.S. are growing. We see this evidenced by the fact that as the subsidies grow, their grain production grows. Even when world demand is flat, they are growing more grain as a result of these subsidies, and the demand is huge for a quick response.

Can the Leader of the Government in the Senate tell us, or find out for us, whether or not a program in this regard is scheduled for implementation?

Hon. B. Alasdair Graham (Leader of the Government): The Honourable Senator Stratton is absolutely right — grain prices are low. In addition, it should be recognized that hog and cattle prices are also in a cyclical downturn. The situation is worsened by the economic situation in Asia. The overall result is a decline in net farm income this year from the high levels of farm income enjoyed in 1997.

I can only reassure my honourable friends opposite that the Minister of Agriculture is working on this matter on a daily basis, and it is hoped that he will have an appropriate announcement in the very near future, certainly before Christmas.

PRIME MINISTER'S OFFICE

APPOINTMENT OF INDEPENDENT ETHICS COUNSELLOR—GOVERNMENT POSITION

Hon. Marjory LeBreton: Honourable senators, my question is to the Leader of the Government in the Senate. The resignation yesterday of Solicitor General Andy Scott once again illustrates the point that this government believes it is answerable to no one. Even yesterday, the Prime Minister and the Government House Leader were blaming the opposition for Mr. Scott's demise.

This brings me to a question that I have raised in this place before. In 1993, the government promised in Red Book I, chapter 6, page 95, under the heading "Governing with Integrity":

> In particular, a Liberal government will appoint an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and will report directly to Parliament.

I repeat, he or she "will report directly to Parliament."

In view of the events of these past few months, does the minister not agree that now is the time to fulfil this commitment and have the Ethics Counsellor report directly to Parliament, rather than as at present, in a closed, secretive way, answering only to the Prime Minister?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am glad the honourable senator has used the Red Book for enlightenment. I commend not just that particular chapter or clause but the entire book for her reading and for her edification.

Personally, yesterday was a sad day with the resignation of a very good friend and colleague, Mr. Scott. I am not blaming anyone for his resignation. Mr. Scott was an outstanding cabinet minister and an outstanding Solicitor General. From talking to people across the country, I know about the innovative measures Mr. Scott was embarking upon, whether in the field of restorative justice or modernizing our justice system. His loss will be felt very keenly.

With respect to the Ethics Counsellor, we do have an Ethics Commissioner who reports directly to the Prime Minister regarding cabinet ministers and members of Parliament. As far as having an Ethics Counsellor who might report directly to Parliament, that is a matter for further consideration.

NEED FOR PUBLIC DISCLOSURE OF RULES AND GUIDELINES GOVERNING MINISTERS—GOVERNMENT POSITION

Hon. Marjory LeBreton: In keeping with your style as Leader of the Government in the Senate, it is interesting that you did not place blame. However, some of your colleagues in the other place clearly blamed the opposition.

By the way, Senator Taylor, I keep the Red Book beside my bed for swatting bugs.

What we have here, honourable senators, is a public and Parliament totally in the dark. We have a so-called Ethics Counsellor reporting to the Prime Minister, using a set of secret guidelines. In addition to living up to their commitment of having the Ethics Counsellor report to Parliament, will the Leader of the Government in the Senate now commit himself and his government to the public disclosure of the rules and guidelines ministers are supposedly required to follow?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I believe that would be a matter for consideration by the Prime Minister, and I shall bring the representations of my honourable friend to his attention.

UNITED NATIONS

VISIT OF HIGH COMMISSIONER FOR HUMAN RIGHTS TO OTTAWA—POSSIBILITY OF APPEARANCE BEFORE FOREIGN AFFAIRS COMMITTEE—POSITION OF CHAIRMAN

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, my question is for the chairman of the Standing Senate Committee on Foreign Affairs. It is my understanding that the United Nations High Commissioner for Human Rights, Her Excellency Mary Robinson, former President of Ireland, will be visiting Parliament this week. Will there be an opportunity for honourable senators to meet with her at a committee meeting?

Hon. John B. Stewart: I thank the honourable senator for asking that question. Senator Andreychuk could give my honourable friend a great deal of information with regard to the visit of the high commissioner. As I understand it, Mrs Robinson has available only 45 minutes to meet with members of both houses. I have arranged that the meeting will be a joint meeting. However, I was informed that, given the brevity of the total meeting and the fact that each of the parties in the other place wishes an equal share of the time, we would receive approximately two-sevenths of the total time for questions. I think we can make good use of that time. I do hope that members from the Senate committee who participate in the joint committee will go well prepared and make much better use of their two-sevenths of the total time than members of the House of the Commons committee will make of their five-sevenths.

Senator Kinsella: I thank the honourable senator for that information. I am glad we have it on the record because I know that members of the Senate who are not members of that particular committee may wish to avail themselves of the opportunity to attend that joint meeting.

•(1440)

It also allows us to put on the record a concern that many senators have. When a distinguished visitor comes to Parliament, it must be made clear that there are two, not one, Houses of Parliament. The people in the Department of Foreign Affairs, along with other ministries and agencies, ought to be consulting the Leader of the Government in the Senate, or the Deputy Leader of the Government in the Senate, because the visitor and the honourable members of this house might find it mutually beneficial to meet one another.

CANADIAN HERITAGE

ORGANIZATION OF AMERICAN STATES—NON-RATIFICATION OF AMERICAN CONVENTION ON HUMAN RIGHTS—CANCELLATION OF MEETING OF MINISTERS—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, I have a further question for the Leader of the Government in the Senate. I am given to understand that one of the meetings planned for the High Commissioner was with federal, provincial and territorial ministers responsible for human rights law in Canada. In fact, a meeting of the federal, provincial and territorial ministers had

been scheduled for this Thursday, to be chaired by the Minister of Canadian Heritage. That meeting has now been cancelled by the Minister of Canadian Heritage. Could the Leader of the Government find out from his colleague why such an important meeting of these ministers, who have not met for some 10 years, has been cancelled?

Some of us had hoped that one item on the agenda for this meeting might have been the question of Canada's failure, to date, to ratify the American Convention on Human Rights which, in turn, keeps Canada isolated from the human rights mechanism of the Organization of American States. Those of us who were supportive of the Government of Canada bringing Canada into membership in the OAS were anxious to see us become a full partner in that organization, including its human rights mechanisms. Until we ratify this convention, we are not eligible for a seat on the human rights court or the human rights commission.

The constitutional convention in Canada since the 1930s labour convention case was that, in matters involving federal and provincial jurisdiction, Canada would only ratify an international instrument with the agreement of the federal, provincial and territorial governments. That consultation has now been going on for over eight years. We have yet to ratify the agreement. The hope was that at this ministerial meeting to be chaired by Minister Copps, the matter would be addressed. However, the meeting has now been cancelled.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I thank the Honourable Senator Kinsella for his question and, indeed, his representation. There is a no greater champion nor knowledgeable person on the subject of human rights than my friend Senator Kinsella.

I would be happy to make the appropriate representations to Minister Copps and find out why the meeting was cancelled. Indeed, I expect it was just a postponement.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the page who is here with us this week on the exchange program from the House of Commons. We have only one page this week, but when I tell you where he is from you will realize that we will, nevertheless, be well served.

[*Translation*]

I introduce to you our page from the House of Commons, Pierre Le Dorze, who is studying history in the Faculty of Arts, at the University of Ottawa.

ORDERS OF THE DAY

COMPREHENSIVE NUCLEAR TEST-BAN TREATY IMPLEMENTATION BILL

THIRD READING

Hon. Eymard G. Corbin moved that Bill C-52, to implement the Comprehensive Nuclear Test-Ban Treaty, as amended, be read the third time.

He said: Honourable senators, in the last 50 years, Canada has made every effort to prevent the proliferation of nuclear arms through an effective international nuclear non-proliferation and disarmament program.

The Comprehensive Nuclear Test-Ban Treaty constitutes an important part of these efforts. The successive governments of this country have, moreover, supported it. As far as proliferation is concerned, the primary purpose of this treaty is to establish a world standard for nuclear test bans applicable to all states, even those not yet subscribing to the treaty.

The strength in the act to implement the Comprehensive Nuclear Test-Ban Treaty lies in the unarguable consensus it enjoys within the international community. Of the 193 UN member countries, 151 have signed, including all five nuclear powers, so the ban has the moral backing of the international community.

The Comprehensive Nuclear Test-Ban Treaty Implementation Act calls for the creation of an international monitoring system which will use a network of 321 monitoring stations and four different technologies: seismological and hydroacoustic monitoring, and infrasound and radionuclide detection. It will, therefore, be possible to detect, and pinpoint the location of, all nuclear explosions in excess of one kiloton occurring in the atmosphere, under water or under ground anywhere in the world. As well, an on-site inspection system will make it possible to determine whether a suspicious activity was a nuclear explosion.

It will be possible as well to detect nuclear accidents such as the one at Chernobyl so that the international community may react more quickly than in the past.

Thanks to its verification and on-site inspection system, the treaty can prevent the development of nuclear weapons better than all the disarmament treaties before it. In addition, it effectively contributes to the implementation of a progressive process, both practical and sustained, to reduce, and even eliminate, nuclear arms.

We strongly believe that, once the verification system provided for under the Comprehensive Nuclear Test-Ban Treaty Implementation Act is in place, clandestine nuclear arms testing, including explosions, will be virtually impossible.

Even partially deployed, the system has proven effective by readily detecting the nuclear tests undertaken by India and Pakistan this summer.

These two countries did not sign the treaty. However, following pressure from the international community in reaction to this testing, they indicated their willingness to consider signing the treaty — an indication of the respect given this document.

I hope they will sign and ratify it soon, without requiring changes or amendments. This would speed up the treaty's implementation.

[*English*]

Canada attaches very high priority to both nuclear non-proliferation and nuclear disarmament. The Comprehensive Nuclear Test-Ban Treaty is not just a "feel good" treaty. It addresses the non-proliferation side of the non-proliferation and disarmament regime. As I have already noted, it will make a significant contribution to the prevention of the spread of nuclear weapons among states and the development of new nuclear weapons by the existing nuclear weapons states.

The nuclear tests by India and Pakistan were a fundamental challenge to the global non-proliferation regime. Canada has been among the most active countries in pressing for a strong and effective response by the international community to the threat created by these tests. A Canadian co-sponsored resolution strongly deploring these tests received widespread support in the United Nations General Assembly First Committee on November 12. The Government of Canada is equally committed to promoting nuclear disarmament. Some progress has been made, but the nuclear weapons states must be encouraged to do more and to do it sooner rather than later.

•(1450)

Some senators question why Canada abstained on the United Nations first committee vote on the "new agenda" resolution. Canada's abstention came after careful, intense and high-level consultation.

Canada's assessment was that the resolution did not enjoy the broad base of support required for concerted action. In addition, the government did not want, through its vote on the resolution, to prejudge the outcome of the study on Canada's nuclear disarmament and non-proliferation policy that is being undertaken by the House of Commons Standing Committee on Foreign Affairs and International Trade.

The government recognizes that there is both room for further action on disarmament and an imperative to do more. In the coming months, Canada intends to pursue this matter actively with its allies.

Some senators have also asked why a separate Comprehensive Nuclear Test-Ban Treaty Organization in Vienna was established instead of giving the responsibility for implementing the Comprehensive Nuclear Test Ban Treaty to an existing organization such as the International Atomic Energy Agency.

The International Atomic Energy Agency has a number of responsibilities, such as the safeguarding and accounting of nuclear materials and the promotion of nuclear safety. It has the necessary expertise to carry out these responsibilities, but the International Atomic Energy Agency does not have expertise in the detection of nuclear explosions. In the long and difficult negotiation process, experts maintained the need for a separate organization which would develop the expertise needed to implement the Comprehensive Nuclear Test-Ban Treaty.

The Comprehensive Nuclear Test-Ban Treaty Organization and the International Atomic Energy Agency are co-located in the same building in Vienna. We expect that there will be definite synergies between the two organizations. They will complement each other in strengthening the global nuclear non-proliferation and disarmament regime. However, given the different mandates, two distinct organizations appeared to be the best approach.

Finally, I would note that the resources required to establish the Comprehensive Nuclear Test-Ban Treaty Organization would have equally been required for the most part if its functions had been added to the International Atomic Energy Agency or any other international organization.

[*Translation*]

I would now like to return, if I may, to Bill C-52's raison d'être. The bill before us today will enable us to meet our national obligations under the Comprehensive Nuclear Test-Ban Treaty Implementation Act, which has the support of most Canadians.

This bill will criminalize any nuclear weapon test explosion, or any other nuclear explosion in Canada carried out for the purpose of developing nuclear weapons; it will give the Department of Foreign Affairs and International Trade, Natural Resources Canada and Health Canada the mandate to carry out their respective responsibilities as representatives of the National Authority created under the Comprehensive Nuclear Test-Ban Treaty Implementation Act with responsibility for ensuring the respect, on Canadian territory, of our obligations under the treaty; it will force Canadian industry to report to the National Authority chemical explosions equivalent in intensity to the explosion of 300 or more tonnes of TNT, which could be confused with nuclear explosions.

The National Authority created under the Comprehensive Nuclear Test-Ban Treaty Implementation Act will consist of existing components of Natural Resources Canada, Health Canada, Environment Canada, and the Department of Foreign Affairs and International Trade. Its creation will not require new administrative structures to be put in place or new employees to be hired in Canada.

Canada is working to establish an effective international non-proliferation and disarmament regime. Canada will maintain its efforts to free the world of the threat of nuclear weapons, while allowing it to enjoy the benefits of nuclear technology directed to peaceful ends.

Honourable senators, I have tried during my speech to reply to the comments and questions raised by colleagues during consideration of the bill at committee stage. In closing, I wish to thank all our colleagues for their cooperation and their contribution at all stages of consideration of the bill.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I want to add a few comments to the speech that I gave on second reading. First, I wish to thank Senator Corbin for his thoughtful remarks and for answering all the questions put forward by committee members during the study of this bill. This kind of cooperation will go a long way in the continuing history in both Houses in supporting Comprehensive Nuclear-Test-Ban Treaty projects and the ultimate goal of disarmament.

I wish to highlight a few points. First, Canada has enjoyed a long, continuous and vigorous role in working towards comprehensive test-ban treaties and disarmament. It is regrettable that Canada did not enter into the first committee resolution. While the two answers that were given offer reasons as to why Canada did not go forward with the resolution and abstained, nonetheless, I believe that Canada should have supported the new agenda resolution. Canada's abstention gives those countries who are not as committed to the nuclear disarmament issue some reason, some hope and some wiggle room. It gives them some ability not to come on board.

This is the second instance. In my first speech, I pointed out that Canada was rather weak in its response to the French nuclear testing in the Pacific. One wonders if Canada had been more aggressive with France and joined the coalition against those texts, would Pakistan and India have had the courage to continue their tests? Any weakening in our stance gives room to others to act in a neglectful manner. This resolution and our abstention provides the second opportunity for those who are not committed. I know that in the backrooms of the United Nations negotiations are always ongoing and that some of our partners are not as committed to proceeding with the new agenda. They want more time and, perhaps, more ability to manoeuvre on this issue.

While joining them and not having sufficient numbers may be a reason for abstaining, I do not believe it is a sufficient reason in this case. I think Canada could have taken this opportunity to give the clear signal, as we have decade after decade, that we are committed to nuclear test-ban treaties and to ultimate military disarmament. I believe that any time we veer from that stance, we give detractors some opportunity to veer also.

I hope that the Government of Canada will rethink its position and will respond by continuously and vigorously supporting total disarmament for military use.

Hon. Douglas Roche: Honourable senators, my comments on third reading of this bill will be brief. I do support it. What right-thinking person would oppose a bill that seeks to shut off explosive nuclear testing after we have had 2,000 such tests in the last 40 years?

•(1500)

I have two important reservations about this bill. First, the bill and the Comprehensive Test-Ban Treaty do not stop the modernization of nuclear weapons. Second, this is not a disarmament measure, as it was made out to be; it is a non-proliferation measure. There is a world of difference between the two.

When our Minister of Foreign Affairs, the Honourable Lloyd Axworthy, went to the United Nations this fall, he discussed in his speech the Comprehensive Nuclear Test-Ban Treaty. He said then that preventing horizontal proliferation is crucial. This bill will stop the horizontal spread of nuclear weapons. He also said that preventing vertical proliferation is no less vital or urgent and nuclear disarmament is the other half the nuclear bargain. The modernization of nuclear weapons is continuing despite the Comprehensive Nuclear Test-Ban Treaty.

I wish to bring to honourable senators' attention the report of the U.S.-based National Resources Defense Council states:

> The U.S. government clearly intends to maintain under the CTBT, and indeed significantly enhance, its scientific and technical capabilities for undertaking 'development of advanced new types of nuclear weapons'.

The report entitled, "End Run: The U.S. Government's Plan for Designing Nuclear Weapons and Simulating Nuclear Explosions Under the Comprehensive Test-Ban Treaty," stated that the U.S. has embarked on a program:

> ...to design, develop, prototype and flight test an indisputably new-design warhead for the Trident II missile to replace the current W76 and W88 warheads.

This is done under a program called the "Stockpile Stewardship and Management Program" which is funded at the rate of several billion dollars annually. Maintaining and strengthening its nuclear weapons capacity in this manner is held to be necessary in order to convince the United States Senate that the ratification of the Comprehensive Test-Ban Treaty, which the U.S. Senate is being asked to do, will not jeopardize U.S. nuclear superiority.

In other words, the United States will be prepared to ratify the Comprehensive Nuclear Test-Ban Treaty if the Senate there is assured that they will be able to continue modernizing their nuclear weapons.

The Western States Legal Foundation of California, a prominent NGO, called this "a Faustian bargain." Representatives of this organization have said that:

> In the U.S., nuclear weapons design will be advanced through simulations carried out using superfast computers costing hundreds of millions of dollars, coupled with archived data from more than 1,000 past tests, and new diagnostic information obtained from inertial confinement fusion facilities...

Honourable senators, we must not be under any illusion or delusion that the Comprehensive Nuclear Test-Ban Treaty, welcome as it is, will stop the nuclear arms race, because it will not.

This brings me to my second reservation. We have heard this afternoon that criticism of India's and Pakistan's nuclear testing brought this issue back into the forefront of the public mind this year. Let me be clear about India and Pakistan. I deplore the testing by India and Pakistan. That being said, it is of little avail for us to criticize India's and Pakistan's nuclear testing when we allow the continuation of the development of nuclear weapons by those who have them to go on. I speak not just of the United States but also of Russia, France, Britain and China. All of these countries have the retention of nuclear deterrence and the maintenance of their nuclear stocks, albeit at smaller numbers, as a cornerstone of their military doctrine. This was recently re-emphasized by NATO when it stated that nuclear weapons are essential.

This absolutely flouts the judgment of the International Court of Justice that gave a famous advisory opinion in 1996 to the effect that the threat or use of nuclear weapons would generally contravene every aspect of humanitarian law.

Are we to be silent in this chamber, government and country and allow the continuation of nuclear weapons under the programs of those who have them, thinking that those who do not have them will be content with the status quo?

India and Pakistan have served notice on the world that unless there is a global ban on nuclear weapons so that no one has them, more countries will join the nuclear club.

Honourable senators, we in this country have a choice to make. We must stand up and speak on behalf of Canadians who want an end to nuclear weapons. In a recent Angus Reid poll, 92 per cent of Canadians said they wanted Canada to play a leading role in fostering global negotiations to end nuclear weapons. We must decide whether we will stand up for Canadian values and tell the nuclear weapons states, not only the U.S., but the others as well, that Canada will vote at the United Nations for a resolution that calls for an end to nuclear weapons and a negotiating process to begin.

I was most interested in the speech we just heard from the Honourable Senator Andreychuk speaking on behalf of the Progressive Conservative Party, who said that Canada should have supported the new agenda coalition resolution that was put into the United Nations only a week ago. She is right; Canada should have supported that resolution.

In order that honourable senators are familiar with what Canada abstained on, let me read to you the four lines of a central operative paragraph. If you can live with this paragraph, you can live with the entire resolution.

The resolution:

> Calls upon the Nuclear-Weapon States to demonstrate an unequivocal commitment to the speedy and total elimination of their respective nuclear weapons and without delay to pursue in good faith and bring to a conclusion negotiations leading to the elimination of these weapons, thereby fulfilling their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons.

Honourable senators, it was good that Canada abstained in the sense that it joined 11 other NATO nations. These 12 NATO nations have sent a clear message to the NATO nuclear weapons leadership, the United States, Britain and France, that they will not have their own way in this automatic retention of nuclear weapons that they are trying to get away with in the post-Cold War era. On the eve of the new millennium, people are saying enough is enough. Let us move on to building a global architecture for peace and security in the 21st century that does not rely on nuclear weapons.

The International Court of Justice, various commissions and coalitions, as well as countless military and political leaders around the world are saying that the risks of maintaining nuclear weapons into the 21st century are unacceptable and are far greater than the risk of trying to get rid of them.

No one is talking about eliminating nuclear weapons overnight. It will take at least a quarter of a century to do that. However, it is the failure to start down this avenue now that will jeopardize the non-proliferation regime that was pointed to by Honourable Senator Andreychuk.

The former head of the arms control division of the United States government, Mr. Tom Graham, has written a letter to the Prime Minister or head of state of every NATO country, our own Prime Minister included, in which Mr. Graham says:

> Reaffirmation of the old Cold War era strategy without revision would have a negative impact on the international non-proliferation regime.

•(1510)

Indeed, Mr. Graham asserts that the non-proliferation regime will be in grave jeopardy if significant progress is not made toward the implementation of the provisions of the non-proliferation treaty which call for negotiations to end nuclear weapons.

Honourable senators, we are faced finally, then, with a decision that our government will need to make. It is not enough to go out and call for no first use, which is now being discussed. The report from the committee in the other place will probably say that. It is not enough that that those who now have nuclear weapons not be the first to use them. The issue is the possession of such weapons, period. That is what the International Court of Justice has said. The world must draw its attention to that principle in order to start down the road of getting rid of them.

It ill suits our purposes to criticize India and Pakistan for what they have done unless we stand up and say to the nuclear weapons states that they must put themselves into a process of multilateral, comprehensive negotiations that will bring to an end forever the possession or use of nuclear weapons, so that my grandchildren, and the grandchildren of every senator in this chamber, will live in a safer world than the one we live in now.

[*Translation*]

Hon. Roch Bolduc: I enjoyed your speech very much. What I am wondering — and I cast no doubt on the excellent remarks I have just heard — is this: Would the world not feel safer if there was an international police force capable of intervening and settling, for example, a major problem that might arise in a given region of the world? There is a country with this capacity: the United States.

[*English*]

Senator Roche: Honourable senators, I thank the honourable senator for his question. Of course the world needs the United States, with all of its strength, capacity, history, outlook and resources, to play a leading role in the building of a new global architecture for security in the 21st Century.

The continued possession and retention of nuclear weapons by all those who now have them, including the United States, is a risk that is too great for the world to run. In answering the question of the honourable senator, I would call as my chief witness not myself but Lord Carver, the former defence minister for the United Kingdom, who said very clearly that the risks of trying to get rid of nuclear weapons are much less than the risks we have today in maintaining the status quo. There is the possibility of more outbreaks. India and Pakistan will not be the last. Other countries will go down that road. It is interesting — and this point has not yet been made today — that India and Pakistan have said very clearly, both before and after their testing, that they would join a process of negotiations that would lead to a global ban on nuclear weapons.

The question is whether the world is better off, or safer, with or without nuclear weapons. The evidence is piling up that the world would be far better off without nuclear weapons.

The Leader of the Government in the Senate undertook to respond to my question as to why Canada abstained in the nuclear weapons vote at the United Nations a week ago. I hope that the government leader will not assume that the very commendable speech given by the Honourable Senator Corbin this afternoon answered my question, because it did not. That speech repeated the explanation that was given at the time to the United Nations, in which they said that more has to be done before Canada would vote for the resolution in question. I want to know in precise terms what was contained in the resolution that was before the UN at that time, to which Canada specifically objected. I read the operative paragraph which said very clearly that 'what we are seeking here are negotiations.' Canada will need to make up its mind as to what it will do in order to support the New Agenda Coalition resolution next year.

Hon. Pierre Claude Nolin: Honourable senators, I have a question for the Honourable Senator Roche. My reading of clause 7 of the bill is that if a Canadian citizen, individual or corporation, is part of a test outside of Canada, they are subject to prosecution in Canada. Is my reading correct?

Senator Roche: I thank the honourable senator for that question. Without notice, and without study, I am not prepared to give an answer to a technical question such as that.

Hon. Bill Rompkey: Honourable senators, I have a brief question. I listened intently to Senator Roche. My question really is in regard to how nuclear weapons will be scaled back internationally. We have had precedents for that sort of thing, with START I and START II, which were international regimes respected by both sides, and which included a monitoring mechanism.

I am seeking information. My knowledge of this area is not nearly as good as Senator Roche's. If the will were there, and if the nations agreed, what would be the mechanism, and what would we need to put that mechanism in place? It is one thing to say NATO should stand down its nuclear weapons, but there is not much point in NATO doing that if other countries still have them. It must be a composite effort. That requires an international structure and an international monitoring mechanism. Perhaps the honourable senator would discuss that point for me.

Senator Roche: I thank the Honourable Senator Rompkey for his question, and for the manner in which he asked it. Of course, he is perfectly right. This issue revolves around the political will of the states concerned.

On the question of scaling back, the United States and the Soviet Union — and then later Russia — began a process, called START I, the first level of the strategic arms reduction talks, to bring the numbers of weapons down to some 7,000 deployed strategic nuclear weapons on each side. The treaty that resulted was signed and ratified by both countries. Then as time went on, they proceeded to START II, which was signed by the United States and the government of what was then Russia. That would have brought nuclear weapons down to 3,500 strategic deployed nuclear weapons on each side. START II was ratified by the United States government but not by the Russian Duma, and has sat on the agenda in that Parliament for some seven years now, although there is now talk of resurrecting that treaty and having it ratified in December.

If everything were to go perfectly in relation to the implementation of START II — which it has not, since it has not even been ratified — there would still be in the world, in the year 2007, 17,000 nuclear weapons — nuclear weapons held by all the countries who have them, and nuclear weapons of all kinds.

•(1520)

It is an illusion to think that there is a disarmament process going on in the world. There is now talk of START III. If the negotiations between the United States and Russia can be started up again, and if the treaty can then be implemented, that would bring the number down to 2,500 strategic deployed nuclear weapons on each side. Of course that would be progress. However, the other three countries that have nuclear weapons — namely, China, Britain and France — are not involved in these negotiations. It is the absence of a comprehensive set of negotiations, with a time target for completion, to which the world is objecting.

While what is called the step-by-step approach — a phrase used in Senator Corbin's speech this afternoon — has some merits, it is allowing the modernization to continue. The people of the world are under an illusion that the nuclear weapons problem has gone away when, in fact, it is still with us. That illusion is helping to maintain nuclear weapons as a cornerstone of the military doctrine.

No one is talking about unilateral nuclear disarmament. Of course it must be done comprehensively and with an intrusive inspection system under an international verification system. Such things do exist.

The Intermediate Nuclear Forces Treaty, which eliminated all mid-range nuclear weapons between Russia and the United States, has intrusive verification by which inspectors from each country go into the other country to conduct verification.

This comes back to political will. It is not technicalities or an absence of technical knowledge that prevents us from moving on this issue of critical dimensions for all humanity. Rather, it is the political will of the states concerned, which brings us right back to the new agenda coalition resolution on which Canada abstained. When we can get Canada to vote for such a resolution, we will be upholding Canadian values and telling the leaders of the nuclear weapons states that we have to move into a new century and a new millennium shorn of nuclear weapons, because they are too dangerous for the world.

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

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

Motion agreed to and bill, as amended, read third time and passed.

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT
CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved the second reading of Bill C-51, to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act.

He said: Honourable senators, I rise today to speak on the motion for second reading of Bill C-51, an omnibus bill amending the Criminal Code, the Corrections and Conditional Release Act and the Controlled Drugs and Substances Act. These amendments are not extensive or complex enough to warrant stand-alone legislation, but some of them make significant policy changes and I should like to draw the attention of honourable senators to some of the more important elements of the bill.

After some consideration, the government has decided to propose that section 227 of the Criminal Code, the "year and a day" rule, be repealed. This rule, which codifies ancient common law, blocks prosecution for causing death where more than a year and a day elapses between the last act of the accused and the death of the victim.

In earlier times, this rule set a time limit on jeopardy for homicide offences and avoided some difficult forensic problems proving factual causation. In modern times, advances in science make it easier to establish whether or not death was caused by the accused, even where death is delayed or where there are multiple causes.

The rule has been attacked in recent years. It blocks prosecutions for homicide, criminal negligence causing death, impaired driving causing death, and similar offences, forcing the Crown to proceed on a lesser charge even where causation could be proved. Modern medicine has also increased the number of possible cases by increasing the survival times of victims who later die of their injuries.

As a result of the criticisms and its own examination of the issues involved, the government now proposes, in this bill, to repeal the codification of the rule. The common law rule was revoked by the enactment of section 227 in the Criminal Code and, under the Interpretation Act, it will not be revived by the repeal.

The net effect will be that offences which involve the death of the victim will be subject to the same rules as any other offence. They can be prosecuted on the same basis whether the victim dies immediately upon commission of the offence or at an extended time afterward.

The principles for proving the causation of death are already the subject of appellate case law and this will now apply to all cases, not only those where the victim dies within a year and a day. No amendment to these rules was necessary.

The Supreme Court of Canada has said that any act which makes more than a minimal or negligible contribution to death incurs liability for the actor. If the act or omission that makes such a contribution is itself a crime, the accused will now be liable regardless of when the act or omission took place.

Another significant series of amendments in this legislation will make adjustments to the rules governing conditional sentences under the Criminal Code. These were created by legislation which took effect in late 1996. Cases on which conditional sentences are appropriate and how they should be applied are now pending before the Supreme Court of Canada.

The government intends to wait until the court has ruled on a series of issues before considering any major changes to the regime, but one problem was identified which both requires and permits earlier legislative changes to address, and this is dealt with in Bill C-51.

At present, where a conditional sentence is breached, a hearing must be held within a certain time after a summons or arrest warrant is issued and the jurisdiction of the court which will hear the matter is extinguished when the sentence is completed. The result is that courts lose jurisdiction either because a hearing cannot be held in time or the sentence itself runs out.

To respond to this, the government proposes amendments which will stop the running of time on the sentence as soon as proceedings on an allegation of breach are commenced. Where the offender is arrested or an arrest warrant is issued, the counting of time stops and the sentence remains in effect until the breach hearing is completed. Hearings would have to be held as soon as is practicable, but not within a specified time limit. During this period, if he or she is not in custody, the offender will remain subject to the sentence conditions.

Once a breach hearing is completed, the counting of time will restart. The court may also order that some or all of the time lost be recredited to the offender where it finds that there was no breach, that the offender had a reasonable excuse, or there are other exceptional circumstances. Where the court finds that there was a breach and no reasonable excuse for it, the existing provisions of the Criminal Code will still apply. The offender can be committed to serve some or all of the sentence in custody.

The proposed changes are intended to strike a balance, ensuring that conditional sentencing remains a viable option for dealing with offenders for whom custody is not the best option, that those who breach sentence conditions face appropriate consequences, that the justice system does not lose jurisdiction, and that the rights and interests of offenders serving conditional sentences are protected.

The proposed amendments also deal with several other sentencing issues.

The same major amendments which created conditional sentences in 1995-96 through Bill C-41 also created a number of general rules dealing with fines and other dispositions. The changes now proposed would clarify their application to more specific sentencing measures in the Criminal Code and the Controlled Drugs and Substances Act.

•(1530)

In the act, a rule which listed some factors that must be considered as aggravating factors for sentencing by the courts has been taken in some cases as exhaustive, preventing the consideration of aggravating factors which were not listed. This would be changed to ensure that any aggravating circumstance could be considered as such.

In the Criminal Code, the general rules governing fines would be clarified to ensure that where an offence carries a mandatory minimum sentence, a fine may be imposed in addition to that sentence but not as an alternative.

Bill C-51 also makes two changes to the Criminal Code provisions governing gambling. These have been requested by the provinces. They are intended to ensure that Canadian gambling operations are not at a competitive disadvantage. The government is convinced that they will not lead to any significant increase in overall levels of gambling activity in Canada.

Under the present provisions, running a gambling operation, participating in a game and importing gambling equipment are all offences, unless the activity which takes place is conducted and managed by the government of a province. Some types of gambling may also be operated under a licence issued by a province.

The proposed amendments would expand these exemptions in two ways.

First, the operation of dice games, which is presently prohibited completely, would be moved to the list of activities which the provinces may conduct and manage. This would ensure that Canadian casinos can compete effectively with those in the United States and in border areas where customers can easily move from one to another. It would also ensure that activity would be limited to circumstances where the provinces will have adequate security precautions to prevent cheating.

Second, games which can now be operated by the provinces will also now be permitted on international cruise ships which call on Canadian ports or cross Canadian waters. This is intended to ensure that such vessels are free to call at ports of the Atlantic provinces, Quebec and British Columbia under existing routes, and to encourage the cruise industry, which brings tourist revenues to other parts of Canada as well.

The proposed amendments also contain safeguards to prevent ships from being used to create purely domestic gambling operations. Cruises must include international waters, and no gambling is permitted while the ship is within five nautical miles of any Canadian port of call.

Some senators may know that Canada's first diamond mine opened in the Northwest Territories last month, bringing an important source of employment and economic development to that region. The government has supported and encouraged this development, which will bring an exciting new era to Canada's mineral industries. The small size and high values of rough diamonds make them a concern, however. They are a target for thieves and are ideal as a means for smuggling or laundering the proceeds of other crimes.

In order to address these concerns, the government proposes amendments to several Criminal Code provisions which have always dealt with precious metals. The government proposes to change these provisions to valuable minerals to ensure that non-metallic minerals such as diamonds are now included. The provisions had created presumptions that those in possession of precious metals or ores had stolen them or obtained them by fraud or for the purpose of committing fraud. Such provisions infringe upon the right to be presumed innocent under the Charter of Rights and Freedoms. The amendments would address this problem, bringing the rules into conformity with the Charter and case law.

Several technical issues with respect to electronic surveillance, search and seizure provisions have also arisen, and the government proposes amendments in Bill C-51 to deal with them. Current legislation allows for electronic surveillance and for installation of the necessary devices, if authorized by a court based on grounds which satisfy the requirements of the Criminal Code and the Charter of Rights and Freedoms. The law is not as clear with respect to the proper procedures for removing these devices once the investigation has concluded and the proposed amendments would deal with this in two ways.

First, the provisions governing surveillance authorizations would be clarified to ensure that the court's permission include installation, maintenance and removal of the necessary devices. Second, to deal with cases where the initial authorization has expired before the devices can be removed, the courts will be allowed to issue a second authorization to remove them and to set appropriate conditions for this.

Most of the legislative provisions governing search warrants now allow for searches to be conducted by any peace officer or any person named in the warrant. This raised questions that those not properly trained in law enforcement might be in a position of executing warrants. As a result, the proposed amendments would limit execution to police officers and public officers who have law enforcement responsibilities.

Another major concern of the government is the growing problem of telemarketing fraud. This generates such large proceeds it has become an activity of organized crime in Canada. A recent joint examination of the problem also concluded that it has exceptionally hard effects because many of the victims are senior citizens who cannot easily replace savings or assets lost to fraud offences.

The government believes that the existing Criminal Code fraud offences are sufficient to deal with actual frauds, but also recently put forward amendments to the Competition Act which would extend liability to other activities which fall short of fraud or are often done in support of frauds. These amendments were recently considered by this house in Bill C-20.

A key strategy which has been identified for combating this activity is the targeting of proceeds in order to deprive offenders of their gains and facilitate restitution to victims. Bill C-51 contains an amendment which would make the new competition act offences subject to the Criminal Code's scheme for the seizure and forfeiture of proceeds of crime, allowing these to be targeted by law enforcement.

All Canadians are concerned about the problem of domestic violence. Efforts to prosecute offenders and protect victims are often hampered by undue influence or duress exerted by offenders who may contact victims or witnesses even while in custody. In order to address this problem, Parliament acted in 1997 to create powers for the justice who denies bail to an accused person to also order that he or she not communicate with any witness or other person specified in the order.

Provincial authorities have pointed out that this power can only be used once the accused has had a bail hearing, even though he or she has usually been remanded in custody before that time, and that accused persons often try to contact victims or witnesses at the earliest opportunity. In order to address this, an amendment is proposed that would also allow the first justice before whom the accused appears to make such an order.

I mentioned that the proposed amendments include changes to the Corrections and Conditional Release Act, and Controlled Drugs and Substances Act, in addition to the Criminal Code. Since the enactment of measures to combat organized crime in 1997, concerns have also been raised about the fact that those who commit offences on behalf of organized crime may still be eligible to apply for early parole under the Corrections and Conditional Release Act unless the offences themselves are excluded.

The government regards organized crime involvement as a serious matter and proposes an amendment to the act which would exclude those who are convicted under the 1997 amendments from participating directly in the activities of a criminal organization, or who are convicted of committing any other offence for the benefit of a criminal organization.

These amendments also allow the courts to order that these offenders serve additional time before being eligible for parole and ensure that, where involvement in organized crime is proven in court, it will be on the record for the National Parole Board to consider when the offender does become eligible.

The package also contains two amendments to the Controlled Drugs and Substances Act. As I indicated, one of these affects the list of factors which may be used to impose longer sentences on offenders. The list of factors remains the same, but the preamble is changed to make sure that other aggravating factors can also be considered.

The other change corrects a legislative oversight in 1997 amendments to the act, being Statutes of Canada, 1997, chapter 18, section 140. That oversight has been addressed temporarily by regulation, which regulation will be revoked once the statutory language has been amended.

In closing, honourable senators, the amendments proposed in Bill C-51 do not make major changes to Canada's criminal justice system but they do make important changes. The changes have been sought by those who work in the criminal justice system at the provincial and federal levels. The changes will result in improvements which will make that system work more effectively. I ask that you give this legislation your support.

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

•(1540)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-seventh report of the Standing Committee on Internal Economy, Budgets and Administration (budgets of certain committees), presented in the Senate on November 19, 1998.

Hon. Bill Rompkey moved the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

TWENTY-EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-eighth report of the Standing Committee on Internal Economy, Budgets and Administration (pay scales of unrepresented employees), presented in the Senate on November 19, 1998.

Hon. Bill Rompkey moved the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

ROYAL ASSENT BILL

CONSIDERATION OF REPORT OF COMMITTEE—
MOTION IN AMENDMENT—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Bryden, for the adoption of the twelfth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-15, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament, with amendments) presented in the Senate on June 18, 1998,
>
> And on the motion in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin, that the report be not now adopted, but that it be referred back to the Standing Senate Committee on Legal and Constitutional Affairs for further consideration. —(*Honourable Senator Cools*).

Hon. Jerahmiel S. Grafstein: Honourable senators, I have mesmerized myself by reading the origins, precedents and the history of Royal Assent this past summer, which is the subject matter of Bill S-15. I anticipate, honourable senators, that I will be speaking to this matter briefly next week in an effort to refer this bill back to the Standing Senate Committee on Legal and Constitutional Affairs for further consideration.

Order Stands.

DEVELOPING COUNTRIES

STATUS OF EDUCATION AND HEALTH IN YOUNG GIRLS
AND WOMEN—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Losier-Cool, calling the attention of the Senate to population, education and health, particularly for young girls and women in many developing countries —(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I wish to respond today to remarks made earlier by Honourable Senator Losier-Cool concerning the inquiry into the status of education and health of young girls and women in many developing countries. The honourable senator brought to our attention issues on the status of women in Africa, in particular the disadvantage they face in access to education and health care. I wish to express my agreement with the concerns raised by Senator Losier-Cool, who is also my colleague in the all-party Canadian Association of Parliamentarians for Population and Development.

As honourable senators know, this association recently celebrated its first anniversary with a well-attended workshop on adolescent reproductive health in Canada and internationally. I should like to address an area of particular urgent concern that was touched upon both by Senator Losier-Cool in her remarks and by speakers at the CAPPD anniversary workshop at the end of October. That is the issue of maternal mortality.

While thankfully almost unheard of in Canada, maternal mortality is nevertheless at near epidemic levels in much of the developing world; yet, it has received relatively little attention. It is the subject of the CAPPD's first fact card on critical issues for parliamentarians.

Since the honourable senator gave us all a vivid picture of the lives of girls and women in francophone Africa, I will focus most of my illustrations on another part of the world where equal suffering is evident, South Asia.

Honourable senators, in the time I have been talking to you already today, two women have died from pregnancy-related complications. By the time I finish my remarks, several more will have died. Six hundred thousand women every year, one every minute, die from complications related to pregnancy, the leading cause of disability and death among women of reproductive age in developing countries. Some of these are teenagers, some are in their 20s and 30s, and most already have other children. They die from uncontrollable bleeding, from severe infection, from convulsions brought on by eclampsia, from obstructed labour when their pelvis is too young and too small to allow for the passage of the baby's head, and from attempting to abort unwanted pregnancies. They die in agony and fear, often alone and often after days of suffering.

To put these numbers in Canadian terms, this would be like losing 85 per cent of the population of Quebec City in one year, or all of both Regina and Saskatoon in eight months. If an epidemic of this force was happening in our country, action would be immediate, but in the developing world the tragedy has not received the attention it deserves.

When a mother dies, the consequences for the family and her surviving children are severe. Families lose the mother's contribution to the household management and the care that she has provided to children and other household members. The health, education and even survival of the remaining young children can be jeopardized. A study in Bangladesh found that when a mother dies, surviving children are three to ten times more likely to die within two years. The family also loses a mother's economic contribution.

It is well known from studies sponsored by the World Bank and others that women are more likely than men to spend their income on improving family welfare through additional food, health care, school supplies and clothing for young children. However, the costs and consequences of maternal mortality also extend beyond the immediate family concerned. Communities lose a vital member, often one who contributes significant unpaid labour to a variety of local activities, such as harvest collection, care for the sick, work in community gardens, passing on traditional skills to younger community members, and organizing celebrations. National economies also lose the productive contributions of women.

Unfortunately, there is little direct calculation of the economic impact of maternal mortality. Some comparisons can be made based on what we are currently learning about the economic impact of the AIDS epidemic in different parts of the world, particularly Africa.

In 1997, the United Nations AIDS Agency, UNAIDS, estimated that 2.3 million adults died from AIDS-related causes, among them approximately 1 million women. A *New York Times* article on November 15, 1998, suggested that in Africa, where the epidemic has been the worst, AIDS is reducing growth in per capita gross domestic product by 0.3 per cent, nearly one-third of the 1 per cent annual growth target most African countries struggle toward. Maternal mortality affected roughly a quarter of the number of people last year, though its epidemic has lasted much longer. Hence, it is likely to have one-quarter of the economic impact.

•(1550)

However, the economic impact of maternal death pales in comparison to the impact of poor maternal health in general, which contributes significantly to the cycle of poverty experienced by roughly one-quarter of the world's population. Women are at the forefront of household and community efforts to escape poverty. When women become sick, they cannot work in the home or in the paid labour force. A World Bank study in India found that productivity amongst women would be approximately 20 per cent higher if women's health problems were addressed. It is estimated that 60 per cent of women in the developing world suffer from iron deficiency with anaemia, reducing their energy and capacity for work daily, as well as creating potential life-threatening problems for them during pregnancy.

For every woman who dies from pregnancy-related complications, between 30 and 40 women experience health problems, the most serious of which will be with them throughout their lifetime. As many as 300 million women, more than a quarter of all adult women now living in the developing world, are affected by maternal morbidity.

Honourable senators, why are these women dying? The immediate medical causes of death have already been noted, but the reasons behind maternal death are worthy of some attention. The World Health Organization, which made safe motherhood the theme for the World Health Day in April of this year, attests that most maternal deaths could be prevented if women had access to basic medical health care during pregnancy, a skilled health practitioner attending during childbirth, and emergency obstetrical care if complications arise.

Every year, 60 million deliveries take place with only a family member or untrained traditional birth attendant providing care for women in labour. A skilled birth attendant is essential for ensuring hygiene, which protects both the mother and the new baby from infections, and for recognizing complications and making decisions to refer women to a higher level of care.

Because of women's low status in many developing countries, including those in South Asia, their health is generally not valued as much as men's. Without advice from skilled professionals, families may try to delay or avoid sending women for necessary emergency care or even for adequate prenatal care during pregnancy. Women have little decision-making power, and families frequently wish to avoid the direct costs of transportation and care, as well as the opportunity costs of women's absence from the fields or from the cookstove.

Improving women's reproductive health and their access to family planning is estimated to be able to eliminate between one-fifth and one-quarter of maternal mortality. The births with the most risk are those which are too early or too late in a woman's life, too closely spaced together, or simply too many. Ensuring that all women who wish to space or prevent future pregnancies have access to safe and reliable methods of contraception could prevent 150,000 deaths annually.

The WHO estimates that the cost of providing postpartum, family planning, and basic neo-natal care would be less than $5 Canadian per person per year. Basic prenatal care alone would only be about $3 Canadian. The cost of ensuring that health facilities have the necessary equipment to deal with obstetrical emergencies would be higher in the poorest countries, but improving the health infrastructure and putting in place effective referral systems at a community level would benefit the whole population, with improved health for more than just the mothers.

Taking a long-term perspective on improving the status of women will be essential to stopping the worldwide epidemic of maternal mortality. This was recognized by Canada and other countries at both the International Conference on Population and Development in Cairo in 1994 and the Fourth World Conference on Women in Beijing in 1995.

Discrimination against women in access to health care starts at or even before birth in South Asia. Strong son preference still results in the abortion of thousands of female fetuses annually, despite the fact that sex determination tests were made illegal, for example, in India in approximately 1987. Baby girls have a much higher mortality rate than boys in Pakistan and Bangladesh because they are less likely to be breast fed and less likely to be taken to a health clinic if they are ill than are their brothers. According to the 1995 human development report, South Asia is the only region in the world where female life expectancy is shorter than male life expectancy. Nearly 60 million women are "missing" if population sex ratios are compared with the natural sex ratios found in most of the rest of the world.

Honourable senators, in 1997, Canada acted as a global leader in the fight to end one of the great scourges of our time, the use of anti-personnel land mines which indiscriminately maimed and killed approximately 26,000 men, women, and children in affected countries. There is little question that Canadian initiatives greatly increased the pace with which world opinion changed about these weapons and the pace of international action.

I know that you join me in applauding these essential efforts. I hope, however, that you are also stirred, as I am, by the facts that I have presented today. The global safe motherhood campaign began in 1997; yet, estimates of the annual number of maternal deaths were actually increased in 1996, from 500,000 to 600,000, despite campaign efforts. The commitment made by governments in Cairo and other conferences to reduce maternal mortality by one half of 1990 levels by the year 2000 does not look like it will be met in most of the worst affected countries.

Surely more can be done to address this silent epidemic. If Canada, with our international reputation and commitment to human development, can take a strong leadership position, perhaps we can stimulate as much action for mothers and children as we have seen in the past few years for victims of land mines.

I call on the Government of Canada, through CIDA, to enunciate a national population and development strategy to combat maternal mortality and other related issues. For some reason, Canada has not moved on a national population and development strategy in the developing countries. This loss means a loss of women on a daily, hourly, and minute-by-minute basis. This cannot go on.

On motion of Senator Pépin, debate adjourned.

UNITED NATIONS

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS—RECENT RESPONSES TO QUESTIONS FROM COMMITTEE—INQUIRY—DEBATE ADJOURNED

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition) rose pursuant to notice of November 17, 1998:

> That he will call the attention of the Senate to the responses to the supplementary questions emitted by the United Nations Committee on Economic, Social and Cultural Rights on Canada's third report on the International Covenant on Economic, Social and Cultural Rights.

He said: Honourable senators, the purpose of the inquiry is to draw the attention of this house of Parliament to a very important event that is occurring this week in Geneva.

This week in Geneva, the Canadian ambassador at the Canadian permanent mission to the United Nations office in Geneva will be leading a delegation made up of federal government representatives and representatives from the provinces and the territories appearing before the United Nations Committee on Economic, Social, and Cultural Rights. The purpose of that meeting is to examine Canada's third report on the level of compliance that we are achieving across the country under the obligations we assumed in 1976 under the International Covenant on Economic, Social and Cultural Rights.

•(1600)

The Leader of the Government in the Senate was helpful in procuring for honourable senators a copy of Canada's response to some 81 questions that the committee posed when it first looked at the Canadian report. To help honourable senators understand what we are dealing with here, we need to look back a few years.

Earlier today, during Question Period, we had the opportunity to remind ourselves of a very important convention, a convention in the constitutional sense which was established in 1937. That convention arose as the result of a dispute between the provinces and the federal government when the federal government sought to ratify certain international labour conventions that touched upon hours of work, a matter which clearly fell under provincial jurisdiction. The government assumed certain obligations affecting provincial jurisdiction without the approval of the provinces.

That matter arrived before the Judicial Committee of the Privy Council, for in those days we did not have our own domestic supreme court. It was held that in matters which fall under provincial jurisdiction the federal government must have the concurrence of the provinces before it can ratify international treaties which would impose obligations upon the provinces.

Honourable senators will recall that that principle was very important during our own constitutional exercise in the late 1970s and early 1980s, when the proposition of whether the federal government could unilaterally patriate the Constitution became the subject matter of important court decisions. It was that very principle of consultation with the provinces that the Government of Canada recognized and followed after the setting in place in 1966 by the United Nations of two important international human rights treaties.

On December 10 of this year we will be celebrating the fiftieth anniversary of that great event when the General Assembly proclaimed the Universal Declaration of Human Rights as a universal standard of achievement for the civilized world. Although the Universal Declaration of Human Rights acquired great authority on its own strength and became part of the corpus of the customary law of nations, it was not a treaty. It contained no enforcement powers. The United Nations wanted there to be some kind of enforcement mechanism. The world community recognized that in the universal declaration one could distinguish between at least two main categories of human rights, one category being civil and political rights. I refer to the right to life or the freedom from arbitrary arrest, rights which in many ways could be described as self-executory. That is to say, rights that we would enjoy if the state did not interfere with them.

All democracies around the world had acquired a great deal of experience in dealing with the violations of those rights before the courts. Thus, we were comfortable with seeing civilian and political rights as rights which could be enforced under the model of direct judiciability. However, it was equally recognized that rights, such as the right to education or the right to health, were not so easily adjudicated as were civil and political rights.

It was decided that a different vehicle of implementation would have to be developed. Indeed, what was developed was a form of social audit. It was based on the recognition that education as a human right, or health as a human right, meant little if there were no health delivery systems or no education programs. Unlike civil and political rights which required non-interference by the state, economic, social and cultural rights required the intervention of the state. In order to see how well states were doing in implementing social, cultural and economic rights, a social audit model, or a reporting mechanism, was designed.

Thus, we find the two international covenants on human rights, one dealing with civil and political rights, and the other dealing with social, economic, and cultural rights, were opened up for ratification by the United Nations in 1966. Between 1966 and 1976, a great deal of discussion took place between the federal government and the provincial governments about whether we should ratify these two international treaties.

An agreement was reached. The ministers responsible for human rights across Canada expressed their view to the Prime Minister of the day that Canada should deposit the instrument of ratification, which we did. In August 1976, Canada ratified the International Covenant on Civil and Political Rights, as well as its optional protocol, which operates on the basis of a direct judiciability model. There is a human rights committee which complainants may address and from which judgments can be rendered.

The other instrument, the one to which we speak today, the International Covenant on Economic, Social and Cultural Rights, is enforced by virtue of a social audit. That is to say, Canada, with the concurrence of all the provinces and the territories, submits periodic reports to the United Nations committee which deals with this covenant. These reports set out the steps that we have been taking to realize greater protection and implementation of social, economic and cultural rights.

This is most important, honourable senators. During the time of the Charlottetown accord, a joint committee of the House of Commons and the Senate submitted such a report. As honourable senators will recall, there was discussion about a Canadian social charter at that time. This parliamentary report stated that these economic, social and cultural rights are privileges, not real human rights. The committee of Parliament was absolutely dead wrong. They are human rights. There is a unity to human rights. Indeed, there is the obligation to which we are attempting to comply.

Honourable senators, these instruments that are not well known are important for Canadians who are interested in the promotion of human rights. We would do well as a house of Parliament to give some focus to the tremendous work that is being done collaboratively by the provinces and the federal government in the preparation of these reports.

This house in particular with its interest in regional and provincial issues has a special interest in seeing what the provinces and the regions of our country are pointing out as the steps that they are taking to implement and give greater richness to our economic, social and cultural rights. That is the background. The reporting obligation is quite straightforward. Every five years, we must submit reports on how well we are doing in terms of meeting our education right obligations, the right to work obligations, et cetera.

•(1610)

As I mentioned, when this report was first submitted, the committee had a series of questions that they asked of Canada and those questions were answered. Dealing with the right to education, which is Article 13 of that covenant, it provides, for example, that "higher education shall become progressively freer." They use the terminology "higher education." That means that post-secondary education is to become progressively freer as an education right.

It did not take long for that committee to raise questions about the right to education. Questions 59 to 60 ask about the 62 per cent increase in post-secondary tuition fees between 1990 and 1995, as well as the result of the international literacy surveys conducted in Canada in 1994, where almost half the Canadians appeared to lack the minimal skill necessary for coping and recognizing basic difficulties.

Canada's response to those supplementary questions did not advance the view that government is morally compelled to abide by the rights prescribed in the covenant.

The tone of the federal responses to the questions indicated that Canada was not, in its view, definitively bound to enter into International Covenant and that "if the expressed provisions of a domestic statute are contrary to or inconsistent with Canada's international obligations, the former will prevail."

Honourable senators, that position must be reviewed if it is to be the position of the Government of Canada. No attention is paid to discussing means and mechanisms by which the status of the covenant's provisions may be reconciled with federal, provincial or territorial legislation. In fact, Canada's response speaks about the Supreme Court of Canada's lack of an analytical framework with which to interpret degrees of compliance.

The federal government's response to the questions posed by the committee, regarding balancing covenant obligations, domestic legislation and current and proposed trade and investment agreements, appear to have a number of deficiencies that will no doubt be examined this week in Geneva as well.

Further, on the committee question about the protection of the rights of people with disabilities, which was Question No. 6, the federal government noted in its response that the Government of Canada has attempted to strengthen human rights protections for persons with disabilities and to improve their access to the justice system.

When asked in Question No. 8 whether the government would be acting on the recommendation of the Canadian Human Rights Commission that social and economic rights be added as a field of human rights protection, the federal government stated that a comprehensive review of the Canadian Human Rights Act is scheduled to commence shortly. This is of great interest to

honourable senators, because we seem to be quite a few miles ahead of the government on this particular front since we unanimously adopted Bill S-11, which proposes to put social condition in the list of prescribed grounds of discrimination in the Canadian Human Rights Act.

I would expect that our ambassador will be pointing to that as a positive measure that is being undertaken by Parliament. However, we do know that that bill, which is now in the other place, has been under debate. On the other hand, the Minister of Justice is on the record as saying that she is not interested in having that prohibited ground of discrimination added.

There is much more, honourable senators, but my time is up. I am pleased to have had had this opportunity to draw to your attention aspects of this important report which is under examination at the United Nations this week.

On motion of Senator Cohen, debate adjourned.

PRESENT STATE AND FUTURE OF FORESTRY

AGRICULTURE AND FORESTRY COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY

Hon. Nicholas W. Taylor, pursuant to notice of November 19, 1998, moved:

> That notwithstanding the Order of the Senate adopted on November 18, 1997, to examine matters relating to the present state and future of forestry in Canada, the Standing Senate Committee on Agriculture and Forestry be empowered to present its final report no later than June 30, 1999; and
>
> That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

He said: Honourable senators, the original deadline was January but the work of the committee turned out to be more than we had originally anticipated. We have held 37 meetings, we have heard 131 witnesses, and we have visited seven different sites. We have one more site to visit and four more witnesses to hear. We will then try to put those deliberations together in a report that will go down in history. No one will be able to come to visit the Senate without demanding a copy of the report on the boreal forest.

Honourable senators, I ask the Senate to approve this motion to allow us to file the report at a later time.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, November 25, 1998, at 1:30 p.m.

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