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OFFICIAL REPORT
(HANSARD)

Tuesday, March 23, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, March 23, 1999

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw to your attention some distinguished visitors in our gallery. They are the Honourable Joseph Sempe Lejaha, President of the Senate of the Kingdom of Lesotho; and Honourable Ms Ntlhoi Motsamai, Deputy Speaker of the National Assembly of Lesotho.

Hon. Senators: Hear, hear!

The Hon. the Speaker: On behalf of all senators, I bid you welcome to the Senate of Canada.

[*Translation*]

SENATORS' STATEMENTS

THE YEAR OF CANADIAN FRANCOPHONIE

Hon. Jean-Robert Gauthier: Honourable senators, the Government of Quebec was absent Thursday, March 18, from the ceremony marking the launch of the Year of Canadian Francophonie. I was terribly disappointed by the Government of Quebec's statement to the effect that Quebec cannot be considered part of Canadian Francophonie in the same way as the minority francophone communities elsewhere in Canada.

I think it deplorable that the Government of Quebec, through its Minister of Intergovernmental Affairs, Joseph Facal, can thus deny a million of its francophone cousins, who can only take offence at such an attitude.

No one is denying that Quebec is the heart of Francophonie in North America. We, the francophones of the Canadian diaspora, appeal to our Quebec friends not to isolate themselves in their province but rather to join with us in strengthening the francophone presence across Canada.

The festivities surrounding the International Year of the Francophonie are aimed at bringing together various francophone communities in a celebration of our language and culture.

In this context, it is unfortunate that this major event was given political overtones, and I encourage the Government of Quebec to reconsider its position.

[*English*]

CANADIAN INTERCOLLEGIATE ATHLETIC UNION BASKETBALL CHAMPIONSHIPS 1999

CONGRATULATIONS TO
SAINT MARY'S UNIVERSITY HUSKIES ON WINNING

Hon. Wilfred P. Moore: Honourable senators, I rise today to make a statement in recognition of the achievement of the men's varsity basketball team of Saint Mary's University of Halifax, Nova Scotia.

This past Sunday afternoon, the basketball Huskies, ranked number seven in the nation, won the Canadian Intercollegiate Athletic Union championship in a thrilling 73-69 overtime victory over the number one ranked Alberta Golden Bears in a tournament played before a crowded Metro Centre in Halifax. This marked the first time such title has been decided in overtime.

• (1410)

Saint Mary's last won this national title 20 years ago. Ross Quackenbush, coach of the Huskies, was a member of those 1978 and 1979 teams. It should be noted that Cory Janes of Middleton, Nova Scotia, who plays centre with the Huskies, was named most valuable player of this year's tournament.

As an alumnus and one serving on the board of governors of Saint Mary's University, it is with grace and pride that we savour this gutsy victory, a victory that also speaks well of the strength and spirit of our Atlantic Universities Athletic Association. This win is also a confirmation of the balancing of academic and athletic excellence at Saint Mary's, founded in 1802 and a university where tradition meets the future. We heartily congratulate Coach Quackenbush, his team and their legion of supporters.

We also extend our thanks and gratitude to Peter Halpin, a former varsity basketball player at Saint Mary's and a member of the Huskies 1973 national championship team, and his crew of unselfish volunteers for their commitment and hard work in organizing and convening this first-class national athletic event.

HUMAN RIGHTS

INTERNATIONAL DAY FOR THE ELIMINATION
OF RACIAL DISCRIMINATION

Hon. Erminie J. Cohen: Honourable senators, in recognition of March 21, the day designated to highlight racial discrimination, I speak to Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination. Article 4 of the convention proscribes that, "...all propaganda...which are based on ideas or theories of one race or group of persons of one colour or ethnic origin or which attempt to justify or promote racial hatred and discrimination in any form..." shall be an "offence punishable by law."

That is an important commitment, and it warrants our attention. Canada, like all Liberal democracies, lays great store on the importance of freedom of thought and freedom of expression. However, all freedoms have outer limits where their use puts others at risk or unfairly libels them. That is why no one has the liberty to deliberately announce a false emergency or to besmirch the good name of a fellow citizen with lies. That is why it is not merely acceptable but essential that we have laws and policies aimed at curbing the dissemination of hateful notions.

Honourable senators, history has taught us how important it is to stop hate propaganda based on ideas or theories of the superiority of one race over another. Events during and after World War II, from Auschwitz to Bosnia and Rwanda, illustrate how important it is to prevent the peddling of hate from day one. Any given hate act violates not only the victim, but all members of the group, and exposes them to vilification and an increased risk of physical harm.

Statistics suggest that hate crimes have been on the rise in recent years. In his timely book, *Web of Hate*, Warren Kinsella extends our understanding of such crimes. B'nai Brith's audit of anti-Semitic activity indicates that such acts have increased 200 per cent in the last 10 years. In the City of Toronto, police reports indicate that hate crimes rose by 22 per cent in 1998 over the previous year.

The propagation of hate is targeted especially at youth, and this could have disturbing effects if not effectively countered. Hate mongering and hate crimes fly in the face of all that Canada has come to stand for.

The influence of the Internet and helping to spread the message of hate is a sinister medium. Are we to allow the marketers of hate to spread their venom using the latest in technology with impunity? It is encouraging to see that the Canadian Human Rights Commission has launched an Internet game aimed at young people to fight hatred based on others' race, religion or sexual preference, and that the commission has been using its statutory powers to prosecute some of those who abuse the Internet to fan the flames of racial and ethnic resentments.

The Kinsella book helps us to better understand that the far right is no mere amorphous bunch who deny that the Holocaust occurred. The question is: What can be done about them? In this context, I commend the Federation of Canadian Municipalities, a major organization representing about 600 municipalities and 70 per cent of Canada's population, for its strong resolutions on this issue. Hats off in particular to the mayors of Toronto, Regina, Halifax and other cities for their outspokenness.

The Government of Canada has not always taken the lead on this front, especially in recent years, though it was the Trudeau administration that adopted and promoted the idea of multiculturalism, and it was the Mulroney administration that passed the Multiculturalism Act in 1988. However, the present government has done much less to promote multiculturalism, and perhaps it has something to do with the polls that show weak public understanding of and support for the concept. If this is the case, it is the case of placing expediency over principle.

Honourable senators, a good government has a role to educate and to lead, not be influenced by the polls. Multiculturalism is good public policy for a country as diverse as Canada and is one important way we meet our commitments under the convention, which we signed in 1966 and which came into force in 1970.

[*Translation*]

QUEBEC

Hon. Lise Bacon: Honourable senators, for some months I have been restraining myself from publicly expressing the considerable discomfort I experience witnessing the disgraceful spectacle in which the Parti Québécois and its leader, Lucien Bouchard, are engaged. Certain remarks made last week by the Quebec premier while in Paris, however, have made me overcome this reserve.

Unable as he is to offer anything new and stimulating to Quebecers and anxious as he is to camouflage the negligence of his government, in recent months the premier has been bringing up the memory of deceased Quebec politicians, who are unable to object to the way their names are being made use of. One former Quebec premier after another is being dredged up to defend a cause the current premier himself finds it hard to defend. The last one conscripted was Robert Bourassa.

This attempt to score political points from the memory of a man with whom I worked for 30 years is all the more repugnant when the person who does so is a premier whose senior advisor has not hesitated to attack Robert Bourassa.

Above and beyond this abuse of a person's memory, this entire affair is evidence of a certain malaise in Quebec. Lucien Bouchard is making use of the nostalgia Quebecers feel for Robert Bourassa, and no one can help feeling such nostalgia in light of the pitiful spectacle the government is putting on to disguise the PQ's lack of ideas and vision.

Instead of solving the problems in the health and educational fields, except by pouring a paltry few extra millions into some of the exhausted institutions, the premier prefers to promote his sovereignist option abroad, passing himself off as the champion of cultural diversity. No one was taken in by his little ploy. If the Bouchard government were really interested in protecting cultural diversity, it would have been present last week in Hull when the Year of the Francophonie was launched. How can anyone believe a government that boasts abroad that it celebrates diversity, while it shows itself incapable of doing so alongside the francophone communities of Canada?

Robert Bourassa would not have offered such an insult to the francophones of Canada. Nor would he have made use of an international forum to divert the attention of Quebecers from their true concerns.

[*English*]

JUDGE JAMES IGLOLIORTE

FIRST INUIT PROVINCIAL JUDGE OF NEWFOUNDLAND AND LABRADOR—CONGRATULATIONS ON HIGH ACHIEVEMENT AWARD

Hon. Bill Rompkey: Honourable senators, on March 11 in Toronto, 14 distinguished aboriginal people in this country were awarded recognition. These aboriginals displayed strong talent and high achievement in Canada's aboriginal communities. The Canadian Imperial Bank of Commerce was the founding sponsor.

I rise because one of those recipients was Judge James Igloliorte, the first provincially appointed Inuk judge in Newfoundland and Labrador. Judge James Igloliorte is a former student of mine, and those of you who have been or are teachers now will understand the special joy that comes from seeing a former student do well. This is a young man of ability, integrity, character, and a young man who, on the bench, has already made ground-breaking decisions on behalf of aboriginal people in Canada. I rise today to offer him my warmest congratulations, not simply as a judge and one of the few aboriginal judges in Canada, but as a role model for those young people on the Labrador coast who will come after him.

HUMAN RIGHTS

INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

Hon. Terry Stratton: Honourable senators, I wish to continue with a statement along the lines of the one given by Senator Cohen. The signatories of the convention undertook to adopt immediate and effective measures, particularly in the field of technology, education, culture and information, to combat prejudices which lead to racial discrimination, and to promote understanding, tolerance, and friendship among nations and racial or ethnic groups.

• (1420)

We are pleased to note that Canada has taken several initiatives through its multicultural programs, as envisaged in the Canadian Multiculturalism Act adopted in 1988 at the initiative of Brian Mulroney, notably in what might be termed "public education." One important example is the March 21 campaign which seems to be reaching more and more Canadians, and even some persons abroad.

Also of note is the work of the League for Human Rights of B'nai Brith Canada which last year organized a conference aimed at understanding the problem of hate on the Internet, its human rights implications, and the options available to control its proliferation. One result was the development of the SchoolNet's Law Room. This Web site teaches students about law in general and hate crimes in particular and encourages youth across Canada to communicate and learn from each other about diversity. They are able to enter the debating room on the site to discuss the issues with students from across Canada and around the world.

B'nai Brith Canada's international symposium on hate on the Internet brought together police officers and others who work on these problems, as well as members of the groups which are the targets of such propaganda. We applaud their efforts to stimulate the sharing of information and to have the parties develop legal, educational and community-based ways to remove hate discourse from the Internet.

The activities of the RCMP in the field of hate and bias crimes is also worth mentioning. In cooperation with other police organizations in Canada, the RCMP attempts to prevent, counteract, and eliminate hate crimes. The other organizations include the Canadian Association of Chiefs of Police and the Canadian Centre for Police – Race Relations.

Finally, we note that there are a few initiatives taken by the current government to combat hate crime. Among them are: conducting a review of international developments in the field and publishing the results, in 1995, in "Responding to Hate: An International Comparative Review of Program and Policy and Responses to Hate Group Activities"; producing a report, "Combating Hate on the Internet: An International Comparative Review of Policy Approaches," of January 1998; publishing the monograph "Standing up to Hate: Legal Remedies Available to Victims of Hate Motivated Activity — A Reference for Advocates," of September 1998; releasing publications, posting special materials on Internet Web sites, and supporting the issuance of a special stamp in honour of the fiftieth anniversary of the Universal Declaration of Human Rights.

These proactive and largely preventive efforts are salutary. They complement the work of the federal and provincial human rights commissions in dealing with complaints about racial discrimination and hate-mongering and should be redoubled.

Hon. Mabel M. DeWare: Honourable senators, I should like to continue on the discussion of the Convention on the Elimination of All Forms of Racial Discrimination.

The first articles of the Convention on the Elimination of All Forms of Racial Discrimination prohibit discrimination while calling for special measures, where required, to advance equality and human rights. In framing its human rights legislation and the Charter of Rights and Freedoms, Canada has taken heed of these principles. The possibility of adopting special measures as an essential but temporary response to a situation of clear disadvantage is provided for in both section 15 of the Charter and section 16 of the Canadian Human Rights Act.

Canada has pioneered a way of thinking about and implementing non-discrimination and special measures in the field of employment. Judge Rosalie Abella's concept of employment equity — a term intended to distinguish the Canadian variant from American affirmative action — is now the law in the federal jurisdiction. Based upon efforts to identify and

remove barriers to equal employment opportunity, and a willingness to adopt special measures where clearly warranted, employment equity is all about ensuring that the sources of discrimination are treated, not only the symptoms.

The Abella commission report "Equality in Employment" led to the introduction of the first Employment Equity Act by the Honourable Flora MacDonald in 1985, with proclamation in 1986. It set employment equity requirements for federally regulated private sector employers with respect to four distinguished groups: women, aboriginal peoples, persons with disabilities, and members of visible minorities.

Subsequent to the Redway report, an expanded Employment Equity Act was passed. This new law extended coverage to the federal public service, clarified employers' obligations, and provided for enforcement by the Canadian Human Rights Commission. It also provided, where necessary, binding adjudication by an employment equity review tribunal constituted from the human rights tribunal. The new legislation came into force in October 1996.

Although it has flaws, Canada's employment equity laws have contributed to some important progress. Most notable are the gains made by designated group members — especially members of visible minorities — in the federally regulated private sector such as the banks. The inclusion of the public sector under the Employment Equity Act meant that federal departments which had taken little substantive action to advance equality would be required to do so.

Employment equity is not, and has never been, about quotas or reverse discrimination. Yes, like any sensible business plan, employment equity uses numbers and measurable goals. Yes, it allows for special efforts to be made in order to break vicious circles of exclusion from the workplace. However, these are not forms of discrimination. They are critical steps in the direction of genuine equality.

Canada's experience with employment equity is looked to by many countries for inspiration. We have reason to be proud of the way that we as Canadians have chosen to confront ingrained employment discrimination and give real meaning to the promise of the convention and similar international agreements.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the gallery of a delegation of senior officials from the House of Lords of the United Kingdom, who are visiting our Parliament to inquire into the information systems of parliamentary data and the video network.

Hon. Senators: Hear, hear!

The Hon. the Speaker: On behalf of all honourable senators, I bid you welcome to the Senate of Canada.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-SECOND REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, March 23, 1999

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

THIRTY-SECOND REPORT

Your Committee recommends that the Senate's current reliability policy be replaced by a more comprehensive Security Accreditation Policy for all personnel.

This new Security Accreditation Policy would apply to all new Senate personnel, contractors and outside service providers.

Senators should bear in mind that a security accreditation check is intended as a systematic pre-hiring procedure and that the final decision to retain someone, once all pertinent policy steps have been applied, always rests with them.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

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

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

FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Terry Stratton, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, March 23, 1999

The Standing Senate Committee on National Finance has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-65, An Act to amend the Federal-Provincial Fiscal Arrangements Act, has, in obedience to the Order of Reference of Tuesday, March 16, 1999, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TERRY STRATTON
Chairman

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

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

• (1430)

BUSINESS OF THE SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE AND SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senator, I move, seconded by the Honourable Senator Austin, with leave of the Senate and notwithstanding rule 58(1)(*a*):

That the Standing Senate Committee on Legal and Constitutional Affairs and the Standing Senate Committee on Social Affairs, Science and Technology have power to sit while the Senate is sitting tomorrow, Wednesday, March 24, 1999, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

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, March 24, 1999, at 1:30 p.m.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, could the Deputy Leader of the Government tell us about the schedule for tomorrow? It is possible that the Senate will sit all afternoon because the government wants to pass a bill on labour relations. Could the deputy leader give us some information on this?

[*English*]

Senator Carstairs: Honourable senators, tomorrow is a day that we cannot explicate at this particular point in time. If later today the House of Commons sends to us the labour legislation concerning PSAC, then it would be our hope to deal with that tomorrow in Committee of the Whole. If, of course, they do not send it to us later this day, then we must deal with the bill on Thursday.

In addition, some other very important things are happening tomorrow. There will be tributes to Senator Orville Phillips, which I expect, and hope, will go on for a very long time.

In addition, Chairman Arafat will be in the gallery for a very brief period of time. He will be introduced to senators at that time, and then there will be an informal meeting with him and those senators who wish to attend at about 3:05 p.m. I would advise honourable senators to watch their e-mail, since I cannot give any more detail than that at this time.

At this point, I cannot say how long tomorrow's sitting will go on. That is why I have asked permission for both committees to sit while the Senate is sitting.

Senator Kinsella: Honourable senators, I wish to thank the Deputy Leader of the Government in the Senate for her explanation. As honourable senators can see, tomorrow will be a busy day. It would be helpful if the honourable senator could secure for us a copy of the labour bill, recognizing that it may well not be in its final form until it is voted upon in the other place. However, it might help if we had a copy with which to start our research today.

Senator Carstairs: Honourable senators, I will try to obtain copies as soon as possible for all members of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT MEETING OF PARLIAMENTARY ASSEMBLY, DEFENCE AND SECURITY, ECONOMIC AND POLITICAL COMMITTEES—REPORT OF CANADIAN DELEGATION TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the eighth report of the Canadian NATO Parliamentary Association which represented Canada at the Joint Committee Meeting of the NATO Parliamentary Assembly Defence and Security, Economic and Political Committees, held in Brussels, Belgium, on February 14 and 15, 1999.

NEWFOUNDLAND AND LABRADOR

FIFTIETH ANNIVERSARY OF CONFEDERATION—
NOTICE OF INQUIRY

Hon. Ethel Cochrane: Honourable senators, I give notice that on Thursday next, March 25, 1999, I shall call the attention of the Senate to the fiftieth anniversary of Newfoundland and Labrador's Confederation with Canada.

QUESTION PERIOD

NATIONAL DEFENCE

COMMEMORATION OF FOUNDING OF HALIFAX—
POSSIBLE RESURRECTION OF HALIFAX RIFLES REGIMENT—
GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is directed to the Leader of the Government in the Senate. I have given up on asking questions about helicopters; I am finding it futile. Instead, I will move on to something more in his range. Incidentally, I have put him back down to chief petty officer. I have stripped him of his stripes. He has to earn them back, perhaps with a gracious response to this question. Carried through on firm action, supported by Senator Moore, he might gain them back before summer.

My question has to do with matters that have been raised in this place before. Could the minister tell us and, through this chamber, the people of Nova Scotia, in particular the people of Halifax, the results of his attempts to resurrect the Halifax Rifles in time for the upcoming birthday celebrations in Halifax?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have discussed this matter with the Minister of National Defence and with local authorities in Halifax. So far, I have been unsuccessful. With the urging of Senator Forrestall, I will again renew my efforts toward achieving that goal.

Senator Forrestall: Then I have been somewhat remiss in not prodding you about this matter.

RESTRUCTURING OF RESERVE UNITS IN ATLANTIC CANADA—
POSSIBLE CLOSURE OF RESERVE BRIGADE HEADQUARTERS AND
DEMISE OF INFANTRY BATTALIONS—
GOVERNMENT POSITION

Hon. J. Michael Forrestall: It is my understanding that Atlantic Canada is about to lose one of its reserve brigade headquarters and possibly see the demise of some of its reserve infantry battalions. Would the minister use his good offices and arrange a briefing for honourable senators from the land forces advisors' cell with regard to the restructuring of the reserves in Atlantic Canada and, indeed, in Canada as a whole, if time permits?

Hon. B. Alasdair Graham (Leader of the Government): That is an excellent suggestion. I shall take it to my colleague the Minister of National Defence.

PRIME MINISTER'S OFFICE

CONGRATULATIONS ON APPOINTMENT OF MINISTER
FOR THE HOMELESS—REQUEST FOR PARTICULARS

Hon. Erminie J. Cohen: Honourable senators, it has been reported in today's *Toronto Star* that the Prime Minister will announce Canada's first minister for the homeless, the Honourable Claudette Bradshaw, Minister of Labour.

As co-chair of the Progressive Conservative Task Force on Poverty and as a fellow New Brunswicker, I congratulate Minister Bradshaw, and I commend the government for this appointment. Minister Bradshaw's long history and active involvement with Moncton Head Start certainly gives her the needed credentials in leading the fight against homelessness. I am sure we can expect exciting and concrete results from this new ministry.

Can the Leader of the Government provide this chamber with a copy of the mandate for this new ministry?

Hon. B. Alasdair Graham (Leader of the Government): I would be happy to do that, honourable senators. As a matter of fact, I have in my hand the announcement made by the Prime Minister.

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Read it.

Senator Graham: I am happy to read it. When it has been translated, I will have it tabled.

• (1440)

The Prime Minister announced today that he has appointed Minister of Labour Claudette Bradshaw to coordinate the Government of Canada's activities related to Canada's homeless.

Reducing homelessness is an urgent and complex issue in which all governments — federal, provincial, territorial, and municipal — as well as communities have a role to play. With her experience and background in dealing with similar community-based social issues, Minister Bradshaw is ideally suited to see to it that federal initiatives that directly address the needs of homeless Canadians complement those of other governments and local communities. Prior to entering politics, Mrs. Bradshaw served as Atlantic representative on the National Welfare Council and was a member of the New Brunswick Housing Task Force and the Moncton Housing Coalition. She also founded Moncton Head Start.

Hon. Marjory LeBreton: Honourable senators, on a point of clarification, is that a ministerial position, or is she just playing a coordinating role in her present capacity as Minister of Labour?

Senator Graham: Honourable senators, I do not believe it is a ministerial position. I believe it is really a coordinating role. I understand that a conference on the issue of homelessness will be held in Toronto later this week, which Minister Bradshaw and other ministers will be attending.

Senator Kinsella: Honourable senators, that is an excellent appointment, and I commend the government and the Prime Minister for making it. Mrs. Bradshaw is an excellent appointee to that task.

Can we take it that her function will be known as "the Minister Responsible for the Elimination of Homelessness?"

Senator Graham: I do not know. It is the Prime Minister's prerogative to make the official designation.

Minister Bradshaw, as a matter of fact, will be accompanied at the conference to be held on March 25 in Toronto by the Minister of Transport, Minister Collenette. I presume that a government announcement may be expected concerning what is being called the summit on homelessness, which has been convened by the Mayor of Toronto, Mel Lastman.

TREASURY BOARD

EMPLOYMENT EQUITY IN THE SENATE— GOVERNMENT POSITION

Hon. Consiglio Di Nino: Honourable senators, we have been talking for the past two or three sessions about the elimination of racial discrimination, and that takes many forms. In my opinion, it includes things like employment equity, justice, and opportunities for all. I suggest that the most successful Canadian employment equity program ever undertaken, and I applaud the Government of Canada for having made this decision, was to have both official languages well represented on the Hill. I think it has succeeded even beyond the imaginations of those who hoped for it. I, and I am sure all members of the Senate, unlike members of the other place, applaud that initiative, and I think we should be grateful for it.

My question to the Leader of the Government in the Senate is this: Since we have been talking about racial discrimination and equal opportunity, we have raised this subject a number of times, both here and in the Standing Committee on Internal Economy, Budgets and Administration. Does the minister have an answer as to how well our own efforts have gone towards ensuring that the Senate represents, at least in a better way, the makeup of this country today?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Honourable Senator Di Nino raises a question which has been raised on several occasions by his seatmate, Senator Oliver. I have discussed this matter with the Chairman of the Standing Committee on Internal Economy, Budgets and Administration. He has indicated that the committee is cognizant of the representations that have been made.

As I said as recently as last week, it is incumbent upon all honourable senators, when they are staffing their own offices, to take into account the representations that have been made consistently by Senator Oliver and others in this chamber. The chairman of the Standing Committee on Internal Economy, Budgets and Administration has pointed out that there has been little hiring done in the last four or five years in the Senate. The Chairman has also indicated that he will soon report with respect to the progress that is being made regarding this issue.

Senator Di Nino: Would the minister, or perhaps the chairman of the committee, give us some sort of time frame as to when we can expect a report card on our progress to date?

Hon. Bill Rompkey: Honourable senators, in fact, I have a report which I received just today from the clerk. It will be discussed by the committee at the earliest possibility. I want all members of the committee to read it and come prepared to discuss it. It is high on the agenda. We intend to deal with it soon. We consider it a very important issue indeed.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on March 3, 1999 by the Honourable Senator Ethel Cochrane regarding the Millennium Scholarship Foundation, appointment to board of Grand Chief of Assembly of First Nations and requests for particulars on salary arrangements; a response to a question raised in the Senate on March 9, 1999, by the Honourable Senator Janis Johnson regarding storage of nuclear fuel waste on remote northern sites and discussions with Assembly of First Nations; and a response to a question raised in the Senate on February 17, 1999, by the Honourable Senator Donald H. Oliver regarding the Employment Insurance Fund, accumulation of surplus in funds and budget reduction as premiums.

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION— APPOINTMENT TO BOARD OF GRAND CHIEF OF ASSEMBLY OF FIRST NATIONS—REQUEST FOR PARTICULARS ON SALARY ARRANGEMENTS

(*Response to a question raised by Hon. Ethel Cochrane on March 3, 1999*)

> The legislation relating to the Canada Millennium Scholarship Foundation indicates that directors may be paid remuneration in amounts determined by the Board of the Foundation. The directors may also be reimbursed for reasonable expenses incurred in performing their duties or attending meetings of the Board.
>
> Any remuneration will be paid from the funds of the Foundation, which was established by legislation as an independent body from government.

The Board of the Foundation has not yet addressed this issue, but rather has focused its efforts in ensuring that the scholarships are ready to be awarded to students as early as possible.

NATURAL RESOURCES

STORAGE OF NUCLEAR FUEL WASTE
ON REMOTE NORTHERN SITES—DISCUSSIONS WITH
ASSEMBLY OF FIRST NATIONS—GOVERNMENT POSITION

(*Response to question raised by Hon. Janis Johnson on March 9, 1999*)

Any allegations about native people's land being targeted for a nuclear fuel waste disposal site are completely erroneous.

Last November, the Government was preparing its Response to the Seaborn Panel recommendations, one of which was that "The federal government should immediately initiate an adequately funded participation process with Aboriginal people, who should design and execute the process." On November 12, 1998, officials from Natural Resources Canada and Indian and Northern Affairs Canada met with officials from the Assembly of First Nations (AFN). The purpose of the meeting was to get advice from the AFN on how best to initiate a consultation process with Aboriginal groups should the federal government decide to agree with the Seaborn recommendation. AFN officials were very helpful in providing a list of their members to whom the Government Response to the Seaborn Panel report should be sent and with whom initial contact would be made if the federal government were to initiate an Aboriginal consultation process.

In December 1998, when the Government released its response to the Seaborn Panel, the Minister of Natural Resources wrote to the head of the AFN as well as the heads of the Inuit Tapirisat of Canada, the Métis National Council, the Congress of Aboriginal People, and the Native Women's Association of Canada. The letter made clear that the purpose of the meeting was to develop a process that would enable Aboriginal people to have meaningful input on the preferred approach for the long-term management of nuclear fuel waste.

The concept of deep geologic disposal of nuclear fuel waste in the stable rock of the Canadian Shield is the only disposal option being considered for nuclear fuel waste. It was developed by Atomic Energy of Canada Limited (AECL) and meets Atomic Energy Control Board regulatory requirements that disposal should not rely on institutional controls past a reasonable period of time and can provide passive safety in the long-term.

The Seaborn Panel recommended that practicable long-term waste management options, specifically, storage at the reactor sites, centralized above ground storage, and centralized below ground storage, should also be developed.

The Government, in its December 3, 1998 Response to the Seaborn Panel, agreed that the storage options should be developed and a comparison made of the risks, costs and benefits. Such options should, like the AECL disposal concept, allow for a balance to be maintained between the present regulatory requirement for passive safety and the ability to retain institutional control.

Nuclear fuel waste is the nuclear fuel bundles discharged from the 22 Canadian CANDU reactors. Twenty of these reactors are owned by Ontario Hydro and the other two are owned by Hydro-Québec and New Brunswick Power. All three utilities are owned by their respective provincial governments. Atomic Energy of Canada Limited (AECL) has a small amount of waste from its prototype and research reactors. Each bundle of nuclear fuel produces about 1 million kilowatt-hours of electricity, equivalent to burning about 400 tonnes of coal, and enough to supply about 100 homes with electricity for a year.

The lifetime of a fuel bundle in the reactor is roughly 18 months. At the end of that period, the fuel bundle is removed from the reactor and stored in water-filled bays at the reactor site. After a period of approximately 10 years of cooling and radioactive decay, the bundles are removed and stored in above-ground concrete canisters either at the reactor site where they were generated, or at a central site. At present, roughly 1.3 million used CANDU fuel bundles are stored at Canadian nuclear reactor sites. This represents the waste output of 344 years of reactor production and equates to 1,200 terawatt hours of electricity produced. The waste would fill roughly three regulation-size hockey rinks up to the top of the boards.

EMPLOYMENT INSURANCE FUND

ACCUMULATION OF SURPLUS IN FUND—
ADEQUACY OF BUDGET REDUCTIONS IN PREMIUMS

(*Response to question raised by Hon. Donald H. Oliver on February 17, 1999*)

The Employment Insurance Account has been accounted for as part of general government operations since 1986, as recommended by the Auditor General. And under the current system, accumulated surpluses are used temporarily by the government, which credits interest to the Account.

Canadians expect their government to make intelligent choices about how to spend their money effectively. The government believes it has made the right choices: in health care; in skills training and higher education; and in tax relief for Canadians.

The debate on the EI account is ongoing and we should continue and encourage this debate. We need to decide together on how programs that benefit all Canadians should be funded.

ANSWER TO ORDER PAPER QUESTION TABLED

NATIONAL DEFENCE—NEW ARMOURIES IN SHAWINIGAN

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the answer to Question No. 140 on the Order Paper—by Senator Forrestall.

PRIVATE BILL

ROMAN CATHOLIC EPISCOPAL CORPORATION OF MACKENZIE—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-20, to amend the act of incorporation of the Roman Catholic Episcopal Corporation of MacKenzie, and acquainting the Senate that they have passed this bill without amendment.

WAR VETERANS ALLOWANCE ACT PENSION ACT MERCHANT NAVY VETERAN AND CIVILIAN WAR-RELATED BENEFITS ACT DEPARTMENT OF VETERANS AFFAIRS ACT VETERANS REVIEW AND APPEAL BOARD ACT HALIFAX RELIEF COMMISSION PENSION CONTINUATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Leave having been given to revert to Reports of Committees:

Hon. Lowell Murray, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, March 23, 1999

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

EIGHTEENTH REPORT

Your committee, to which was referred the Bill C-61, An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof, examined the said Bill and now reports the same without amendment, with the following observation:

That the Government seriously consider making the fair settlement with Merchant Mariners an immediate priority.

Respectfully submitted,

LOWELL MURRAY
Chairman

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

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

[*Translation*]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I would like to introduce to you a page from the House of Commons who was chosen to participate in the pages exchange program with the Senate, for this week, March 22 to 26.

Lisa Robichaud, from Cavendish, Prince Edward Island, is a student in the Faculty of Arts at the University of Ottawa. I welcome her to the Senate.

[*English*]

ORDERS OF THE DAY

CANADA CUSTOMS AND REVENUE AGENCY BILL

THIRD READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Deputy Leader of the Government) moved third reading of Bill C-43, to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence.

She said: Honourable senators, it is with great pleasure that I rise today to open the debate at third reading of this bill. I should first like to highlight the work of the Standing Senate Committee on National Finance. The members of this committee did an excellent job in their review of all aspects of this legislation and in questioning the many witness who were heard during the detailed study of this bill.

[*Translation*]

The parts of Bill C-43 that interested the committee had to do with the human resources components of the new agency and its accountability. My speech today will examine these aspects of the bill.

[*English*]

As part of the extensive consultation that Revenue Canada conducted on how to improve its human resources processes, employees, union representatives and managers were adamant that the existing system was complex, legalistic, lengthy and time-consuming. To this effect, committee members heard from the assistants of the Auditor General that, under the present system, there are long delays in the competition process.

One of the witnesses, Mr. Minto, provided the committee with an example of a competition for an international tax advisor. This competition closed in October 1996 but the eligibility list was not established until 18 months later. This example is not unusual. It currently takes up to 12 months to staff a position at Revenue Canada. As you can see, honourable senators, maintaining the status quo is not an option; neither is waiting for a major restructuring of the entire public service in the area of human resources.

Revenue Canada's business volumes are rapidly increasing. Business service demands are significantly rising. To further evolve as a modern tax and customs administration, Revenue Canada must possess the operational flexibility to streamline and tailor its human resources system. Agency status is required to meet the unique needs of Revenue Canada and its employees.

With the authority to develop its own staffing program in accordance with certain stated principles and directives, the agency will be able to recruit highly qualified personnel in a more efficient and expeditious manner.

Under the new agency, it will be possible to reduce the number of occupational groups and levels, which will make it easier for employees to move between jobs, thus enhancing career mobility while meeting the service requirements of the agency clients. It was suggested during the study of this bill that employees of Revenue Canada would lose their jobs once they were transferred to the agency and their two-year employment guarantee would expire. This is simply not true. Honourable senators, I should like to highlight a selection of the guarantees that will protect Revenue Canada employees during the transformation to agency status.

All employees of Revenue Canada will be employees of the agency, in the same positions and with the same job duties, when Revenue Canada is transferred to an agency. Employee benefits such as health, disability insurance, dental plans, accumulated leave credits and pension benefits under the Public Service Superannuation Act will also be transferred. Collective agreements in place at the time of the transfer will carry over until they are renegotiated. Employees will receive benefits from any pay equity settlements. Employees will continue to have access to recourse under the Public Service Staff Relations Act. Bill C-43 requires staffing recourse as well as an independent assessment of all recourse mechanisms after three years.

Witnesses who appeared before the Standing Senate Committee on National Finance suggested amendments to Bill C-43 in the area of human resources. Allow me to explain briefly why the proposed amendments will make the human resources processes less efficient, less transparent and more cumbersome.

The first amendment concerns third party recourse and redress mechanisms and would add a new portion to clause 59 of the bill. Revenue Canada wants to preserve the employees' fundamental rights while retaining flexibility. For this reason, it chose not to entrench the agency's human resources regime in legislation. Rather, it favours a non-litigious, flexible system with powerful parliamentary accountability. Full accountability to Parliament, as set out in Bill C-43, will replace the legislative process.

[*Translation*]

In addition, clause 54 of Bill C-43 guarantees recourse mechanisms for employers and employees.

[*English*]

With the new agency, employees will have access to different options that are fair and timely, and include access to an independent third party. It will be in stark contrast to the complex and legalistic processes that now exist and which frustrate employees and managers equally.

Also under the agency classification, recourse will not change and will still be covered by the Public Service Staff Relations Act, which establishes the basic rules concerning relationships with unions.

It has also been proposed that clause 51 of Bill C-43 be amended to provide for the National Joint Council directives to be carried over to the agency. These directives are agreements on working conditions that cover such matters as health and safety, travel and relocation allowances, bilingual bonuses, et cetera.

Honourable senators, the Financial Administration Act, to which the agency is subject, clearly indicates that National Joint Council directives are not to be carried over when a portion of the public service is transferred to separate employer status. This is done specifically to ensure that organizations like the proposed agency can adapt these directives to best suit their unique circumstances. This does not mean, however, that the policies covered by these agreements are about to disappear.

In this respect, the agency will work in concert with the unions to develop agency policies that are fair, and that meet both business and employee needs.

[*Translation*]

In fact, a union-management team is already working to create such mechanisms and should be submitting recommendations shortly.

[*English*]

The set-up of this team is, in my opinion, a tangible gesture that the agency is committed to cooperation and openness in dealing with employee issues.

Another suggested amendment in the area of human resource management was to clause 54(2) of the bill, the negotiation of staffing. Under the Public Service Staff Relations Act and the Public Service Employment Act, staffing, as well as classification, is not now negotiated. Therefore, it does not form part of current collective agreements. This would continue under the agency.

I would like to reiterate what Minister Dhaliwal stated before the Standing Senate Committee on National Finance, that moving to agency status does not mean that the employees will not be a part of the government. Employees of the agency will remain in the Public Service of Canada. The Public Service Commission will report to the agency and verify if its staffing program is consistent with the principles set out in the summary of the corporate business plan. This report must be included in the agency's annual report to Parliament. In addition, after the first three years, and continuing periodically after that, there will be an independent assessment of the agency's recourse system, and this assessment will be published in the agency's annual report. The Public Service Commission may also review the compatibility of the agency's staffing principles with those governing staffing under the Public Service Employment Act and publish its findings in its annual report to Parliament.

Honourable senators, I hope you will find these guarantees assuring.

The last proposed amendment that I shall address today is to clause 31 of the bill, which deals with bargaining agent representation on the agency's board of management. I should like to stress that, in selecting board members, the government will consider candidates who have the experience and capacity required for discharging their functions. In this regard, nothing will prevent the government from considering a proposal from the agency's unions for a person with labour relations expertise. However, as a board member, such an appointee would be required to act in the best interests of the agency, and not represent any specific group or interest.

Honourable senators, accountability provisions were also a serious issue for many people who appeared before the National Finance Committee. However, I believe that accountability measures are strengthened as a result of Bill C-43. For instance, the creation of an agency addresses provincial and territorial concerns for a greater say in tax administration by giving them the authority to nominate candidates for appointment to the board of management.

• (1500)

In the case of New Brunswick, the federal government administers personal income taxes, corporate income taxes, credits and rebates relating to income tax, harmonized sales taxes, taxes at the border, and provincial benefit programs. Yet the Province of New Brunswick currently has no representative in Revenue Canada.

I would be the first to tell you, honourable senators, that Revenue Canada administers in more areas for New Brunswick than it does for any other province. However, they administer taxes in five areas for British Columbia, in four areas for Manitoba, and in five areas for Saskatchewan. The move to agency status and the establishment of a board of management would ensure provincial representation.

[*Translation*]

The bill also requires the agency to consult the provinces and territories and to report on its performance, thereby increasing its accountability for these programs and services.

[*English*]

In addition, the commissioner of the agency will hold annual accountability sessions with provincial and territorial ministers of finance where the agency administers a tax or a program.

To conclude, when the Assistant Auditor General was questioned by committee members on accountability measures, he responded that his office had been consulted on both the auditing and accountability provisions of the proposed legislation and that he the Assistant Auditor General, was comfortable with the provisions as currently drafted.

I thank you, honourable senators, for your time in considering this bill, and for allowing me the opportunity to address and, perhaps, clarify some of the outstanding issues raised in committee.

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

Honourable senators, can Senator Carstairs let us know whether she expects that the speech she has just given at third reading will be the one that will appear on Revenue Canada's Web site, or will they publish a different speech, as they did at second reading?

Senator Carstairs: Honourable senators, I will inform Senator Kinsella, as well as other honourable senators, that I took great exception to the fact that the speech, first of all, went on their Web site without any consultation with me, and even then it was not the right speech. I have been assured that the situation has been corrected, and I have been assured that, in the future, they will both ask my permission and take a look at the Senate Hansard and use the appropriate speech when covering the Senate of Canada.

Senator Kinsella: Might the honourable senator let the chamber know whether or not the speech she has just given is one of those two speeches that was reported to have cost Revenue Canada $23,000?

Senator Carstairs: We have made inquiries as to whether any of the speeches I have given have been in the category to which the honourable senator refers. However, I have not yet received an answer. Revenue Canada, like anyone else, had better get used to the idea that I never give a speech if it is sent to me.

Senator Kinsella: Before leaving that matter, honourable senators, does the honourable senator expect to get to the bottom of this matter? Did Revenue Canada, indeed, let a contract for $23,000 to write two speeches for someone to use in debate on Bill C-43?

Senator Carstairs: I understand that that was a question asked of the minister in the chamber last week. I would assume that in due course it will come back in an appropriate, written form.

On motion of Senator Stratton, debate adjourned.

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Graham, P.C., seconded by the Honourable Senator Carstairs, for the second reading of Bill C-55, respecting advertising services supplied by foreign periodical publishers.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in his second reading remarks on Bill C-55, Senator Graham began with a very poetic, even romantic, appreciation of the magazine industry in Canada, pointing out with pride that the first Canadian magazine was published in Halifax as early as 1790. He pointed out that the magazine described itself as:

> ...a collection of the most valuable articles which appear in the periodical publications of Great Britain, Ireland and America.

He should have added, too, that the printer deplored the fact that the *Nova Scotia Magazine,* as it was called, had yet to:

> ...become enriched with the exertions of Native Genius.

That it was to be regretted:

> ...that gentlemen of talents and leisure in the country, do not discover a readiness to communicate their speculations.

Foreign content, then, is not a recent phenomenon, at least in this country.

While the *Nova Scotia Magazine* can claim to be the first of its kind in Canada, I must point out that Quebec had the distinction of being where the first bilingual magazine in Canada was published. In August 1792 appeared for the first time *The Quebec Magazine, or useful and entertaining repository of science, morals, history, politics, et cetera, particularly adapted for the use of British America / Le magasin de Québec, un recueil utile et amusant de Littérature, Histoire, Politique, etc., etc. particulièrement adapté à l'usage de l'Amérique britannique.*

The publication was the responsibility of a society of gentlemen in Quebec, une société de gens de lettres.

The contrast between that publication and the *Nova Scotia Magazine* is not only that one was in two languages and the other in one, but that the Quebec publication had articles of a more practical value still pertinent today, such as how to keep eggs fresh, and on the necessity of education. What both had in common is that they reflected a cultural component peculiar to their respective communities, cultural components which over the years were to come together with so many others to define Canada as we know it today.

This being said, I have great difficulty with the expression "Canadian culture" because it means different things to different people; meanings too often adopted by those advancing varied interests which are not always compatible. For instance, ownership rules in various sectors are imposed in the name of Canadian identity, yet non-Canadian management is widespread and unchallenged.

Senator Tkachuk, last Thursday, made a strong plea for hockey as a game that binds this country more than anything else; this despite the fact that of the 30 teams in the National Hockey League, after expansion, only six will be in Canada, two fewer than only a few years ago. The NHL is run out of New York City. Most of the leading players are non-Canadians. Salaries are in American currency. The playing schedule is drawn up to accommodate an American television network and not conflict with rock concerts and professional basketball games held in the same arenas.

Whatever difficulties one has in agreeing on the meaning of Canadian culture and Canadian identity, I, for one, do not think that they should be the determining factor in assessing the bill under discussion. Senator Graham has told us that:

> ...the principles enunciated in this bill are to preserve Canadian culture, and to give Canadian magazines a chance to ply their trade.

How Canadian culture is protected by making it a criminal offence to advertise in an American magazine is a mystery to me, and a frightening one at that. Senator Graham is on safer ground when he said that this bill is to help ensure the continued viability of our magazine industry. I have no quarrel with that. I have yet to be convinced that Bill C-55 is the right way to go about it.

The bill before us is a second effort by this government to eliminate Canadian advertising in split-run editions imported into Canada. The first was ruled by the World Trade Organization to be in contravention of the General Agreement on Tariffs and Trades. Now we are being assured by Senator Graham that:

> ...the provisions of Bill C-55 are consistent with Canada's obligations under the General Agreement on Trade in Services. They are also, of course, consistent with our obligations under NAFTA.

Let me remind honourable senators that similar assurances were given when Bill C-55's predecessor was being debated in Parliament, so that their being repeated again by the same sponsors gives them a somewhat hollow ring.

This is not the first time that such assurances have not stood up. When the bill to band the importation of MMT and its trade between provinces was before us, the government had no hesitation in claiming that it complied with international and interprovincial agreements. The manufacturer made a claim under NAFTA, and a number of provinces, led by Alberta, asserted that the bill was in violation of the interprovincial trade agreement. A dispute settlement panel was established under provisions of that trade agreement and ruled in favour of the provinces. The federal government not only nullified the legislation, it settled the manufacturer's claim under NAFTA for $20 million, even before hearings had started.

Therefore, is it any wonder that being given assurances by those who fumble so embarrassingly and at great cost to Canadian taxpayers can no longer be given much credibility?

• (1510)

Suggestions have been made elsewhere that the bill be submitted to the World Trade Organization by both Canada and the United States for an opinion before passage. The government would be well advised to urge this course to avoid another formal negative ruling. Canada is actively promoting a former cabinet minister to the presidency of the WTO, thus showing its confidence in the organization, while the United States has every reason to respect its rulings, certainly on the issue before us.

Other than the question of meeting international obligations, that of meeting the freedom of expression provisions in the Charter has been given little if any attention to date. Senator Kinsella will elaborate on this more fully in his remarks, and I urge the government to pay close heed to his comments and suggestions.

It does not surprise me that the constitutionality and legality of Bill C-55 was not even raised by Senator Graham. The government's record in this area is dismal: Other than the costly MMT fiasco, who can forget the infamous Pearson airport bill and the clumsy attempt to delay redistribution until after the following election? Along the same lines, Bill S-22, the preclearance bill now before a Senate committee, has been found to include clauses that many consider an infringement on Canada's sovereignty.

What possible justification is there for such extraordinarily flawed legislation to get by those who are retained to caution the government and alert Parliament about possible legislative excesses? Is the government confirming that it no longer considers itself part of Parliament but above it, if not actually detached from it? I may be straying from the subject-matter but, because of the way Bill C-55 is being handled, troubling questions arise which cannot be dismissed, as elected parliamentarians, consciously or not, become party to their own growing irrelevance.

As for Bill C-55 itself, Senator Graham assured us last week that he was not aware of any negotiations between the United States and Canada, and that it was not his intention, as sponsor of the bill or as Leader of the Government, to introduce any amendments; nor was he aware that it was the intention of the government to suggest any amendments. Yet, only the night before, on the CBC radio program "As It Happens," the Minister of Canadian Heritage, sponsor of the bill in the other place, said:

> If there are any proposals put on the table by the Americans that would be consistent with the bill and would require an amendment to the bill, that would be dealt with in the Senate and then subsequently back in the House of Commons.

To have ministers contradict each other is par for the course for this government, and the Prime Minister leads by example in this department, so I will not dwell on this latest example of cabinet confusion.

What should trouble all parliamentarians, particularly members of the other place, is that the Commons was asked by the government to pass a bill with the full knowledge that the bill would be subject to government amendments while before the Senate.

When asked on the same radio program, "Have you got the magazine business all fixed now?", the Minister of Canadian Heritage replied, "Ah well, it's not fixed but it's going to be fixed." Fixed by whom, we may well ask. By negotiators behind closed doors in Washington, certainly not by Parliament, is, I think, the right interpretation of the answer.

To those who may suspect that I am misinterpreting the minister's words, let me quote from the interview again:

> Q. Why do you say that?

Meaning "it's going to be fixed."

A. Well, because the legislation is not through the House yet and through the Senate and through the whole process. So obviously we're very optimistic that we've got a good solution, but it's not finished.

Note the words "not through the House yet." Does this not confirm that the elected representatives were asked to vote a bill the government knew at the time would be returned to them with amendments?

Q. Do you think that the solution is in the bill then...

A. Any compromise that would even be considered would be...have to be part of the bill, and we've made that very clear to Washington from the beginning.

This is not only unheard of, it is demeaning to the parliamentary system. Government bills are seldom amended in the Senate, except for technical corrections, and then only after constant prodding by the opposition following extensive hearings before a committee. In other words, once a government bill gets to the Senate, instructions go out to the majority leadership to move it to Royal Assent as fast as possible and without amendment.

The Commons has agreed to a bill despite the fact that secret consultations and negotiations on its content with a foreign party directly affected are ongoing and may well result in an understanding requiring one or more amendments. No problem, says the Heritage Minister, we will let the Senate take care of them, after which the house can give a rubber stamp of approval.

I repeat: The elected house members, particularly supporters of the government, should raise serious questions as to how diminished their role is becoming, a trend that has been ongoing for years. Bill C-55 is not an isolated case. Bill C-49, dealing with First Nations land management, which is also before us, is to be subject to government amendments here, according to the Liberal member from Vancouver—Quadra. He said that, while he opposed the bill, he voted in favour of it because he had been assured that his objections would be dealt with in the Senate. Such presumption is an insult to all members of this place, no matter their party affiliation, and shows an appalling lack of understanding of the responsibility of each house.

If the government were really committed to Bill C-55 in its present form, it would give it the utmost priority, to confirm its commitment to its understanding of Canadian culture, which it trumpets constantly. As it is, in the Heritage Minister's own words, the bill is subject to compromise under American pressure. Compromise in this case will mean backing down and will make a mockery of all that high-sounding oratory which may well turn out to be nothing but bluster, catering to cultural nationalists who see evil everywhere but in their own backyard.

Bill C-55 should still be before the House of Commons awaiting whatever amendments are being secretly negotiated in Washington. Instead, it is before us in incomplete form, subject to change that may drastically alter its tenor so that any debate we have on it now will probably become redundant once the amendments are known.

Should this occur, we will be in the untenable position of having approved the principle of Bill C-55 at second reading when amendments are brought forward by the government which may completely change that principle. We will then be into a procedural discussion over the admissibility of the amendments, something that could have been avoided if, as stated earlier, the bill were still before the House of Commons.

My suggestion to the government is this: Either we pass the bill in its present form, without amendment, thereby confirming the will of the elected house, or we set it aside awaiting the results of negotiations in Washington and the government's acquiescence to American pressure and resulting amendments. I, for one, urge the first course, for whatever my views on Bill C-55, my respect for the will of the elected will always predominate over the arrogance exhibited towards it by a government, particularly one which, for the first time to my knowledge, is secretly negotiating with a foreign country amendments to a bill passed in good faith by the House of Commons.

That is why I have not discussed Bill C-55 itself. The way in which it has been handled by the government is nothing short of shameful, an insult to the parliamentary process. The Senate, to show its support for this process, should refuse to be manipulated, as has been the other place.

On motion of Senator Kinsella, debate adjourned.

APPROPRIATION BILL NO. 5, 1998-99

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-73, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999.

She said: Honourable senators, I rise to speak to second reading of Bill C-73, known as Appropriation Bill No. 5.

Bill C-73 provides for the release of the amounts as set out in the Supplementary Estimates (C) 1998-99, being $1.8 billion. Supplementary Estimates (C) 1998-99 were tabled in the Senate on March 9 and were referred on March 10, 1999 to the Standing Senate Committee on National Finance for examination and study. Supplementary Estimates (C) are the final Supplementary Estimates for the fiscal year ending March 31, 1999.

• (1520)

Honourable senators, the $1.8 billion as laid out in the Supplementary Estimates (C) are provided for within the revised spending levels for 1998-99, as announced in the budget on February 16, 1999. Specifically, these Supplementary Estimates (C) seek Parliament's authority to spend $1.8 billion, as provided for in the budget of February 1998 but not

specifically identified or sufficiently developed in time to seek Parliament's authority in the 1998-99 Main Estimates and for new expenditures as identified in the budget of February 16, 1999. These Supplementary Estimates (C) were examined carefully by the committee attended by Treasury Board officials Richard Neville, Assistant Secretary and Assistant Comptroller General, and Andrew Lieff, Senior Program Analyst, when they appeared before the Standing Senate Committee on National Finance on March 10 and 11, 1999. Some of the major items in the Supplementary Estimates (C) 1998-99 are:

- $522.1 million to 76 organizations for compensation for public service collective agreements recently concluded and related adjustments. Collective bargaining resumed in early 1997, and these funds represent retroactive and ongoing incremental salary costs for 1998-99;

- $166.3 million to 18 organizations for matters relating to the Year 2000 problem. This funding provides the financial requirements of government departments and agencies to ensure Year 2000 systems compliance, as well as for corollary issues such as private-sector awareness, international preparedness, central coordination and contingency planning;

- $205 million to the Department of Finance for transfer payments to the territorial governments. This increased funding reflects the changes in the forecasting of factors such as population, provincial/local spending, and revenues generated by the territorial governments, on which these payments are based;

- $200 million to Industry Canada for the Canada Foundation for Innovation to modernize research infrastructure in health, the environment, and science and engineering;

- $155 million to Health Canada for strategic investments in health research and information, including grants to the Canadian Institute for Health Information to ensure a coordinated approach to health information, and to the Canadian Health Services Research Foundation to support the Canadian Institute of Health Research, and to NURSE, the Nurses Using Research and Service Evaluations Fund;

- $123 million to CIDA, the Canadian International Development Agency, for various United Nations organizations, and for international humanitarian assistance, such as aid provided following Hurricane Mitch;

- $90 million — non-budgetary — to Transport Canada's Canada Ports Corporation for its debt restructuring repayment to Ridley Terminals Inc.'s EDC loan of $165 million. Ridley Terminals Inc. is a wholly owned subsidiary of Canada Ports Corporation and needs the funds to facilitate the refinancing of the remaining $75 million in the private sector.

These major items that I have just mentioned account for $1.5 billion of the total $1.8 billion for which parliamentary authority is being sought. The balance of $0.3 billion is spread among a number of other government departments and agencies, the specific details of which are included in the Supplementary Estimates (C) for this fiscal year ending March 31, 1999.

Honourable senators will recall that we adopted the report on Supplementary Estimates (C) 1998/99 on March 17, 1999 here in the Senate.

I should like to thank the Chairman of the Standing Senate Committee on National Finance, Senator Terry Stratton, as well as the honourable members of the committee for their work and cooperation in ensuring that the Supplementary Estimates (C) were adopted in a timely manner. I urge all honourable senators to support Bill C-73, Appropriations Bill No. 5, 1998-99.

Hon. Terry Stratton: Honourable senators, I should like to respond to Senator Cools' presentation on Bill C-73.

We had discussed much of this last week in the report on the Supplementary Estimates (C) and the report on the Main Estimates that our committee submitted. The only cautionary word I would give honourable senators is with respect to the original Main Estimate being $145,456,000,000. That is a staggering sum of money. When you add to that Supplementary Estimates (A), (B) and (C), totalling $8 billion, it takes us, for the current fiscal year, to $153,531,836,000. That is worrisome because it is an $8-billion upcharge from where we began. That must be a concern for everyone.

As I expressed last week, yes, I understand that there were some unusual circumstances related to salaries that had been frozen for a number of years. As well, the cost estimate for the Y2K problem to the end of this current fiscal year is $2 billion. Despite those figures, we must be cognizant of the potential "slippage" that we see happening. It is irresponsible on our part to allow things like that to go through this place without comment.

Honourable senators, the committee does good work Mr. Neville and Mr. Lieff of the Treasury Board were excellent in their responses. They were so well briefed that it was hard to catch them out, as it were. If we did, they admitted it and came back to us the next day. That is why the committee likes to hold hearings on this type of subject-matter over two sittings. The committee does get along well when we do those things, and I appreciate Senator Cools' comments.

At times we do get testy, but that is part of what happens in any committee. I would only ask that the honourable senator not take it personally, as I do not take her comments personally.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

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

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

APPROPRIATION BILL NO. 1, 1999-2000

SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved second reading of Bill C-74, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000.

She said: Honourable senators, I rise to speak to the second reading of Bill C-74, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000. When given Royal Assent, Bill C-74 will be known as Appropriation Act No. 1, 1999-2000. It is also called the interim supply bill and grants supply for the first quarter of this new fiscal year, 1999-2000, that is, April, May and June of 1999. The Main Estimates describe the government's proposed spending for the fiscal year, which commences in a few days on April 1, 1999. Bill C-74 is seeking Parliament's authority for the interim supply of $13.9 billion dollars for the first quarter of the 1999-2000 fiscal year.

Honourable senators, the Main Estimates 1999-2000 were tabled in the Senate on March 2, 1999 and were referred to the Standing Senate Committee on National Finance on March 4, 1999. These Main Estimates 1999-2000 total $151.6 billion, an increase of $6.1 billion, or 4.2 per cent, over the 1998-1999 Estimates. I am certain that this will be of great interest to Senator Stratton.

These figures reflect the bulk of the planned budgetary expenditures for the fiscal year ending March 31, 2000, as set out in Minister of Finance Paul Martin's February 16, 1999, budget. These Main Estimates 1999-2000 support the government's request seeking Parliament's authority to spend $45.8 billion under program authorities, for which annual approval is required. The remaining $105.8 billion stems from existing legislation.

• (1530)

Honourable senators, as you know, the Main Estimates consist of three parts. Parts I and II must be tabled in the House of Commons on or before March 1 of the preceding fiscal year; that is, March 1, 1999. Part I's list the government's expenditure plan as announced in the February 16, 1999 budget. Part II's, also known as the "blue books," provide the details on the statutory and vote items within each departmental and agency program. Part III of the Main Estimates, as of April 1997, is divided into two parts; Plans and Priorities Reports which will be tabled before the end of this fiscal year, March 31, 1999, and Performance Reports which will be tabled in the fall of 1999.

Honourable senators, Bill C-74 will provide interim supply for certain expenditures which require Parliament's authority now in order for the business of the government to go forward. Some of these items include $7.9 billion, which is three-twelfths of all items in the Main Estimates except for those items included in Schedules 1, 2, 3, 4, 5, 6 and 7.

Honourable senators may recall the budget of February 16, 1999 which gave rise to the Main Estimates 1999-2000. I would like to note certain major increases over the Main Estimates for the fiscal year 1998-1999. These major increases to the Main Estimates over last year's Estimates include: $874 million to the Department of Finance for Canada Health and Social Transfer payments; $840 million to the Department of Human Resources Development for increased employment insurance benefit payments; $600 million to the Department of Agriculture and Agri-Food Canada for income disaster assistance for farmers in response to recent declines in commodity prices; $377 million to the Department of National Defence for payments to the provincial governments for damages suffered during recent natural disasters under the Disaster Financial Assistance Arrangements; and $287 million to various departments and agencies for the Year 2000 compliance requirements. These are only some of the budgetary items included in the Main Estimates 1999-2000.

Honourable senators, the primary function of Parliament is to scrutinize carefully the expenditures of government and to hold ministers accountable to Parliament. Parliament, in the final analysis, is about the raising of revenues by taxation and the proper spending of same. This process has been secured and inured by 1,000 years of parliamentary and constitutional struggles, and is a process that should be jealously guarded and protected by us.

Honourable senators, the Standing Senate Committee on National Finance will continue to examine and study these Main Estimates for some time. In the meantime, I encourage all senators to pass Bill C-74, the Appropriation Act No.1, 1999-2000, the interim supply bill, so that the government may continue to do Her Majesty's business, the business of Canada.

The Standing Senate Committee on National Finance will be meeting tomorrow night at 4:30 to look in some detail at the aspects of the Main Estimates which touch on Bill C-74. I am indebted to Senator Stratton for that because it is my sincere

wish, as I think it is the sincere wish of us all, that Parliament exercise and execute its proper duties to scrutinize the expenditures of the government.

On motion of Senator Stratton, debate adjourned.

FIRST NATIONS LAND MANAGEMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Maloney, for the second reading of Bill C-49, providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management.

Hon. Ron Ghitter: Honourable senators, I rise to speak on second reading of Bill C-49. I am far from an expert on matters relating to the affairs of our First Nations people, although, like many in this chamber, I have had numerous dealings with members of our First Nations in various ways.

At the outset, I wish to express my support for the underlying concepts contained in this proposed legislation. As expressed by my colleague Senator Chalifoux when she opened debate on this bill last week with her excellent presentation, the bill seeks to provide an element of self-governance over lands to participating bands who wish to adopt the procedures and undertakings outlined in this legislation.

I commend the leadership of the First Nations who have persevered since 1988 in bringing this legislation to where it is today. I commend the 14 bands that have agreed to be the first signatories to the framework agreement which serves as the basis for Bill C-49.

As you are undoubtedly aware, the Constitution Act of 1867 grants exclusive jurisdiction to the federal government over reserve lands and resources and, as a result of these provisions, First Nations have little direct control over the management of their lands. It is fair to say that over the years this situation has resulted in growing frustration on the part of our First Nations people and, at times, growing animosity toward the ministry of Indian Affairs and Northern Development, which is often seen, and correctly so, to be interfering and overly bureaucratic in the manner in which it controls the management and the operations of First Nation lands.

I speak from personal experience in this regard, having worked for a year or two with a particular First Nation in Alberta, the wonderful Siksika nation outside of Calgary. I sat at meetings and shared their frustrations in dealing with the incredible bureaucracy that makes even the simplest decisions seem monumental once they get into the hands of the department here in Ottawa. Too often, the Department of Indian Affairs seems to act as a dictatorial adversary rather than a partner in assisting and encouraging sound decision making on the part of our First Nations leadership.

It is time that we allowed our First Nations to govern their own affairs wherever possible. It is time that we allowed our First Nations to assume responsibility for their people and be accountable for their decisions as they wish, be they right or be they in error. Heaven knows, we have been in error enough in our point of view. Why not give them the opportunity to do the same?

It is time to remove the excessive paternalism that exists in the Indian Act, to move with expediency and let our First Nations become self-reliant and self-sufficient, rather than enhancing attitudes in our society which seem to regard them as second-class citizens with their hands out, which is hardly the case.

I came to these conclusions early in the 1980s when, in Alberta, I had the opportunity of chairing a committee looking into discrimination in our school system. The purpose of the committee was to examine the embarrassment caused by views expressed by a school teacher named Keegstra in Eckville, Alberta. We travelled throughout Alberta to examine areas within our education system that we found to be discriminatory, inappropriate or racist, and to look into ways and means by which we could improve our education system to overcome the intolerance and lack of understanding that seemed to prevail in many areas of our province.

It surprised a considerable number of people that the first white paper our committee produced dealt with discrimination relating to our native population. It dealt with the difficulties experienced by children of native background who faced tremendous systemic discrimination in our school system.

We were asked why we dealt with the native population when our mandate was to look at problems related to the Keegstra episode, which was such an embarrassment to my province. We responded that we dealt with that because we found greater discrimination, prejudice, lack of understanding, and difficult bureaucracy in dealings with our native population than in dealings with other populations.

I learned at an early stage of the frustrations, difficulties and paternalism that exists in dealings with our First Nations people. Every small step that we can take is an important step toward returning the dignity, respect and self-esteem of our native peoples.

• (1540)

Bill C-49 is again but a small step forward in that regard, but it is an important step. When I read the debates in the House of Commons with respect to this legislation, I came to the conclusion that the House of Commons dealt with the legislation in haste and under the spectre of closure. The debate was, in my view, somewhat rhetorical, overly simplistic and did not deal with some of the fundamentals of this bill and some of the problems which I believe we should bring under closer scrutiny.

As my leader, Senator Lynch-Staunton, said earlier in dealing with Bill C-55, it seems that the House of Commons, once again, is looking to the Senate to make the amendments that are necessary to deal with this legislation, as judged by public comments I have read and also the comments to which Senator Lynch-Staunton referred, which were recorded in Hansard when the bill was debated in the other place.

There are problems in this bill. There are areas that we must consider. There are areas which I invite the Aboriginal Peoples Committee to consider improving to make this legislation better and more acceptable across Canada in terms of fairness and clarity. In our examination of the bill, we must determine how to cover the gaps and problems which are obvious in the bill. Many of you, I am sure, have received considerable correspondence relative to this legislation, particularly from British Columbia, with respect to the gaps and problems that are seen within the legislation.

I suspect and I hope that our Aboriginal Peoples Committee, when examining this issue and dealing with some of the witnesses, will give it serious consideration. I know they will report to this chamber, which will deal with their recommendations and potential amendments to the legislation.

There are two particular areas which I feel lack clarity and precision, but first I wish to extend my thanks to a number of individuals with whom I had the opportunity of meeting and discussing this legislation. I refer particularly to the First Nation chiefs of the Squamish First Nation in British Columbia, St. Mary's First Nation in Fredericton, New Brunswick, the Chippewas of Georgina Island, representatives of the Siksika Nation and the chairman of the chiefs.

We spoke about the legislation with great candour. I expressed to them my concerns. At times, frankly, I had feelings that although they understood the concerns, they were extremely anxious to have this legislation approved and were willing to accept the legislation with its flaws because of the frustrations they have experienced since 1988 in their endeavours to bring this legislation forward. I told them that, although I appreciated their concern to move this legislation forward, it may be better if the legislation were corrected, not in principle but in those areas that need correction, in order to receive better acceptability across the country.

Let me speak to the two areas with which I have concerns. The two weakest elements in this bill are expropriation and the lack of gender provisions, including the protection of women.

Expropriation is a unique and extraordinary tool which should not be used lightly by any legislative process. We have federal expropriation legislation in Canada; we also have provincial expropriation laws. Expropriation means that the government is stepping forward, based on public purpose and public will, to take someone's interest in some lands. In exchange, the government endeavours to create some level playing field of compensation.

There are times when government must step forward and take lands for public purposes such as highways, rights of way or whatever. Such expropriation cannot be done lightly. The government must ensure protection of the landowners' interests in the fairest possible way in dealing with compensation.

The Federal Expropriation Act carries on for page after page about how to fairly compensate an individual whose interest in land, be it leasehold or fee simple or whatever, is being taken over by the government. The act speaks of giving appropriate notice, of providing an appraisal and proving the public purpose. It also speaks in terms of compensation such as moving expenses and interest charges. All of these factors are vital to deal fairly with individuals who are being expropriated. We have those provisions in federal and provincial statutes.

In Bill C-49, under the clauses relating to expropriation, a First Nation can expropriate land either from a band member or a third-party leasehold member. That provision comprises approximately 25 lines, and that is it. It allows for a notice of expropriation to be filed and that fair compensation must be paid taking into account only the provisions of the Federal Expropriation Act.

As an example, a leaseholder of property on an Indian reserve could receive a notice to vacate the property within 30 days. Fair compensation must be paid — whatever that means. There is no direction on when compensation must be paid and no mention of any appeal process. You are left at the total whim of the band that passes their own land code.

Contrary to my position, those who support the bill will say that the passing of a land code requires a majority vote by eligible voters in the band. Under this legislation, 25 per cent of the eligible voters in the band can pass a land code. I have seen three such land codes. They had no reference or very limited references to expropriation. The result is that the party being expropriated is left totally at the mercy of the band.

I am not reading into this any bad practice on the part of the bands, but let me tell you of the events in British Columbia regarding the lands right off Marine Drive, next to the Shaughnessy Golf Course belonging to the Musqueam band. There is very bad blood between the leaseholders, some 80 homeowners, and the band itself.

Whether the reasoning is valid and whether I support it or not is immaterial. If you were leasing a piece of property from the band on the Musqueam reserve, you may have found that your rental on that land went up from $400 in one year to around $30,000. You would have found that your taxes went up in a similar manner.

There may be valid reasons for that and those matters are before the courts. The fact remains, however, that some situations will arise between lessors and lessees whereby bad feelings are created. If bad feelings are created and there is no governing legislation to protect individuals, bands could continue to act inappropriately. A band could decide to build a casino next

door or a school or a chief's front yard based on the public's "purpose." A leaseholder may be told to vacate within 30 days but may wait forever to get the compensation unless they choose to go to court.

I do not think any Indian chief or band wants to be considered as being likely to act in that manner and I am not suggesting that they will. However, I am suggesting that this legislation — and I say this as one who has been involved during my legal career in a number of expropriation matters — is flawed and faulty. It preserves no protection for those who should at least have a semblance of protection. After all, their lands are being expropriated.

• (1550)

I should like to point out an interesting fact. There are only 25 lines in the bill that address what a First Nation can do to a third party in a leasehold situation. However, if it is the federal government that wishes to take land by expropriation, honourable senators will find that some 100 lines in the bill are devoted to that measure. The bands seem to have protection if someone wants to expropriate their lands; yet third parties that find themselves in the position of losing their interest in their homes are not protected.

Let me tell you the impact of that if you happen to be a property owner in the Musqueam Reserve area in Vancouver. An individual whom I have known for many years has a home there. He put it up for sale because he was moving back to Calgary. He took me to lunch well before I was even aware of this legislation. He said to me, "Some legislation is coming to you that is causing me great grief." He told me about the tax situation, which is before the courts.

He told me that he once had his property up for sale and that the moment this legislation became known in the Vancouver market he received a letter from his realtor asking him to take his property off the real estate listings because there was no market for his home. That was because of the distrust that apparently exists in that area.

The gentlemen I am referring to has probably put between $400,000 and $500,000 into his home. He has moved to Calgary and wants to sell that house, yet there is no market for it. In his view and in that of his realtor, there is no market because of the ambiguities and the lack of detail concerning the expropriation remedies that are contained in this bill.

Honourable senators, I suggest that a simple amendment to this legislation would suffice. That amendment would stipulate that the expropriation provisions of Bill C-49 are bound by the provisions of the Expropriation Act. That would set out all the necessary rules and regulations. Fears would disappear. We could say to our aboriginal friends that we have legislation that people can support and that people will not look ill toward.

I recommend that our committee seriously consider putting forward an amendment of that nature. Even members of the other place are looking to us to consider an amendment of that nature.

I should like to speak briefly to the position in which women find themselves on our reserves.

I am hardly an authority in this area. From what I have seen, there are some serious problems with respect to the position in which women find themselves on our reserves in Canada. Frankly, I am not even certain as to what protection they are afforded under our legislation and jurisprudence.

If one were to examine the Charter of Rights and Freedoms, one finds that section 25 states:

> The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
>
> (*a*) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
>
> (*b*) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlements.

The following question then arises: Does the Charter protect women on a reserve? I do not know the answer to that question. I look forward to the committee coming forward to give us their point of view on that subject.

The only statement that is made in the legislation before us relating to the rights of women on marriage breakdown with respect to property is found in clause 17, which states under the title, "Rules on Breakdown of Marriage":

> A first nation shall, in accordance with the Framework Agreement and following the community consultation process provided for in its land code, establish general rules and procedures, in cases of breakdown of marriage, respecting the use, occupation and possession of first nation land and the division of interests in first nation land.

Basically, the legislation looks to the band to put within their land code the rules that will prevail in the event of marriage breakdown and the rights that women may have in that land. This issue has been examined many ways. Let me present to you, honourable senators, a couple of quotations which I have culled from the Report of the Royal Commission on Aboriginal Peoples in the area of women's perspectives.

At page 51 of Volume 4, it states:

> A further complicating factor is the division of property when a marriage fails. Marriage and the division of marriage assets upon marriage breakdown are governed by provincial law, but the Indian Act is paramount on reserves. A court cannot order the division of on-reserve property on

> the same basis as it can with other property. Likewise, no court can order that one party shall have exclusive possession of the matrimonial home. Indian women on-reserve, therefore, are seriously disadvantaged. In 1986, a precedent-setting decision was made on this point. In case of *Derrickson v. Derrickson*, the court held that a woman cannot apply for possession of the matrimonial home unless the certificate of possession is solely in her name.

It rarely is.

In another section of this same report, under the title, "Indian Women," it states:

> If Indian people generally can be said to have been disadvantaged by the unfair and discriminatory provisions of the *Indian Act*, Indian women have been doubly disadvantaged. This is particularly so, for example, with regard to discriminatory provisions on land surrender, wills, band elections, Indian status, band membership and enfranchisement.
>
> Unlike the husband, the wife received no allotment of reserve land upon being enfranchised.

There are other reports that deal with native-managed lands being a threat to women. There are reports from the Native Women's Association of Canada, who appeared before the House of Commons committee. They gave example after example of the deprivation, poverty and difficulties that women face living on reserve, particularly when it comes to separation.

The legislation before us today is basically silent on the question of women's rights on reserve. The legislation leaves everything up to the band council to arrange and to deal with. I am not sure if women on reserve are protected by our Charter. I find them to be helpless in these circumstances and totally at the mercy of the band council. We need amendments to this legislation, to show our concern and our respect for the problems of women on reserve.

I challenge our committee to come forward with amendments that will deal with that issue, to ensure that women on reserves are treated fairly, equally, and with dignity, as men have always experienced. This is an important issue. We would be derelict in our duties if we did not deal with it, and deal with it firmly.

Honourable senators, those are my suggestions regarding Bill C-49. It is an important piece of legislation. As Senator Chalifoux so aptly described, it is significant in many ways. I leave you to read her comments because they so clearly and aptly express the importance of the legislation. However, it is legislation with flaws and gaps, and which cries out for amendments. I look forward to working with the Aboriginal Peoples Committee in the hope that we can accomplish that.

Hon. Nicholas W. Taylor: Honourable senators, it is always a pleasure to rise to speak in this place, although the chances are that you will be pushed into the shade somewhat when following my eloquent former opponent. He has always been able to charm the birds out of the trees, honourable senators, and he has not changed a bit. I find myself agreeing with him on some things, and certainly on the question of women and the question of expropriation. I am much more concerned with the issue of women than I am about expropriation.

• (1600)

I would not say that the bill has flaws, but it is a bumbling attempt to do what has taken us nearly 100 years to do in land law in Canada, and we are trying to do it overnight in the aboriginal community.

However, when you have a baby that is squalling, I can think of no one better to look after it than Senator Chalifoux. They picked the right person to spank it and bring it to life and turn it around, because it no doubt needs changing.

Senator Carstairs: No spanking!

Senator Taylor: Before I proceed from women's rights to address individual rights, I wish to address the question of expropriation. I can see the problem. I hear the non-native people squealing about expropriation.

You cannot rewrite history, but I wish the non-native people had been nearly as diligent and kind and interested in appealing to law when they confiscated pieces from reserve after reserve after reserve through the last 70 years in Western Canada. There is not a reserve in Western Canada that cannot point to a chunk which was taken away by an Indian agent in the 1910s, 1920s or 1930s and sold to a pal, whether they be Liberal or Conservative at the time. I hope there is no vengeance applied here, but I can see a certain amount of retribution if someone up there directing affairs puts us on the receiving end of it for a while rather than on the giving end of it. I suppose that we will have to look at how these expropriations take place.

Senator Ghitter mentioned the Musqueam, which is a good example of what can happen. In Senator Ghitter's and my own backyard, in the former Sarcee area by Calgary, they have leased land for some years. The Duke of Westminster granted leases for over 1 million people in west London, and they have been able to work out long-term leases where the ownership stays with the owner rather than the person who lives on the property, generation after generation.

There are many examples that Senator Chalifoux will be able to examine, and I think we can offer some help along those lines.

Also, you must remember that part of the Musqueam problem is not expropriation but raising the rent so high that there may as well be expropriation. There is a question here of whether or not we want to write into the act fees for rent and how much you can raise them. This could get fairly deep, particularly since the party opposite has considered rent controls anathema. It will be interesting to see how we work this out.

I now wish to address individual rights. Both sides of the House looked at this subject. The act we are discussing today is just one more act in a long series of acts dealing with the First Nations people and aboriginal people as groups. Part of classical liberalism, something in which both our parties believe, is emphasizing the individual. We have a tendency to deal with the First Nations as if they are a collection of ghettos where all we have to do is talk to the head person and everything else falls in line. That is not so. Many of our native people today may want to move off the reserve or have already moved away. Let us not forget that over half of our aboriginal people live off reserve today and want to buy a house or go into business, only to find that they are circumvented and stopped in every way. Their non-native neighbours can borrow from banks and get titles for land or whatever. We are not paying enough attention to the individual aboriginal who may not want to stay on reserve, who may not want to do what the chief and the band tells them, who may want to go off reserve and exercise a personal initiative to get an education or create a business, or simply to live in an area which is different from what the group thinks it should be.

We seem to have fallen into the trap of granting bands so much money, and then the band gets to decide, not only on divorce and property rights, but on who is and is not a member, depending on whether they married a male or a their grandmother married a white male or a non-white male. Bands are given authority that even the ancient churches in the Middle Ages did not have when it comes to what people have the right to do and their spiritual or morale development or what they consider is right. This might be a time to start thinking about the individual.

Honourable senators must remember that when we go to the land in this legislation, it will involve large sums of money coming into the hands of different native bands across Canada. It is probably time that they had that money so they could develop an economy of their own. What kind of economy will they develop? What will happen to the person on reserve or off reserve who wants a job in one of these companies that are set up with the monies? What kind of vote will they have? What rights will they have as shareholders? Will it be entirely a band-owned operation into which these monies will be invested?

We look at those areas, and we begin to think of something else that our non-aboriginal society has taken hundreds of years to develop, ombudsmen and auditors general. Millions of dollars are involved, and the average aboriginal person does not have even the right that you and I have, that of being able to appeal to the auditor general or an ombudsman if there appears to be things that are not working out the way they should in the administration of the band. This might be an opportunity to make available to the bands the same tools that we found necessary to govern ourselves, tools such as auditors general, ombudsmen, and so on. We are not doing that. We are talking about giving them some land and some money, wiping our conscience clean and walking off.

The only time I have ever seen any heat generated whatsoever on this land settlement is the situation that my friend Senator Ghitter mentioned, one with which he should be well familiar. The Government of Alberta, a government of which he was part, built an irrigation damn a few miles away from the reserve, and not one drop of that water is permitted to go on Indian lands. It is transported across the Indian lands for about 70 miles and used to water non-native lands. This is not something which just arose. Governments are still expropriating and taking away rights that properly belong to our aboriginal people. Yet, there are individual people on that reserve who would love to go farming and be able to borrow the money to get the equipment. The bank will not lend them the money, and they cannot get the water.

There are many things to consider in this matter, and I cannot think of a better person to lead "the crying and squalling baby" than Senator Chalifoux.

On motion of Senator Carney, debate adjourned.

• (1610)

PRIVATE BILL

CERTIFIED GENERAL ACCOUNTANTS' ASSOCIATION OF CANADA— SECOND READING

Hon. Michael Kirby moved the second reading of Bill S-25, respecting the Certified General Accountants Association of Canada.

He said: Honourable senators, Bill S-25 is essentially a housekeeping bill. It amends the act of incorporation for the Certified General Accountants Association of Canada, otherwise known to many of you as the CGA. The act of incorporation of CGA-Canada was passed in 1913 and it has stood largely unchanged since then. That year, CGA-Canada had 84 members, all based in Montreal. Today, CGA represents over 58,000 certified management accountants across Canada and accordingly their act of incorporation needs to be modernized to reflect the needs and character of the current membership of CGA. Modernization is essentially what Bill S-25 seeks to do.

In brief, honourable senators, this bill does three things. First, it provides CGA-Canada with a French name, l'Association des comptables généraux accrédités du Canada. Currently, there is no provision in the CGA act of incorporation for a French name. However, such a name is important for a number of reasons, not the least of which is that CGA-Canada is a participant in major international fora that deal with the setting of accounting standards. They need both a French and English name to properly promote the work they do in these international fora.

Second, the bill provides for the short form name "CGA-Canada." CGA accountants serve all sizes of businesses as accounting and tax practitioners. They occupy financial, management and policy positions in governments, financial institutions, charities and corporations. Over 20 per cent of CGA members, approximately 10,000 people, are currently employed by provincial and federal governments and in other public institutions. With such a widespread membership, the association needs a short-form name in order to make it easier to refer to the

background, training and expertise that these people have. For example, we all know who we are dealing with and the level of professionalism we can expect when someone is identified as a chartered accountant or, in short form, as a CA. The Certified General Accountants Association of Canada needs a similar short form designation so that people know who CGAs are and what training and experience they have had.

Third, Bill S-25 amends the powers and objects of the association to reflect the activities of the association as they are currently being carried out. For example, today, CGA-Canada acts as an important advocacy entity for its members. It develops educational programs for its students and members. It disciplines its members. It participates in setting international accounting standards. It conducts research and publishes papers. It also works with affiliated associations on issues touching the accounting profession in Canada. In short, the current CGA act of incorporation needs to be modernized and updated to reflect what CGAs in Canada actually do.

Bill S-25 will be able to provide the association with the proper legal framework for all its present and future activities.

Finally, honourable senators, I wish to emphasize that Bill S-25 is similar in structure, organization and character to the incorporation acts of similar professional organizations. For example, the Canadian Institute of Chartered Accountants, the CICA, was formed by a special act of Parliament in 1902, which act was amended and updated in 1938, 1951 and 1990, to provide the CICA with a modern framework for its activities. Rather than being a major reorganization of CGA-Canada and its powers, what Bill S-25 does essentially is to reflect the fact that CGA-Canada has evolved into a modern and professional accounting organization, and its act of incorporation needs to reflect that.

Some members of this chamber will know that this bill has been in the works for a long time. I was first approached to sponsor this bill three years ago when it was still subject to extensive negotiations. With these negotiations now concluded, I am confident in saying that honourable senators should support this bill once it has been reviewed by the Standing Senate Committee on Banking, Trade and Commerce. I believe it is important that professional organizations like the Certified General Accountants' Association of Canada have legislation which reflects what they do and the actual training of their members.

Therefore, honourable senators, I hope this bill will be referred to the Standing Senate Committee on Banking, Trade and Commerce where it can be examined in detail and then reported to this house.

Hon. Consiglio Di Nino: On a question of clarification, Senator Kirby has referred to the short name, "the CGA." Will that acronym apply in French as well as English, or is it intended that the French version will be different?

Senator Kirby: Honourable senators, it is intended that the same short name will, as I understand it, apply in both languages. I shall confirm that for you, but that is my understanding.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

RECOMBINANT BOVINE GROWTH HORMONE

CONSIDERATION OF INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ON STUDY OF EFFECT ON HUMAN AND ANIMAL HEALTH—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on Agriculture and Forestry entitled: "rBST and the Drug Approval Process," tabled in the Senate on March 11, 1999.—(*Honourable Senator Gustafson*).

Hon. Leonard J. Gustafson: Honourable senators, it is with pleasure that I rise to address the interim report on the Standing Senate Committee on Agriculture and Forestry in regard to the subject of rBST injections of dairy cattle.

Members of the committee have received a number of letters, phone calls and reporters' inquiries from as far away as New York and London, and across the country. The reason there has been such a response is the good work of those on the committee. Senator Whelan, who initiated this investigation into rBST has done a wonderful job and a significant amount of research. Senator Spivak and her office have also done a great deal of work in research. Senator Stratton, Senator Chalifoux, Senator Fairbairn, Senator Hays, Senator Rossiter, Senator Robichaud, Senator Taylor and Senator Hervieux-Payette have all put in hours and hours of work and made tremendous contributions.

The response from the public has been overwhelming. We have received many letters on this issue. Most of the letters begin by thanking this committee of the Senate for the work conducted on this subject. Many of these letters are from consumer and other groups.

• (1620)

We all know that milk is an important product. I would suggest that few of us would be here today if it were not for milk. At any rate, it was the main course of our diet for the first few months of life, and then on.

What happens with rBST? It is a genetically modified hormone growth drug that is injected into the dairy cow every 14 days, usually under the tail or into the meaty part of the cow. There have been many reports from people who gave testimony before the committee that mastitis in cattle was a major problem following rBST injections. The committee was also told that cattle experience swelling of the legs and the appearance of sores as a result of rBST injections.

I am a farmer. I have worked with cattle all my life. There is a great deal of concern about rBST. I recommend that every senator read this detailed report. We cannot cover all of it today, although I am sure various speakers will touch on many of the recommendations.

The major recommendation was for continued study and scientific investigation into rBST. We had something happen in the Senate committee that has not happened in the 20 years that I have been here. Of the five witnesses from Health Canada, three of them would not give testimony unless they swore an affidavit and were sworn before the committee, for their own protection. I have not witnessed anything like that in my 14 years in the House of Commons and six years here in the Senate.

I do not believe that I am exaggerating when I say that some of what they reported to us was alarming. There was a report of stolen papers, reports of coercion, reports of manipulation. Most of it is covered in the report. If you care to read it all, I believe you will find it to be of importance.

The report summarizes the full range of testimony received by the committee. It summarizes the testimony of those witnesses who believe rBST to be harmful and those who see rBST as a useful production tool. Both those groups expressed the opinion that there are management problems in the Health Protection Branch. That is an important point, because while the committee has dealt with the health of animals situation, the injection and the effects on humans, we feel there has not been sufficient study. Also, the issue of licensing by Health Canada was raised.

Regarding licensing, we must understand that rBST is not at this point licensed in Canada. It is licensed in the United States and, in that regard, it is my understanding that there are two senators who are taking up that issue in the United States, because of the work done by our committee and the publicity that resulted from that work. The whole issue of how it is handled, who does the licensing and how Health Canada will handle the situation, is very important.

I wish to dwell for a moment on the term "genetically modified," which involves this whole subject, along with grains and other products. Certainly, we wish to balance, not stop, any scientific advancement into areas that are important to agriculture, and so on. However, when the Senate committee was in Europe, the first thing we would hear about — it did not matter which country we went to, with 25 hearings in 10 days — was genetic modification. It would usually be the opening subject.

I will give you one example. Europe will not take canola from Canada because our canola is genetically modified. Yet, strangely enough, they will take the processed canola from the United States. I did point out that canola that was not genetically modified had gone from my farm, but there certainly must have been some of it, to the processing plants in the United States where it was processed and then shipped. It is good that we can ship through the United States, however, what will it do to trade? Europe will not buy our canola product. We must be careful not only about the effect of genetically engineered products on our health, which is important, but also the effect on international trade.

In many weeks of hearings, and during the time spent considering reports and recommendations, the committee was careful to consider all points of view and information brought to its attention. Again, we wish to thank the witnesses for their testimony. It is the committee's intention to call further witnesses. We intend to call officials and scientists from Health Canada, because we feel there have not been enough studies done on this. I believe Senator Whelan and Senator Spivak will have a great deal to say about some of these things.

Honourable senators, I will be brief now, because I know that there are others who wish to speak on this important subject. I wish to thank the committee for its work. I believe that this issue is important to all Canadians. The committee must continue to do good work.

Let me conclude by throwing a little flower to the Senate committee at this time. I wish to say the following: I have sat in both houses — and this is not to downgrade the House of Commons committee — and the expertise in the Senate committee is outstanding. There are not the political exchanges, back and forth, in the Senate committee that there are in the House of Commons counterpart. In general, there was good agreement on the things that were positive or negative.

I wish to take this opportunity to thank each member for the work they have contributed, and I look forward to hearing what you have to say about this important subject.

Hon. Nicholas W. Taylor: Honourable senators, I should like to ask the honourable senator a question, if I may.

Senator Gustafson: Certainly.

Senator Taylor: A headline in the local paper stated that the Health Canada scientists, who you had mentioned earlier in your speech had taken affidavits in order to be able to talk, had been gagged by the department over their protest and will likely be under gag order for the rest of their careers, despite a Senate promise to keep an eye on Health Canada's management problems.

I wish to ask the chairman of the committee what actions he thinks should be taken if, indeed, these people who talked to our committee have been put under a gag order for the rest of their lives?

Senator Gustafson: First, we intend to call the scientists back to the committee, to hear firsthand whether there are any problems.

In addition, I believe the deputy minister gave us assurance that there would not be any retaliation in the committee. I see some honourable senators shaking their heads, and I believe I am right on that situation. Therefore, as a committee, we certainly intend to get to the bottom of that situation.

• (1630)

Hon. Eugene Whelan: Honourable senators, to add to what Senator Taylor has said, we also have a letter from the minister stating that no reprisals would be taken against the scientists who went public with their feelings.

I know that I will be repeating some of the things that my chairman, Senator Gustafson, has said, but I should like to thank honourable senators for giving the committee the opportunity to research this issue. I think this committee well illustrates the level of cooperation which can be achieved on important issues such as this. I have great respect for all the senators who sit on the committee, as they have made real contributions, and I appreciate their support in this undertaking.

First, the document the committee released is merely an interim report. This report is by no means final. The committee will be holding further hearings to hear from the scientists who testified before the committee last year to see what, if any, changes have been made. We will hold accountable all those who made promises before the committee.

The Standing Senate Committee on Agriculture and Forestry's investigation of the hormone rBST was important to me for a number of reasons. I feel strongly about the Canadian food supply and ensuring that Canadians have complete confidence when purchasing food for their families. The fundamental job of Health Canada — and we should be absolutely clear about this — is to protect the health and safety of Canadians.

When I was your minister of agriculture, my department spent an unprecedented level on research to ensure that Canadians were protected from bad science. I am proud of that record during those 11 years, as it illustrates that I am a strong proponent of good, safe and efficient biotechnology. As a committee we used our resources, our researchers and our powers of evaluation. The committee's staff worked long hours. I am sure it was a living, learning experience for them to work with us.

The committee heard from various groups who were disturbed about the potential introduction of this hormone, as well as Health Canada's involvement in the process. We heard from Health Canada scientists who felt pressured, consumer groups who felt powerless, as well as the Deputy Minister of Health, David Dodge, who felt "extremely concerned." I found particularly convincing the testimony the committee heard from the National Dairy Council of Canada, which represents the heart of the industry, the dairy processors and the marketers. These people are responsible for putting this product on your shelf. This organization "remains adamantly opposed to the use of rBST...as there are no demonstrable consumer, manufacturer/marketer benefits from the use of rBST in milk production in Canada." Dairy processing is the second largest sector of the Canadian food and beverage processing industry.

Honourable senators, rBST is a production drug. It is not a therapeutic drug. It does nothing for society whatsoever. What I found to be most disturbing about the possible introduction of this hormone was the committee's uncovering of the lack of any real scientific testing. In fact, there is no chronic health data on rBST, and it is impossible to prove what effects it will have on humans.

Honourable senators, this committee has well represented this chamber in our efforts to prevent feeding the entire nation a residue of some chemical or biological material which lacks chronic health testing. I repeat: This material lacks chronic health testing.

I am not against biotechnology or biodiversity. I have a strong background in agriculture, and I am well aware of how many of the products that have been developed have greatly improved the efficiency of our rural producers. There are those who believe that the fear over rBST is misplaced and accuse the committee of standing in the way of progress. However, there is no need for this hormone in our country. Canadians have a constant, clean supply of milk which is envied worldwide. RBST is not a cancer-controlling material or a vaccine for polio or AIDS.

I might add, honourable senators, that I did not institute the milk supply system. It was instituted by Senator Hays' late father. He worked with the provinces and the producers of this nation. They established the Canadian Dairy Commission, which was one of the greatest steps forward in putting dairy farmers, from Nova Scotia to Vancouver Island, on an equal basis. Before that, the Quebec dairy farmers were way down here, as were the farmers in Atlantic Canada.The highest level was in British Columbia. Next to British Columbia farmers were the farmers in Ontario. British Columbians were the first to organize a supply management system for their milk. Some people said I did it, but I was only four years old when they put it into effect. I was a consumer of milk at that time. I do not know if I was a good manager of supply at that time. British Columbians did it in 1928, and it is one of the most sophisticated systems for any product of which I am familiar. No one can argue with what they do. Quebec is now in that same position. Why? Because we give them an economic return for producing a high-quality product. Never in our lives have our dairy products been of the quality they are at the present time.

The committee also received over 1,000 letters. I challenge any chairman of any committee to say that they have had that kind of response. As Senator Gustafson said when referring to the letters, they generally began with the following: "I never had much use for the Senate, but the work you have done is tremendous." These are individual letters.

Honourable senators, when one person sits down and writes you a letter, at least 500 people are thinking the same way. I received around 500 letters. Other members of the committee received letters. The clerk of our committee, Mr. Blair Armitage, also received many letters of commendation for what we were doing.

Current investigation surrounding rBST involves investigating serum proteins, which have been identified by Dr. Michael Dowshe at Toronto Sick Kids Hospital as part of the trigger of juvenile diabetes. In North America, it is estimated that 15 per cent of all medical costs are related to the treatment and management of diabetes. Each year in the United States alone 60,000 people die from diabetes. These results are one of the major concerns in Europe, where this hormone has yet to be sanctioned.

While I am talking about that, a press release today points out that the European Community ban on the Monsanto hormone is likely to continue for another five years. The *Wall Street Journal* reports this morning that the European Union's five-year ban on Monsanto's synthetic cow hormone is likely to continue because a government-appointed scientific panel is raising human health concerns dismissed by other governments. The moratorium on the company's genetically engineered bovine somatotropin that aims to increase a cow's milk output by as much as 15 per cent was scheduled to expire on December 31. An EU panel issued a report Monday that requested more study into whether cows treated with the bovine hormone also produced an insulin-like growth factor in their milk in such quantities that drinking it raised the risk of cancer in humans.

• (1640)

As I have said, these results have raised major concerns in Europe. They talk about how many countries have approved this product. How many of these countries can export a quart of milk? The main exporting country is the United States, but there was sponsorship at the Codex meeting from Australia and New Zealand. Those two countries have banned this product in their own countries, but when they went to an international meeting they supported the United States because the United States has approved it. I find that to be hypocritical.

As I said, the *Wall Street Journal* reported this morning that the European Union's five-year ban is likely to continue. Monsanto is quoted as saying that it will contest the conclusions of the EU committee report was issued yesterday. This report requested more study into whether rBGH treated cows also produced an insulin-like growth factor in their milk. This IGF, as it is known, in large enough concentrations has the potential to cause cancer in humans.

These European Commission claims are in sharp conflict with the policies of the American Food and Drug Administration, whose policy was largely based on unpublished and confidential Monsanto claims that this hormonal milk is safe.

The Standing Senate Committee on Agriculture and Forestry has also been effective in looking at the role of Codex, the World Health Organization body which is setting international food safety standards. This organization has given an unqualified clean bill of health to rBGH milk.

Senior FDA officials in the United States and industry are represented on Codex, but who is sticking up for the best interests of Canadian consumer? Seventy per cent of our current research funding is from industry, and I believe that is very bad. I have always looked upon research as our most important product. With 70 per cent of it being funded by industry, how can it be independent? We know that our researchers are scared now. If they express their true feelings and are released from government, where will they go to work? Who will hire them? A dangerous situation is being created in our society. We must protect society with independent, good and honest research.

The Codex organization is clouded in secrecy. When do they meet? Where do they get their information? Membership on the committee is not permanent. Rather, members are appointed prior to each meeting. The relationship between Canadian regulatory officials and Codex is a matter of critical concern to our consumers. It is a relationship which this committee will investigate further.

The situation in the United States is of great concern. The Food and Drug Administration has indicated that it has no long-term health data on either rBST as a pure chemical or rBST-derived milk, yet they approved its introduction to over 275 million people. In fact, in the United States there was not one single health test done on milk from rBST treated cows. The deputy director of the Food and Drug Administration, Dr. Steven Sundlof, was a former officemate of the director of research for Monsanto when they were at the University of Florida, and Dr. Sundlof served on the 1993 Food and Drug Administration advisory panel, supposedly as an independent, unbiased researcher. He was later hired as second in command of the Food and Drug Administration under then director David Kessler. This does not sound like a legitimate health review.

Monsanto lost $250 million last year. Their stock price fell yesterday after news of the European Commission's report. How can we be certain that the best interests of Canadians are being represented above those of a multi-national corporation when their main concern is their international stockholders?

In biological research, in order to determine the effects of materials on populations, a small group of animals is employed as a sample of what might occur in a larger population. Tests were done for 90 days on 30 rats. We do not know if they were big rats, little rats, fat rats or skinny rats. Is 90 days of tests on 30 rats over nine years good enough for Canadians? I say that it is not. These discrepancies serve to support our concern about not exposing Canadians to something with no chronic health data.

Health Canada released its report on January 17, although the committee was told that it would be released in June, just before the Codex meeting which was to take place in Rome. Suddenly the report was released on January 17, although it was not supposed to be ready until June. The process was certainly

speeded up. It is obvious they did not have very much knowledge. I am shocked that the doctor said there was no damage to human health, yet the veterinarians reported that there was damage to the cows. That is just unbelievable.

In its report, Health Canada said that rBST was being denied due to potential harm to animals. How could they make a decision for or against when the committee had not seen any hard evidence? This is why I emphasize that our report is merely an interim one. We will bring those responsible for this decision before the committee and ask them how they came to this conclusion.

The committee would welcome Monsanto's scientific evidence.

The Hon. the Speaker: Honourable Senator Whelan, your time has expired. Is leave granted to allow the honourable senator to continue?

Hon. Senators: Agreed.

Senator Whelan: Thank you, honourable senators.

The committee would also welcome the results of Monsanto's chronic health test.

This issue has given the Senate more positive media attention than any other in recent memory. The results of our investigation have been reported in major media outlets in Mexico, Australia, London, Berlin and Paris. The *New York Times* and the *London Observer* have both made mention of the committee and its investigation. Our committee has accomplished a great deal, but we are by no means finished. The committee must work as diligently as the hormone manufacturer who is planning an appeal, we are told, of the Canadian ruling.

The Senate receives its fair share of criticism over spending and accountability. Voices of disapproval are sometimes heard from within this building as well as from without. I suggest that in a case such as this our elected colleagues in the Canadian population should be thankful that the chamber of sober second thought is alive and well. They are getting good value for their money. We have worked to our full potential. We have not let partisan interests get in the way of our work. The sanctity of the Canadian dairy supply, renowned worldwide for its purity, is safe because of the work done by this committee. There is no need for the addition of this hormone.

There is some suggestion that this issue may arise once again, perhaps after I have left office. I ask my honourable colleagues who are fortunate to have terms which will extend well into the 21st century to ensure that this does not happen. We cannot allow any shortcuts when it comes to the role of biotechnology, especially as the number of applications to the Health Protection Branch skyrocket. We are told that they will increase in the next five years from 200 per cent to 500 per cent. RBST must not be approved until such time as the evidence is clear that it is safe for humans. That evidence is not yet available. I am confident in the knowledge that it never will be.

• (1650)

Hon. Mira Spivak: Honourable senators, it is a great pity that Senator Whelan must retire. One thing that he should do in his retirement is lecture on the topic of "Everything you wanted to know about rBST but were afraid to ask." I certainly agree with his remarks about the operation of the committee. I want to say that there were no flies on the Canadian Senate committee. Those of you who are farm people will understand that reference.

The testimony of Health Canada scientists and their Gaps Analysis report before our committee had quite an impact, not just in Canada but in the United States and Europe as well. Their finding that the only 90-day toxicology study on rBST was misreported years ago has prompted two other studies. Senators from the State of Vermont questioned the U.S. Food and Drug Administration. As well, other U.S. public interest groups have petitioned the FDA to take bovine growth hormone off the market in the United States.

This summer, the Centre for Food Safety and more than two dozen American consumer groups are expected to take the next step and challenge the FDA in federal court.

Recently, our research has documented improprieties prior to the last meeting of the Joint Expert Committee on Food Additives. JECFA is *the* international scientific body of the Codex Alimentarius Commission. JECFA's opinion that there is little or no risk to human health was presented to our committee as the gospel. Last month, Britain's *London Observer* called us for comment. Our evidence showed that confidential reports from the European Union and public interest groups on two continents were leaked to Monsanto before JECFA's meeting. That is not supposed to happen. As a result, Consumers' International, the organization representing hundreds of consumer associations worldwide, is calling for a new JECFA review of rBST.

Next June, when the Codex Alimentarius Commission meets in Europe, our committee's evidence on the 90-day study, the virtual lack of direct science and the new discovery of interference at JECFA will be at issue. This month, the BBC is coming to Ottawa to document what we have learned. They will interview Senator Whelan.

Why has the review of one drug stirred so much interest in Canada and elsewhere? In a word, it is a matter of trust. Canadians learned that, for almost eight years, officials in the Bureau of Veterinary Drugs did not apply due diligence in their review of rBST. Canadians learned that, just 21 days after Monsanto filed its submissions, the Bureau of Veterinary Drugs told the manufacturer that there were no unresolved safety problems. They learned that the department had waived the standard requirement for long-term studies. We have heard that there is, to this date, as I speak, very little direct research on the human health effects of rBST. Yet they waved it through.

Through our committee, Canadians learned that rBST files were stolen at the bureau. Drug evaluators believed the manufacturer had tried to bribe them. Health Canada scientists were muzzled after they began to talk publicly about the drug review. Even our committee, a committee of Parliament, could not get the bureau to give us the Gaps Analysis report on rBST with the key information intact. We did not get it. The sheer weight of evidence led to one conclusion: Changes are needed at Health Canada to restore public trust.

The committee's interim report makes sound recommendations to that effect. We trust that the Minister of Health and his deputy minister will look at them seriously. The deputy minister told us that the public, not industry, is the client of Health Canada.

The evidence of the drug approval process gone awry at the health protection branch matters little to agencies or public interest groups in the United States or the U.K. Why, then, are they so interested in our committee's findings? Again, the operative word is trust. They want to be able to trust that proper studies have been done before people in Europe are exposed to residues of rBST. In the United States, they want to have confidence that people are not being exposed to residues that will adversely affect their health in the long run. Somehow, we take this for granted and yet it does not always happen.

This month there is more cause for concern. The report of the European Union's scientific committee, to which Senator Whelan referred, made reference to direct risks with rBST milk. Chiefly, there is a possible increase in a residue called IGF-1 which, among other things, is associated with breast and prostate cancer. That report has been tabled. It states that experimental evidence for a connection between IGF-1 and breast and prostate cancer is supported by epidemiological studies. The activity of IGF-1 is essential in the cellular differentiation process and regulates the expression of several genes and acts as a cellular growth factor. It questions the establishment of a "no adverse effect" level, calling it a paradigm in conventional risk assessment.

I reference that latter comment because risk assessment is always put forward as the way to go, and not necessarily a precautionary principle.

The European report also cites potential changes in milk which might prompt allergic reactions and an increased risk of antibiotic-resistant bacteria.

Last spring, the Senate passed a motion by Senator Whelan calling for further study on rBST. To date, all the evidence we have heard confirms that further study is required. Unfortunately, despite Health Canada's announcement in January that it would not approve Monsanto's submission, the manufacturer is not accepting the decision. Instead, dialogue is continuing with Health Canada officials to counter the department's concerns about animal safety.

Monsanto also tells us that it disagrees with the other expert panel, the human safety panel. They approved the drug for further research but suggested that the 90-day toxicology study should be repeated. It seems that some officials in the Bureau of Veterinary Drugs also believes that there is no need to redo the work.

Our committee's interim recommendation for long-term studies — that is, studies longer than 90 days — obviously differs from the findings of the Canadian external panel on human safety. The question then arises: Why should we differ with the opinion of experts assembled through the Royal College of Physicians and Surgeons? I want to address that issue head-on. It might have been easier for us to take the panel's report as the last word on human safety, but scientists, including a retired Health Canada drug evaluator, and others who have studied the science for more than a decade, are critical of the report of that expert committee.

The committee wants to hear from the panel, and from those who disagree with its conclusions. Now that the scientific panel of the European Union clearly disagrees with the Canadian panel, it is even more important to weigh the new evidence. There is a whole list of studies talking about that in the appendix of the European scientific committee study.

The committee also wants to hear from the Canadian panel on animal safety and to give Monsanto officials the opportunities to refute its conclusion that rBST poses an unacceptable risk to human health. On that score, the European Union scientific panel also concluded that rBST causes unacceptable levels of mastitis, lameness and other problems.

We want to be open-minded in hearing all new evidence. At the same time, we believe it would be a mistake to agree to closure on human safety concerns in Canada and elsewhere based on the latest Canadian panel report. The evidence we have heard to date leads to the recommendation that long-term studies are needed. We so recommend.

It is a tribute to the work of the Senate, and to this committee in particular, that our study was completely non-partisan. Senators from both parties called it as they saw it. If there was any bias at all in our committee, it was in favour of seeing that Canadian farmers have every advantage, every production tool they need to compete and produce high-quality food.

• (1700)

Many of us have farm backgrounds. We are very concerned about the financial crisis facing our grain and hog producers. We are very aware of the need for all producers to stay competitive. We also know that the long-term survival of producers rests on consumer confidence. We want nothing to undermine that confidence or to cause Canadians to drink less milk or to eat fewer dairy products. By the same token, we know that public trust in the Health Protection Branch in the long run rests on evidence that the public health is foremost in the review of any drug.

I applaud the Minister of Health for his decision in January. I always knew he would do the right thing. I hope the minister and any future minister of health will stay the course. I hope that the government will take our recommendations seriously and that officials in future will be more rigorous in their demands on drug manufacturers to prove safety.

Hon. Consiglio Di Nino: Honourable senators, would my colleague entertain a question?

Senator Spivak: Certainly, honourable senators.

Senator Di Nino: In the *Quorum* of today was an article which dealt with this issue. It talked about a European Commission study which claimed that rBST is linked to breast and prostate cancers.

During the committee's deliberations, were there others who made similar claims? Were there experts who claimed that there were other potential damages to the human body as a result of ingesting rBST?

Senator Spivak: Honourable senators, during the committee deliberations we heard about a recent Harvard University study which was done in conjunction with Mount Sinai Hospital. We have to be careful, honourable senators. No one is saying at this point that the IGF-1 within the rBST in milk causes breast or prostate cancer. What is being said is that there is a correlation between elevated levels of IGF-1 and breast and prostate cancer and, perhaps, other things.

There is a call for further study, which is exactly what everyone who has been involved with this matter has called for. The superficial way in which this drug was dealt with is really quite shocking. After 21 days with no examination and then saying that it is safe is not the way to do it. In the United States, the Food and Drug Administration misreported it. There is something not exactly kosher, if you will pardon my expression, about this whole thing.

Senator Di Nino: I should like to ask the chairman of the committee if the committee intends to study the report of the European Commission mentioned in the article to which I just referred.

Senator Gustafson: Honourable senators, there was a consensus that we have further study and that we consider other scientific reports on this issue. That is what the committee intends to do.

Senator Whelan: Honourable senators, I, too, should like to ask the chairman of the committee a question. He talked about the genetic work that is being done. Is he aware that, today, in Sao Paulo, Brazil, Brazilian authorities ordered that work be stopped on a plantation on which Monsanto is growing a new, genetically altered soybean? This move comes only days after state authorities ordered Monsanto to provide environmental impact statements for all the areas in which they are growing genetically altered crops. The state's agriculture secretary has said that whoever fails to inform the agriculture ministry about research on genetically altered organisms cannot continue to work. Is the chairman of the committee aware of that?

Senator Gustafson: Yes, I am. In fact, there was a full-page article in one of the daily newspapers about genetically modified grains, including 30 different grains, vegetables and, in particular, soybeans, which is a competitor to canola, a crop which I grow.

On motion of Senator Milne, debate adjourned.

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the sixteenth report (Interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "The Governance Practices of Institutional Investors," tabled in the Senate on November 19, 1998.—(*Honourable Senator Oliver*)

Hon. Donald H. Oliver: Honourable senators, I stand to participate in the debate on the sixteenth interim report of the Standing Senate Committee on Banking, Trade and Commerce entitled: "The Governance Practices of Institutional Investors."

It gives me great pleasure to rise today to join in this debate following the words of Senator Angus a couple of weeks ago. I say that because I was one of the people who strongly urged the Senate Banking Committee to undertake this study.

In 1995-96, the Banking Committee undertook a very important study on the elements of corporate governance of Canada's publicly traded companies with a view to making recommendations for changes in the governance aspects of the Canadian Corporations Act. During this study, we had occasion to meet with a number of witnesses who discussed with us the role that institutional investors played in Canada's capital markets. This was of great interest to me. At that time, I put questions to many of the witnesses who appeared before the committee about the role of institutional investors in Canada's capital markets, their growing power, and how institutional investors affected the corporate governance practices of companies they held shares in and whether more disclosure about their activities was called for.

I based my questions, in part at least, on a study done by Dean Ronald Daniels of the University of Toronto Faculty of Law and Professor Randall Morck of the Faculty of Business at the University of Alberta. In their article entitled, "Canadian Corporate Governance: Policy Options" the authors ask the following questions:

> Who are the people who run pension funds?
>
> How well do they do their jobs?

What incentives do they face?

To what extent do they promote their own interests or interests other than those of their beneficiaries?

Daniels and Morck state that these questions have largely gone unasked and unanswered in Canada — this in spite of the fact that pension fund managers regularly make multi-billion dollar decisions that constrain the decisions of large corporations and affect the retirement security of millions of Canadians.

Ed Waitzer, the former chairman of the Ontario Securities Commission said in response to one of my questions:

> We need to build up some knowledge in a hurry. That sector will continue to grow in a hurry and will exercise a dominant influence on our economy$There will be too much concentration and too much power in the hands of too few. We will not understand it and we will end up with bad policy.

The focus for our inquiry into institutional investors was divided into two parts. One was the influence that institutional investors may have over the corporate governance activities of companies in which they invest. The other complementary focus dealt with the corporate governance practices of institutional investors themselves and their responsiveness, if any, to the demands of those whose pension contributions they collect and invest.

One example of the influence of institutional investors over the corporate activities of companies in which they invest occurred quite recently. I read in the *National Post* about Noranda mines. The article said that Noranda announced a month or so ago that it planned to create two classes of common shares. This was designed to facilitate its merger with Falconbridge Limited. However, some feared that this was the first step along the way of creating a two-tiered structure of voting and non-voting shares at Noranda. This would severely hurt minority shareholders. Both the Investors Group and the Ontario teachers' pension fund, both owners of significant blocks of shares, announced that they would vote against the plan at the upcoming corporate meeting. The plan was dropped because of this negative feedback from Noranda's institutional investors.

• (1710)

In order to appreciate the importance of these corporate governance issues, one must take into consideration the size of the institutional investors. In 1996, the 15 largest public sector pension funds had assets of approximately $150 billion Canadian, the 15 largest private sector pension plans $50 billion, and Canadian mutual funds and insurance companies had assets of over $250 billion Canadian. With this enormous magnitude of resources and access to resources through the continuing contributions to pension plans and mutual funds, institutional investors have the potential to exert a considerable degree of influence over the economies in which they operate and the corporations in which they invest.

I find the whole area of institutional investor activism particularly interesting.

Tom Gunn, Senior Vice-President of Investments for OMERS, the Ontario Municipal Employees Retirement Board, stated about a year ago that OMERS is thinking about:

> ...whether or not we should look and do the overall governance scores of companies and to come out with some thought as to who are the best governed companies in Canada and whose governance is lacking.

The reality is that institutional investors are becoming more active in Canada. L.R. Wilson, the former CEO of BCE, testified before the committee that the company's largest shareholder had recently visited BCE with a very structured list of questions, many of which related to the governance of the company, including questions on the role of the board of directors of BCE.

At a February 1998 conference on corporate governance and accountability sponsored by the OECD, participants noted that increasingly close contact between institutional investors and management in the form of private meetings was taking place. Competition among the various institutional investors for greater returns on their portfolios is resulting in a more direct probing of management regarding company strategy and performance.

I must say, honourable senators, that I have serious concerns about these private meetings that are held by some of the pension funds and the corporations in which they invest.

The potential cause of this new activism is that it is often difficult for institutional investors to sell their shares in underperforming companies. Why is that? Because moving very large blocks of shares may significantly affect the price of those shares in an unfavourable direction. The alternative to selling is to become more active in that company. As the OECD notes:

> The future of governance by institutional investors may include less crisis intervention and more continuous strategic involvement between directors and large owners.
>
> Institutional investor activism will bring with it a number of different policy questions, in particular in the area of differential treatment of large and small investors. The central concern is the privileged access that institutional investors may have in private meetings with management. Even if insider trading rules are not broken, special access is likely to give institutional investors a valuable privileged insight into a company.

In fact, if the actions of institutional investors may truly benefit all investors, then this is not a problem in practice. However, who decides whether a specific intervention is in the interest of all investors, particularly since not all investors have the same objectives or the same interpretation of data and events?

In fact, some witnesses who came before the committee took the point of view that institutional investors should not be assigned the responsibility of being the watchdog of the corporate world. Their investment policy objectives do not in every case coincide with the interests of every other investor. J.C. Delorme, former chairman and CEO of la Caisse de dépôt et placement du Québec, said that many institutional investors do not want to be the watchdog. It is, of course, obvious that institutional investors have the fiduciary responsibility to represent the interests of their constituents, and not of society in general.

Obviously, these differing viewpoints indicate a need for a deeper understanding of how institutional investors can, and do, wield influence, as well as how they should wield such influence. We were helped by various witnesses who gave valuable evidence as to the issues faced by institutional investors. Professor MacIntosh of the University of Toronto, an expert in corporate governance issues, argued:

> We would expect institutional investors to be better overseers than retail investors, simply because they have much larger interests at stake and, therefore, are likely to take a much keener interest in who is running the corporations in which they have invested.

His empirical work found that where there is a high institutional ownership, there is a a higher return on assets and equity. He went on to say that legal restraints make institutional investors less active than they should be.

The absence of confidential voting is a key issue. Banks and life insurance companies, for example, do not want to get involved in governance if it would adversely affect their relationship with current or potential clients. If confidential voting were instituted, management would not be able to see proxies and to punish shareholders for not supporting management. Pension funds — institutions that do not have this problem — have been the most active in governance issues.

The proxy rules are another legal restraint. If institutional shareholders engage in communications about a corporation in which they hold shares, then they trigger the requirement for a dissident proxy circular. This prevents informal communications among institutional shareholders that might be beneficial to all concerned, including management of the corporation.

Institutional investors do not micro-manage. They tend to get involved in the big-picture decisions, such as the adoption of poison pill defences, or decisions about mergers.

One expert on American institutional investors raised an interesting issue in comparing Canadian and American funds. He suggested that some of the larger Canadian pension funds are active in corporate governance in a less public and perhaps less confrontational way than their United States counterparts. It may be appropriate, he then went on to say, to have public disclosure of the initiatives of Canadian public pension funds.

This last issue was picked up by Mr. William Riedl, a Canadian expert on governance issues. He was of the view that, in Canada, it is not necessary to have the aggressive monitoring and targetting of companies that take place in the United States. The level of institutional investor competence is higher in Canada than in the United States. Further, American investors have a much larger number of companies to monitor than do Canadian investors. Canadian institutional investors should become more intimately acquainted with a smaller number of companies.

Mr. Riedl felt that the potential for public disclosure and embarrassment could lead to a change in corporate behaviour, and the fear of publicity is a stronger incentive to change than the publicity itself.

On the issue of transparency with respect to communications between an institutional investor and a publicly traded corporation, Mr. Riedl argued that disclosure should not be required unless share trading activity takes place. The issue is one that comes up again and again. What good is it to the small investor if he or she does have access to the same information as the institutional investor only after the institutional investor has already acted? On the other hand, should we constrain institutional investors from acting on information that they have obtained and that anyone else could obtain by asking the right questions? Clearly, the institutions have resources to make use of and to gather information that small investors simply do not have.

We are all concerned about transparency — that accurate and timely information is readily available to those who want it. This is as true about the activities of the big institutional investors as the activities of publicly traded corporations.

The other issue that confronted us during our committee hearings was the internal organization of institutional investors themselves — in other words, their own governance practices. Here, of course, we are dealing with the issue of accountability and how it can be built into a system of governance. While no witnesses before the committee suggested that there was a crisis in either the pension fund industry or the mutual fund industry with respect to governance issues, almost everyone stated that there was considerable room for improvement. The size and role of institutional investors has changed so dramatically in recent years that in some cases governance practices have simply not had a chance to adapt to the new situation.

• (1720)

John Por, a governance expert who worked with the committee, focused on large public sector plans. He testified that:

> The governance practices, at least in our view (Cortex Consultants), of large public sector pensions should be examined with the purpose of building guidelines for improvements.

He added that in general, "there are few well-governed boards." His view is that even among academics there is not generally accepted criteria for evaluating the performance of public pension plan boards.

John Palmer, the Superintendent of Financial Institutions, expressed similar views with respect to private plans. He said:

> Over the years, our work of supervising and inspecting pension plans has uncovered periodic problems and examples of inappropriate behaviour. Such problems include what we considered to be inadequate professional work by auditors, actuaries and other advisers, inappropriate investments, the taking of investment commissions by plan administrators and actuaries, excessive or inappropriate plan expenses, conflicts of interest in connection with investment decisions or the conferring, granting of benefits, and plan amendments conferring past service members, in the absence of adequate funding.

The Hon. the Speaker: Honourable Senator Oliver, I regret to interrupt you but your 15-minute speaking period has expired. Are you requesting leave to continue?

Senator Oliver: Yes.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Oliver: Thank you, honourable senators.

Continuing with the words of John Palmer:

> As far as we know, most plans are well managed and well founded. However, some plans could benefit from improvements in governance procedures and from better funding.

Another expert, Mr. Keith Ambachtscheer, expressed concerns about how informed are clients of institutional investor services, including pension plan holders. He said:

> We should all have a concern about the current system relating to this idea of unbalanced information between buyers and sellers of pension fund services. A survey was done whereby 2,000 Canadians were asked whether they knew what level of mutual fund fees they were paying. An astounding 45 per cent of them did not know that they were paying any fees at all. The rule in pension economics is that for every 1 per cent of return you give up, you lose 20 per cent in your final pension.

All of these concerns, so artfully stated by witnesses before the committee, have at their heart the problem of how to ensure that accountability exists. Pension funds present a particular problem in this area. In the corporate world, shareholders elect directors to protect their interests. If shareholders want to, they can topple directors or simply opt out by selling their shares. Shareholders have a significant degree of control over their own destiny.

Pension funds, however, are not institutions that people move into and out of easily. Further, there may be little information available evaluating their performance. Simply stated, complications arise when an organization is not subject to clear market pressures. Professor Jeffery Macintosh of the University of Toronto testified that:

> If you look at the whole array of controls that exist to discipline corporate managers, you take away almost all of them in the case of pension funds. That is why pension fund governance is a much more difficult problem than corporate governance.

What, therefore, are the concerns with governance and how did we as a committee address them? Some witnesses expressed concerns about the qualifications of individuals who sit on the boards of public sector plans. The committee found that pension boards, once established, have no clear-cut transfer and selection process to ensure that their members are experienced, knowledgeable and fit for fiduciary duties. Appointments can be affected by stakeholder groups such as governments, employers or unions. Hence, the selection process can be heavily influenced by agendas that lie outside the paradigm of good government and fiduciary duties. John Por testified that:

> A good case could be made that a cycle of weak boards begetting weaker boards and even weaker executive staff may set in due to the nature of the defined benefit plans...

What this means in the case of public sector pension plans is that taxpayers may be called upon to rectify the errors made by weak boards. The committee was quite concerned about this possibility.

Simply stated, the committee believes that it is very important to have those who sit on boards of any financial institution, and in the specific context of public sector pension plans, be comfortable in dealing with complicated financial issues. Boards have a duty to stakeholders to ensure that a significant number of their members have the necessary scope, experience, knowledge and, essentially, the time to oversee the complex operations involved in running a pension plan. Those operations can include investment management, information systems, administration, communications and risk management. All of these things require a high degree of skill and knowledge.

Honourable senators, transparency, the requirement for public disclosure and potential embarrassment will probably lead to greater changes in governance methods and structures than any other requirement.

I believe what we have done in the Banking Committee with institutional investors is a very good beginning, but it is only a beginning. As institutional investors grow in size and influence, we should revisit our recommendations to determine if they have been adopted and if they have been effective

Hon. Nicholas W. Taylor: Honourable senators, may I ask the honourable senator a question?

Senator Oliver: Certainly.

Senator Taylor: I am interested in the honourable senator's observations on large institutions or corporate investors, whether they be mutual companies or investment companies or pension funds. I quite agree that they wield a huge influence on a corporation, having had a few public companies myself. If you could get a pension fund investing it was sort of like moving in with the landlady's daughter. That is to say, you had it made for a while.

They were not on the board of directors because they were not in management and they are steering clear of governance. Under our exchange and security laws, which vary from province to province, they were not considered insiders, although I consider them to be very much insiders. For example, if I had an institutional investor who had a big slug of shares call me, I would sing like a canary. It was awful hard not to try to release that information or give out a clue that the general shareholders did not get. I often wondered at the time why they were not forced to register as insiders.

Was that solution considered, namely, that if you are an institutional investor and have a certain amount of money, you would have to register as an insider, regardless of whether you argued that you were not, in the governance of the company?

Senator Oliver: That is an excellent question. That is something that many of the witnesses who came before us raised.

The big issue is that, as in the case of Noranda, two very large institutional investors said, "We do not like some of the things that you are proposing. We will vote against them if you bring them forward to your meeting."

Another thing that we found happeningwas quite frightening. As a matter of routine, a number of these large funds, say, with $40, $50 or $60 billion, by appointment, would arrange to meet the CEO and the senior vice-president of a company of which they might have 7 or 9 per cent. They would say, "We would like to have a meeting." At the meeting they say, "We have five or six concerns. Here they are." The company would then turn around and say, "In order to address your concerns, here are some of the things we have planned." The information that they would be getting would be insider information. This huge institutional investor could then go back and make some very strategic investment decisions that you or I, as individual, private, retail investors, would not know about and would have no knowledge about.

This is my biggest concern because I think that the institutional investors who party to those meetings are in fact insiders, and they should have to disclose as much before they buy more or sell more and affect my interest as, say, a very small minority shareholder.

Senator Taylor: I like that.

The Hon. the Speaker: If no other honourable senator wishes to speak, this item will be considered debated.

Senator Oliver: Honourable senators, Senator Meighen would like to speak on this tomorrow. With leave, I adjourn this debate in the name of Senator Meighen.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

On motion of Senator Oliver, for Senator Meighen, debate adjourned.

• (1730)

REVIEW OF NUCLEAR WEAPONS POLICIES

MOTION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Lavoie-Roux:
>
> That the Senate recommend that the Government of Canada urge NATO to begin a review of its nuclear weapons policies at the Summit Meeting of NATO on April 23 to 25, 1999.—(*Honourable Senator Roche*).

Hon. Douglas Roche: Honourable senators, I shall be brief in presenting this motion as it is very narrowly focused. This motion seeks only to have the Senate recommend that the Government of Canada urge NATO to begin a review of its nuclear weapons policies at the summit meeting of NATO on April 23 to 25, 1999. Honourable senators will notice that the motion does not predetermine or prejudge what the review would come up with, nor does it offer any specific steps. It merely says that there should be a review launched by NATO of its nuclear weapons policies.

At the NATO summit, three important documents will be presented. The documents are, first, a new strategic concept; second a communiqué that would present NATO's policy agenda; and, third, a vision statement on NATO's future purpose and mission.

This great alliance, I dare say the greatest military alliance in the history of the world, now about to celebrate its fiftieth anniversary, does so at a time when new challenges are being presented. The last review of NATO's nuclear policies took place in 1992. To put a fact or two on the record, honourable senators, there are presently 180 nuclear weapons in Europe; they are owned by the United States. In addition to those deployed in the United Kingdom, they are deployed in six NATO, non-nuclear weapon states, namely: Belgium, Germany, Greece, Italy, the Netherlands and Turkey.

The previous review made clear that the nuclear planning group of NATO, to which Canada has consistently made a great contribution over the years, encompasses guidelines for nuclear planning and the selective use of nuclear weapons and major nuclear response. Countries that are affected have a special role to play in effecting the determination of what NATO's ongoing policies should be. Thus it is perfectly appropriate for Canada, as an important member of NATO, to press for this review. It would be absurd to say that the review could be conducted in a two-day period while the summit is proceeding. That is not the intent of the motion.

The intent of the motion is that, at the time of the summit, a determination would be taken by the leaders at the summit to instigate a review that would go on for perhaps many months. Who knows for how long it would go on?

Honourable senators, this motion is timely because the Government of Canada is presently seized of this issue. It is my understanding that the cabinet will meet this week in order to make a determination that will set down Canadian policy that the Prime Minister will take to the NATO summit. In their determination, the government must consider that several events have taken place since the last NATO review on nuclear weapons in 1992. Specifically, the non-proliferation treaty was indefinitely extended in 1995, calling for negotiations to take place that would lead to the eventual elimination of nuclear weapons. Another major development was the advisory opinion offered by the International Court of Justice stating also that the provisions of the non-proliferation treaty, namely Article VI calling for negotiations, should be upheld.

Also, leading generals and admirals from around the world have come out with an important statement questioning the value of nuclear weapons. Thus, without any determination being made beforehand, it is necessary, in my view, for NATO to undertake this review.

A week or so ago, we were visited by four prominent U.S. experts in nuclear disarmament who argued before a joint meeting of the Senate and the House committees on foreign policy that indeed this NATO move should take place. Robert McNamara, the former U.S. defence secretary, said that in recent years there has been a dramatic change in the thinking of leading western security experts, both military and civilian, regarding military utility of nuclear weapons, and that, increasingly, experts are turning against them. He was accompanied by General George Lee Butler, the former head of strategic command in the United States, who reminded us that upon receiving confirmation of an impending nuclear attack, the U.S. President would have 12 minutes to decide what to do. He said that the fate of humanity must not hang on such a slender thread. He also said that the world had escaped a nuclear holocaust during the Cold War by divine intervention and luck.

Thus, with the former head of the arms control unit of the State Department and a representative of the Rockefeller Foundation, the four U.S. experts argued before the committee that steps should be taken to diminish the political value of nuclear weapons.

It is the consensus in political circles, certainly in NATO, that nuclear weapons have lost their military value. No one is arguing that they be kept for military purposes. However, they are arguing that they have a political value. Thus, in NATO's new strategic concept, there should be an element of that concept that would specifically deal with nuclear weapons. That is the point at issue.

I would conclude by saying that the number of U.S. nuclear weapons deployed in Europe has fallen to the lowest number ever. However, they are determined to keep them unless there is a substantive review done that would point the way to a nuclear weapons-free NATO in the future. This is the point that needs to be considered.

NATO does acknowledge, as I have said, that these weapons no longer play a primarily military role. The alliance now faces a major choice: Will European-deployed U.S. nuclear weapons assume new roles and missions such as offensive counter-proliferation operations, or will these weapons be removed in the interest of renewed emphasis on nuclear arms control? This is a very sharp issue. I believe that it must be faced. The decline in nuclear weapons numbers and their military value in the European security context have left European NATO nations sceptical about their future role.

There is so much that can be said on this subject. However, because the motion is narrowly focused and only asks that the Government of Canada urge NATO to commence a review of its nuclear weapons policies, I would suggest that this is a reasonable position to take.

• (1740)

I repeat, honourable senators, that there is a certain timeliness to this motion, inasmuch as the cabinet will be seized of this issue in the immediate future, defined as this week. It is good for the Senate to make a determination to speak and to give advice to the Government of Canada that, in our considered view, we would be taking a reasonable and responsible position by the government, the people, the Parliament and the Senate of Canada to move forward on this issue.

Hon. Jerahmiel S. Grafstein: Honourable senators, the promise of this resolution, on the surface, as least commends itself. Why not yet another review of NATO's nuclear weapons policy, especially after the recent expansion of NATO to encompass Poland, Hungary and Czechoslovakia, even over the legitimate strategic objections of Russia? Why not a deeper study of NATO in the 21st century, celebrating as we do, as we were reminded by Senator Roche, its fiftieth anniversary shortly?

Honourable senators will recall that the creative prescription for NATO expansion formulated right after the Soviet Union and the Warsaw Pact collapsed in 1989 was discarded by NATO. That prescription envisaged a renewed NATO remaining intact at its core while entering into a series of bilateral "Partnerships for Peace" to allow each emerging democratic Eastern European state to move discretely, each at their own pace, without alarming

or threatening Russia or others. Instead of drawing a new line in the sand, new divisions on the ground, the "Partnerships for Peace" could have creatively absorbed each European state engrossed in democratic development. Each state could participate in a variegated way under a different strategic umbrella, leaving NATO still intact to move against threats, without causing new divisions or weakening NATO, all proceeding at a studied, digestible pace, rather than triggering another renewed conventional arms race or provoking Russia to halt its nuclear arms reductions talks at START II.

"Partnerships for Peace" envisaged a renovation of conventional arms consistent with each state's economic capacity. The NATO expansion would have reversed the result, so said General Butler. General Butler, the former head of the Strategic Nuclear Planning Group in the United States Pentagon, gave evidence in Ottawa two weeks ago that NATO expansion may have been the most disastrous strategic decision taken since World War II. Still, this rush to expansion led by the United States and Germany is now a fait accompli.

Where do we go from here? Honourable senators will forgive us if some of us in the Senate are sceptical of yet further review of NATO and sceptical of decisions taken on the fly in the other place without a careful and deliberate strategic overview of Canadian and NATO objectives and capacity.

Some proponents of this resolution may have different objectives in mind than I do. Some would encourage NATO, like some of our colleagues in the other place, to unilaterally dismantle strategic nuclear weapons, to de-alert nuclear weapons and abandon the notion of "first strike" in defence strategy, without a fulsome comprehensive examination of the new global risks we face.

The author of MAD — mutual assured destruction — and a new convert to "moralism," Secretary Robert MacNamara and his like-thinking colleagues General Butler and Ambassador Graham, all nuclear specialists, encourage members of NATO and Canadian parliamentarians to do so. This resolution is in aid and anticipation of a cabinet debate to take place on the question of a NATO review this week.

I was reluctant to encourage this resolution without a strategic overview of these questions by the Senate. This we may be able to do with last week's reference to the Standing Senate Committee on Foreign Affairs to review NATO. In a way, this resolution places the cart before the horse. Yet we must move, Senator Roche tells us, before cabinet deliberates. What kind of debate can this be, then?

Honourable senators, my comfort lies in the fact that a NATO review will evoke a debate not only in Canada, but also in the United States, Britain, Germany and France, and of course Russia, all of whom have different if not divergent views on the role of NATO in the 21st century. Where should we in the Senate inform the government about NATO? Hopefully, our recommendations will not fall again on deaf or, worse, disinterested ears. In a nutshell, where should Canada stand? We are urged by Secretary MacNamara and General Butler to take a "moral" stand on nuclear issues.

After the 1962 Cuban missile crisis, Robert Kennedy asked this question:

> What, if any, circumstances or justification gives...any government the moral right to bring its people and possibly all people under the shadow of nuclear destruction?

This raises the basic question of foreign policy. Should states be measured and calibrated by principles of individual morality? Indeed, is the notion of morality the same between nations as between individuals?

Reinhold Niebuhr, a friend of our colleague Senator Stewart, speculated on the confusion of moral categories over half a century ago in his book entitled *Moral Man in Immoral Society.* From the viewpoint of the individual, he wrote that "unselfishness must remain the criteria of highest morality." Yet Niebuhr himself went on to explain that states cannot be sacrificial. Governments do not have the luxury afforded to individuals. Of necessity, they are agents, rather than principals. They act as trustees, as fiduciaries for the happiness and interest of others. Niebuhr quoted Hugh Cecil's argument. Cecil's proposition was this: "'Unselfishness' is an inappropriate reaction of a state. No one has the right to be unselfish at other people's interest."

The duty of self-preservation conflicts with the individual duty of sacrifice. Hence, as Arthur Schlesinger pointed out in his chapter "National Interest and Moral Absolutes" in his book entitled *Cycles of American History*, this dichotomy makes it impossible to measure the action of states by clearly individualistic morality. He went on to quote Winston Church, who said that "the Sermon on the Mount is the last word in Christian ethics." Still, it is not on those terms that ministers of the Crown assume the responsibility of guiding states. Therefore, honourable senators, while saints can be pure, statesman must be responsible.

Yet by only appealing to narrow self-interests, the state risks loss of its persuasive power with its own citizenry. In general, principles and values must not converge too acutely from national interests. Unfortunately, national interests turn out, too often, to be subjective, ambiguous and susceptible to almost too great flexibility. Confusion rather than clarity results. National interests, in short, cannot totally displace international morality.

As J.P. Taylor wrote, "a democratic foreign policy has got to be idealistic; or at the very least, it has to be justified in terms of great general principles." Observers argue that morality lies best within the content a nation deploys and invests in its idea of national interest.

Many have argued that international policy must be at least a flickering mirror of one's morality at home. We must be good at home before we can preach goodness abroad. Of course, certain international questions of morality are so clear-cut — for example, slavery, genocide, torture and atrocities — that they

catapult and transcend over a state's narrow national interests. These threaten to destroy the fabric of humanity, which brings us to the question of nuclear strategy and the threat of nuclear arms in war.

If the 1930s taught us anything, it was that the unilateral renunciation of weapons is a snare and an illusion. We cannot be moral in an amoral world without deterrents.

The key issue is deterrence. The key analysis is predicting risk so that the deterrence melts the risk. Notions of deterrence, the threat of overwhelming reaction, acts as a preservative of peace. This we found recently, to our surprise, amongst observers in India and Pakistan after their surprise nuclear testing. Commentators on both sides have now said that the mutual transparent nuclear arsenals may afford an opportunity for a fragile peace to be forged between those warring nations.

As to new risks, Russian Prime Minister Yevgeny Primakov, who happens to be visiting Washington today, reacted to NATO expansion by promoting Russia, China and India as a new strategic triangle to counterbalance the fear of U.S. growing hegemony in Europe and elsewhere. China, which has the largest standing armed forces in the world, is quickly growing a deeper inventory of long and intermediate-range missile technology, including lightweight nuclear warheads allegedly stolen from the U.S.

A recent book, *America's Achilles' Heel: Nuclear, Biological and Chemical Terrorism and Covert Attack*, by Richard Falkenrath and others, said the following:

• (1750)

> Nuclear weapons are within the reach of tens of states, with the most significant constraint being the ability to produce plutonium or highly enriched uranium. If this obstacle were avoided through the theft or purchase of fissile material, almost any state with a reasonable technical and industrial infrastructure could fabricate a crude nuclear weapon...

as could —

> some exceptionally capable nonstate actors.

To deal with preparedness and the Russian instability in 1996, the U.S. Senate introduced an excellent proposal called the Defence Against Weapons of Mass Destruction Act, a proposal which seeks to lower the probability of nuclear terrorism and to control fissile material by helping Russians control these and other unstable remnants of their massive nuclear weapons programs.

These are critical questions requiring analysis and critical studies. These are new, complex and runaway risks.

When are such weapons justifiably deployed? When the security of a state can be put critically at risk, can justification be found in acting beyond the current vogue of theoretical notions of the rule of law? The theory of the "just war" was legitimized in Christian doctrine by that great moralist and philosopher, St. Augustine: *Salus populi, suprema lex est*, he proclaimed. In the journals of Thomas Merton entitled *Go Run To The Mountain,* written 1939-1941, we find:

> If you justify wars of defence, if you justify wars that are supposed to bring "peace as quickly and effectively as possible" then you have to accept the most drastic and beastly and horrible and disgusting and cruel weapons and tactics imaginable because they are all necessary for defence.

Still the rule of law morality in international affairs remains a vital if not elusive goal. Therefore, it is incumbent on any review of NATO, that we place the rule of law at the heart of that policy. Chaos arises when we allow each state to act as a law unto itself in world affairs. Hence, in any review, we must gather a policy which describes and ascribes our national interests rooted in the rule of international law.

This begs yet another fundamental question. In order for our legitimate interests and values to be recognized, we must also recognize that other nations are entitled to a recognition of their legitimate interests and values as well.

Last Thursday, however, the NATO commanders were authorized to bomb the recalcitrant Republic of Yugoslavia. NATO legitimacy may be at risk as we speak. This threat of NATO bombing is in aid of a "peace plan" that calls for NATO forces to be deployed within Yugoslavian borders. The UN has not approved this bombing attack, unlike Bosnia where the UN sanctioned that bombing action. Yet Canada has joined this international armada in the air and on the ground. Where does the rule of law start or end here today and in Yugoslavia?

One hundred years ago, honourable senators, the first international conference on rules of warfare in the modern era, was held in The Hague, in 1899. This conference was meant to adopt more humane conditions, even within the horrors of war, for the treatment of prisoners and civil populations. Unfortunately, the atrocities that led to that 1899 conference in The Hague continue a hundred years later in Croatia, Bosnia, Kosovo and elsewhere around the world and before our eyes in vivid colour, live on TV. The western road from Plato to NATO has been a rocky road. Perhaps it is by a winding, rocky road that still requires the highest skills of insight and diplomacy and vigilance and navigation.

Hence, honourable senators, it is with some hesitation and with great diffidence that I support this resolution, inspired by our colleague Senator Roche. Our collegiality should not be confused with consensus.

Hon. Mira Spivak: Honourable senators, I move the adjournment of the debate.

[*Translation*]

Hon. Marcel Prud'homme: All the senators could reach an agreement. The Senate could decide on something. I hesitated a great deal about speaking on this motion. I examined this subject in the External Affairs and National Defence Committee. As it happens, one of the eminent members of that committee was Mr. Roche, then a member of Parliament and now Senator Roche. Another very active senator, who was also on that same committee while an MP, was Mr. Forrestall. If we cannot reach a decision before six o'clock, we are going to adjourn the motion. As Senator Roche has said, the cabinet of the Government of Canada, our collective government, will have to address this matter in the very near future. The meeting is to take place in April. I am going to take a calculated risk.

[*English*]

It is a calculated risk. I will not read my speech in favour of this motion. I will urge all senators to join in the appeal made by Senator Grafstein on this issue — at least he seems to be in agreement. I ask for support of this resolution before six o'clock. I see that our agenda is heavy. We have not gone through much of it today. It seems there is agreement. If I do not see many more senators getting up to speak, then I will be upset because I will not have time to deliver the speech that I have prepared. I take the chance.

I support this motion. Let us not get excited; it is only a motion. That does not mean we want to transform NATO. We do not want to completely transform NATO. It is only a step in the right direction but not greater than the wording of the resolution. If we read it again, I would hope that honourable senators would unanimously accept this resolution. I support the motion and I will not go further.

The Hon. The Speaker: Honourable senators, is it your pleasure to adopt the motion of Senator Spivak for adjournment of the debate?

Hon. Senators: Agreed.

Senator Prud'homme: On division.

On motion of Senator Spivak debate adjourned, on division.

[*Translation*]

The Hon. the Speaker: There is nothing on the Orders of the Day at the present time. Senator Carstairs' item has been deferred.

Senator Prud'homme: Honourable senators, according to the *Rules of the Senate*, adjournment is at six o'clock. Senator Carstairs suggests an extension of the debate. This motion is debatable. I do not wish to think that not a word can be said about it. An item on the Orders of the Day has been called.

The Hon. the Speaker: No, that is not so. At six o'clock, I have no choice. According to the rules, I rise and announce that I am vacating the chair, returning at eight o'clock, barring unanimous consent. It is now six o'clock.

[*English*]

• (1800)

I ask the question, honourable senators: Is there unanimous agreement that I not see the clock?

Hon. Senators: Agreed.

NATIONAL DEFENCE

DEBATE RESPECTING POSTING OF TROOPS OUTSIDE CANADA—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Forrestall calling the attention of the Senate to the matter of public debate respecting the posting of CAF members to Kosovo.—(*Honourable Senator Carstairs*)

Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, given the events that are unfolding in that part of the world, events which may very well involve members of the Canadian Armed Forces being placed in harm's way, it is timely that we give some thought to this matter this evening.

Honourable senators, Canadian involvement with its NATO allies in the conflict taking place in Kosovo demands that Canadians bring forward not just military contributions but, more important, some creative ideas and policies which could facilitate peace in the Balkans. The Government of Canada should be using every means available to it, including its seat on the United Nations Security Council, to propose a new remedy for creative political therapy which would ameliorate the conflict between the Serbs and the Kosovar Albanians and provide a healthy prognosis for lasting democracy and peace in that part of the world.

Canada should propose a new strategy, given that, under older approaches, the political goals of the Serbs and the objectives of the Kosovar Albanians are inherently mutually exclusive. The Serbs invoked the principle of territorial integrity of its state. The Kosovar Albanians rely on the principle of self-determination of peoples, including the claim to secession.

Under the traditional paradigm, we find the Kosovar Albanians aspiring to achieve full political and economic independence. Serbian authorities seek to enforce constitutional and political centralization. In the current political situation, the Kosovar Albanians have little interest in cooperating with Serbian authorities because, they argue, they cannot achieve their full autonomy under Serbian control. The Kosovars worry that the international community might not sustain its support of Kosovar autonomy if the Kosovars were cooperating with the Serb government.

On the other hand, the armed intervention by NATO against the Serbs gives encouragement to the Kosovars seeking secession, which of course undermines any desire to cooperate with the Serbs. Under this same traditional paradigm, the Serbs find themselves in the same position. If they do not defend their territorial integrity, even in the face of an international military action, they fear that the international community would interpret this as an internal dissolution of their state.

In other words, under the old analysis, each participant in the Kosovo crisis expects support: Kosovar Albanians seek international support for the principle of self-determination and the Serb authority seeks support for the principle of non-intervention in internal affairs of the state and respect for the territorial integrity of the state. Given that neither participant in this crisis can predict which principle the international community will embrace, this, in and of itself, contributes to the further mistrust between the Kosovars and the Serbs.

Honourable senators, a new paradigm would dissociate the principle of self-determination of peoples and the principle of territorial integrity of the state. A new paradigm would postulate neither of those two principles as fundamental but, rather, would postulate as a first principle the protection and promotion of human rights. The struggle for self-determination on the part of the Kosovar Albanians and the struggle for territorial integrity on the part of the Serbs must be subordinated to the protection and promotion of human rights. Under this new approach, there is a new, creative, legal relationship between the principles whereby the international community would assess the policies and the actions of each participant in the conflict in terms of their respect for human rights.

Pursuant to this kind of a paradigm, it would allow for autonomy of the Kosovar Albanians if the Serbian central government failed to respect human rights, peace and development. Similarly, the Kosovar Albanians seeking self-determination must not use force and must not violate human rights, otherwise the international community would support the action of the central government and the territorial integrity of Serbia and Yugoslavia against the Kosovar desire to secede.

With such an approach, the evolution of human rights produces a competition between the parties to the conflict to perform much better. The idea is to move the parties from a territorial question to a question of internal democratization and human rights. If the Serb authority wants to preserve the territorial integrity of its state, it would develop appropriate programs for the promotion and protection of human rights, peace and democratization. This would encourage the Kosovar Albanians, who are seeking self-determination to initiate and to improve their human rights, peace and development performance in the aim of achieving autonomy.

The Canadian government should give serious consideration to sponsoring a resolution at the United Nations Security Council seeking the restoration of the constitutional position of Kosovo in accordance with the 1974 Yugoslav constitution. A Canadian-sponsored UN Security Council resolution should allow Kosovar Albanians to restore their local autonomy with a provincial type of legislature, government and local police. Such a resolution would underscore the human rights objective and would also make Kosovar Albanians responsible for the promotion and protection of human rights and peace in Kosovo.

Should the Serbes and the Yugoslav authorities not accept such a Canadian-sponsored resolution, and not restore the constitutional and political position of Kosovo, then the Security Council should call on the international community to recognize Kosovo as an independent state.

• (1810)

Faced with a determined stand by the Security Council of the United Nations, built on a new first principle, namely the principle of human rights, the Serbian authorities would choose internal decentralization to maintain their territorial integrity.

Honourable senators, movement in this direction of internal, constitutional and political decentralization is key to a solution of the Kosovo crisis. By decentralization, the international community would be opening the door for internal democratization and the promotion of human rights.

The present situation requires creative leadership from countries such as Canada. By providing this leadership at the Security Council, calling for the restoration of the constitutional and political position of Kosovo in accordance with the Yugoslav Constitution of 1974, the international community could respond by lifting, for example, the sanctions and thereby facilitate the reintegration of Yugoslavia within the family of nations.

Canada should encourage the Kosovar Albanians to propose to the central Yugoslav and Serb government the provincial legislature model as a means to protect and promote human rights, that being the objective. The Serbian authorities need to be encouraged, on the other hand, to find a model which ensures the greatest protection and promotion of human rights within the confines of the territory. Through this exchange, Canada would be moving the debate away from a territorial question to a question of development, human rights, and peace for all.

With a change to the paradigm, the international community can encourage a change in the older mindset of international law which had and has the inevitable result to this day of maintaining conflict. With this new approach, the international community could achieve a reduction of the inherent conflict between the Serbs and Kosovar Albanians.

The human rights objective must become the first principle of international law. It must replace the two conflicting principles of international law, the principle of territorial integrity versus self-determination. This would make the current struggle less irreconcilable.

On motion of Senator Carstairs, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I understand that the Standing Senate Committee on Foreign Affairs has been waiting for some time with some witnesses to begin its hearing. Would it be agreeable that the Foreign Affairs Committee be allowed to sit even though the Senate is now sitting?

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

Hon. Senators: Agreed.

Motion agreed to.

NUCLEAR WEAPONS

RESPONSE OF GOVERNMENT TO REQUESTS AND RECOMMENDATIONS—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Roche calling the attention of the Senate to the urgency of the Government of Canada saying "no" to becoming involved in a U.S. missile-defence system; and the need for the Government of Canada to contribute to peace by implementing the 15 recommendations in the report of the Standing Committee on Foreign Affairs and International Trade, *Canada and the Nuclear Challenge: Reducing the Political Value of Nuclear Weapons for the Twenty-first Century.*—(*Honourable Senator Prud'homme, P.C.*)

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I rise to advise you that I might earlier have opposed unanimous consent not to see the clock, and the house would have adjourned.

[*English*]

I am advising again that someday some of us will stop the work of the Senate. It seems that people do not seem to understand the rules. Earlier, I let it go. This time, I can speak. My speech is ready. However, I will move the adjournment again under my name to show cooperation after five years. Where you have motions pertaining to independent senators, they will most likely die on the Order Paper now, the way it is going.

The Hon. the Speaker: It is moved by Senator Prud'homme, seconded by Senator Carstairs, that further debate be stood in the name of Senator Prud'homme.

Honourable senators, let me make it clear that, having spoken a few words, the debate has begun in the name of Senator Prud'homme. Therefore, another senator cannot enter debate as we normally do with an adjournment. He has begun the debate, and he will continue the debate. Is it agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Prud'homme, debate adjourned.

SUDAN

INQUIRY

Hon. Lois M. Wilson rose pursuant to notice of March 16, 1999:

> That she will call the attention of the Senate to the situation in Sudan.

She said: Honourable senators, I want to bring to your attention the situation of Sudan, which country has been mired in a protracted civil war since gaining independence in 1956. More civilians have died in this war than in Kosovo, Bosnia and Rwanda combined, yet the international community has not given attention commensurate with the enormity of human suffering. Is it because of aid and conflict fatigue by the international community? Is it because it is an African country? Because the world is not yet fully aware of the rich deposits of oil and copper that lie in southern Sudan? The average Canadian might not be too clear just where Sudan is, yet some of the worst abuses of human rights in the world are occurring in Sudan now — human slavery, forced starvation, rape, displacement of persons, and arbitrary imprisonment.

Renewed conflict began in 1983 when the president declared his intent to Islamize Sudan through the introduction of the Sharia law. The situation was further complicated after a coup d'État in 1989 brought to power the National Islamic Front, NIF, which embarked on a policy of Islamization and Arabization that seeks to impose by force the government's ideological orientation. "Genocide" and "ethnic cleansing" are words used by credible international organizations in describing what is going on in Sudan. All ethnic languages, for example, are to be replaced by Arabic, all religions by Islam. Some observers are afraid to speak of Islamization for fear of being accused of being offensive to Islam. The government also seeks to export its ideology as, for example, when the regime was implicated in attempts to assassinate President Mubarak of Egypt and President Isaias of Eritrea.

The war is too frequently described as Muslim against Christian, Arab against African, or northerner against southerner. The reality is much more ambiguous. There are Christians and Muslims on both sides. There are Arabs and Africans on both sides. Armed resistance to what is seen as northern economic, religious, and political domination has been directed by the Southern People's Liberation Army, SPLA, and more recently, the Sudan Alliance Forces, SAF. A strategic alliance between the northern opposition parties and the SPLA and SAF under the National Democratic Alliance has strengthened opposition to the

government. This is also a regional conflict — Eritrea, Ethiopa and Uganda have all considered themselves to be victims of Khartoum-launched aggression. Finally, Egypt has a major stake with respect to the Nile and the sharing of water resources.

The human toll is horrendous but largely unknown. The civil war has already claimed 1.5 million lives, according to Oxfam UK. Others put the death toll much higher. More than 1.9 million southern Sudanese and Nuba mountain people have perished since the war began in 1983. The overwhelming majority of the casualties are not rebels but civilians who do not share the regime's radical Islamic ideology.

The 1998 famine affected an estimated 2.6 million people, prompting the greatest United Nations relief effort in history. Famine and starvation are being used as strategic tools of war. Corridors for the delivery of humanitarian aid are continually being cut off.

More than half the population of southern Sudan has been forced to flee their homes and join the 2 million displaced people living in squatter areas of Khartoum. The secondary effects are predictable: poverty, malnutrition, and lack of access to clean water which increases people's vulnerability to disease. The Nile water quota of Sudan may need to be split between the north and south with regional implications as the battle over Sudan is partly about water.

There has been a total collapse of the educational system and a likelihood of a lost generation of Sudanese who have received little opportunity for education. Illiteracy in the south is estimated at 90 per cent among women, 80 per cent among men, and 40 per cent among northerners.

The lack of freedom of movement has disrupted normal patterns of agriculture and food production, thus ensuring continuing famine. Rather than spending time in cultivation of crops, women and men spend their time with guns, protecting their families.

• (1820)

Since 1993, the United Nations Special Rapporteur on Sudan has issued five reports to the UN Commission on Human Rights and two reports to the UN General Assembly, documenting substantive evidence of human rights abuses, including indiscriminate bombing of civilian populations, forced removals, disappearances and torture. The reports indicated that the bulk of the abuses were committed by the Government of Sudan. The rapporteur finally resigned in frustration.

The international community's primary intervention has been the provision of humanitarian and relief aid rather than political will to mediate a peaceful solution. Humanitarian aid, the largest in the history of the UN, cost $1 million per day and donor countries are now experiencing donor fatigue. How long are they willing to keep this up? Corridors for food are regularly blocked, especially for African tribes living in the northern Sudan and the Nuba Mountains, where fighting for self-determination parallels the SPLA in the south.

In 1992, Khartoum blockaded the Nuba mountains, refusing access to the UN Operation Lifeline Sudan, OLS. Khartoum has begun an offensive to cut the Nuba's lifeline and throttle the rebellion against Islamization. Many Nuba are Muslims and the government fears that their rebellion could set an example to other marginalized areas of the north. Food is being used as tool of war.

Canada's involvement focuses on humanitarian aid, the violations of human rights, support for the IGAD peace process and concern about stability in the region. The only thing that can really alleviate the suffering of Sudanese people is to end the war. To that end, I was privileged to attend an international meeting in Norway on March 10, 1999, chaired jointly by Norway and Italy, in which the IGAD Partners Forum put some plans in place towards extending the present humanitarian cease fire that ends on April 15, with an effective monitoring mechanism in order to create a more constructive atmosphere for negotiations between the two parties. Despite the existing ceasefire, aerial bombardment continues, according to a current report from the World Council of Churches. If an extended ceasefire could be introduced in conjunction with the specified period of intensified negotiations, a comprehensive peace plan might well be developed.

The concern was voiced that the current flow of humanitarian aid from the donor communities to Sudan would be difficult to maintain without an accelerated and strengthened political process towards peace. Under the umbrella of the Intergovernmental Authority on Development, IGAD, the consultation built on the framework for a peaceful solution to the war in Sudan enunciated in the 1994 Declaration of Principles, to which both the Government of Sudan and the SPLA subscribe, states: that a military solution cannot bring lasting peace and stability to the country; that a just solution must be the common objectives of the parties; that the people of the south have the right to self-determination and the recognition in August, 1998, that this right to self-determination be defined by the borders existing on January 1, 1956; that Sudan's multi-racial ethnic culture and religious nature must be recognized; that freedom of religion and religious practice must be guaranteed; and that the human rights and independence of the judiciary must be embodied in the Constitution. The question is one of implementation.

At the Oslo meeting, there was agreement to seize the perceived window of opportunity that presented itself at this time as the government has declared itself willing for the south to secede. This is, however, tempered by the intransigence of the government in its dealings with the Nuba mountain people. The meeting, including Canada, encouraged the appointment of a special envoy by Kenya IGAD chair for the Sudan peace process, to mount a concentrated and continuous mediation effort over the next few months. There would be support from a small dedicated technical support staff. Hopefully functional by May 1, 1999, the

secretariat will engage in full-time mediation efforts in the belief that until a ceasefire is negotiated, other issues cannot be addressed. Participant countries at the Oslo meeting agreed to support this initiative financially. Time is of the essence.

Additionally, the Partners Forum expressed their readiness to support different measures to promote a peaceful settlement such as reconstruction, demobilization, repatriation of refugees, rehabilitation of children affected by conflict, socioeconomic assessments, especially as they relate to vulnerable groups, and the rebuilding of civil society. It was agreed to set up a working group that coordinated international incentives for peace and planned for support of the implementation process of the peace agreement.

A number of issues exercise Canada. One is the necessity of widening the peace process through a parallel and complementary process to include a much broader representation of civil society, both south and north. A second one is the need to rebuild trust between the warring parties. The mediator must consider confidence building measures. Finding ways to rehabilitate children affected by the war in areas of conflict could help build bridges among the parties and the people of Sudan.

Another important issue of increasing concern to Canada remains unsolved. It is that Canadian business presence is a reality in Sudan. Calgary-based Talisman Energy Incorporated is one of Canada's largest oil and gas exploration and production companies and trades on the New York and Toronto stock exchanges. It owns 25 per cent of the Great Nile Petroleum Operating Company, a consortium engaged in oil and pipeline developments in southern Sudan. The consortium's other partners are China, Malaysia and Sudapet, the state oil company of Sudan. Arakis Energy Corporation, now wholly owned by Talisman, disclosed that it had been pumping 10,000 barrels of oil per day since June, 1996, and expected an increased output by June of 1999, when the oil pipeline to Port Sudan is completed. There are serious allegations that the company may be sending the crude to a refinery that is a major regional military base for the Sudanese government and a staging point for military operations into the Nuba mountains and parts of southern Sudan, thus fuelling the civil war.

Canada's image is now of some concern. Do we really want Canadian companies operating next door to where slavery, according to UNICEF, is actively practised? Will the Government of Sudan allow the south to separate if this means the oil fields will belong to the south? How will the wealth be split, or will it? Is it a reality that 20,000 to 150,000 barrels per day will be pumped by June? What might the south do to interrupt the exploration as it perceives the pipeline to be fuelling the civil war? The oil starts flowing this June. Does that mean game over? If the Government of Sudan, with the involvement of Talisman, is able to export oil and generate revenues as projected by late 1999, the war could tip in favour of the government. Should this transpire, Talisman may be accused of having provided the Sudanese government the means for perpetuating the war with Canada's full complicity and support.

To test the authenticity of the Sudanese government's willingness for peace, might Canada press that government to provide immediate, regular, humanitarian aid to the rebel-controlled areas of the Nuba mountains? Furthermore, might Canada insist that Talisman establish talks not only with the SRRA, the development wing of the southern opposition, but also with the political leadership of the opposition, the SPLA?

Hopefully, you will have concluded along with me that the situation in Sudan is complex and urgent, and that time is of the essence in putting a peace process into place.

On motion of Senator Prud'homme, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO STUDY CHANGING MANDATE OF NORTH ATLANTIC TREATY ORGANIZATION

Hon. John Lynch-Staunton (Leader of the Opposition), pursuant to notice of March 18, 1999, moved:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon the ramifications to Canada:

1. of the changed mandate of the North Atlantic Treaty Organization (NATO) and Canada's role in NATO since the demise of the Warsaw Pact, the end of the Cold War and the recent addition to membership in NATO of Hungary, Poland and the Czech Republic; and

2. of peacekeeping, with particular reference to Canada's ability to participate in it under the auspices of any international body of which Canada is a member.

That the Committee hear, amongst others, the Minister of Foreign Affairs, Minister of National Defence and the Chief of Defence Staff;

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

That the Committee have the power to permit coverage by electronic media of its public proceedings; and

That the Committee submit its final report no later than October 29, 1999.

• (1830)

He said: Honourable senators, from its beginnings 50 years ago as a defensive alliance to counteract the threat of the Soviet Union, which was making no secret of its designs around the world, including of use of military force to advance these designs as it found necessary, NATO has evolved drastically as the political situation in both Europe and Asia has changed.

The events that triggered the changes in NATO are extraordinary — the fall of the Berlin Wall in November 1989, the unification of Germany in October 1990, the collapse of the Soviet Union in December 1991, with consequent changes elsewhere in Central and Eastern Europe.

The Cold War which led to the creation of NATO is over; yet, NATO continues. At meetings in London in 1990 and in Rome a year later, the alliance began to transform itself to meet these changing political conditions. It redefined itself in terms of East-West partnership rather than of confrontation.

Reaching out to the East, NATO created the North Atlantic Cooperation Council — which includes all NATO members, former Warsaw Pact countries and the successor states of the Soviet Union — as a forum for security cooperation. It has concluded "Partnership in Peace" agreements with 30 countries, including Russia, to provide joint planning, training and exercises in peacekeeping and peacemaking.

Recently, as has been mentioned, Hungary, Poland and the Czech Republic have been admitted to full membership, and Canada supports enlarging NATO further by adding Romania and Slovenia.

However, the most fundamental change came in 1995 when NATO assumed military peacekeeping responsibilities at the head of the multinational Implementation and Stabilization Force deployment in Bosnia. That clearly lies outside the normal areas of NATO responsibility as defined in 1949. It also gave the alliance the potential to extend its focus beyond regional, national territorial defence and perhaps be at the core of a new Eurasian security system.

We are now in a position where NATO, having redefined its role, is about to take an active military role in what is a civil war in Yugoslavia. This is how Canada's ambassador to NATO, David Wright, described the situation in Kosovo only a month or so ago. He said:

> A government waging war against its own citizens under the guise of fighting terrorism. A government which some would say has — by its actions — forfeited its legitimacy and any claim it might have on the principles of sovereignty and non-interference.

For months, NATO, which is dominated by the United States, has been threatening bombing raids if no agreement on the Kosovo crisis is reached and the sending in of some 28,000 troops to enforce whatever agreements the Serbs and Kosovars may come to. As we all know, there is no agreement, and bombing attacks become more probable by the hour. Should they take place, NATO will, in fact, have confirmed that it is taking sides — contrary to what Ambassador Wright claims — in what international law considers a civil war, where a rebellious force is challenging the legitimate authority of a governing state.

This statement is not to condone the heinous activities of the Serbs in Kosovo, nor is it to deny whatever legitimate aspirations Kosovars claim history supports them on. It is rather to raise a very basic and pertinent question: Is it Canada's understanding that NATO's new military responsibilities include attacks on a government with which it is in violent disagreement?

There are those who would point to Bosnia where NATO bombing attacks took place, forcing the Serbs into accepting the Dayton Agreement, which now sees some 30,000 NATO troops enforcing that agreement more or less successfully. The motion before us should have been brought before this house at the time, no doubt, but at that time an accord had been reached. This time, history may not repeat itself. In any event, clarification over NATO policy is needed, and certainly an understanding of Canada's participation in, and support of, it is essential.

Honourable senators, Canada's contribution to peacekeeping has been exemplary, inspired, as it has always been, by Lester Pearson's significant solution to the Suez crisis in 1956. However, the "peacekeeping" that Mr. Pearson initiated is a misused term today. We are a long way from Suez, Cyprus and the Golan Heights. Many question commitments to the Gulf, to Somalia, and now to Kosovo. These are not peacekeeping efforts; they are not peacemaking efforts; they are participation in a war.

A public debate on Canada's role in this new and more dangerous environment is long overdue, and its ability to meet it fully and responsibly has yet to be demonstrated. As NATO prepares to celebrate 50 years of the alliance, what could be more appropriate than for Canada to examine in depth the alliance's new strategic directions and our role in them? Such is the purpose of this motion — to review the changing nature of the NATO alliance and what Canada can or cannot contribute to it in terms of resources, human and material.

Honourable colleagues, I have no doubt that with its expertise, the Standing Senate Committee on Foreign Affairs is more than able to address the issue and bring recommendations of benefit to all Canadians.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, Senator Stewart, who was the original seconder of this motion — I became his proxy a few minutes ago — indicated to me before he left the chamber his strong support for this resolution and his desire for the Foreign Affairs Committee to undertake the study that Senator Lynch-Staunton has recommended to the Senate. Unless other senators wish to speak on this motion, I suggest we bring it to a speedy vote.

[*Translation*]

Hon. Marcel Prud'homme: I would like to put a question to Senator Lynch-Staunton. The Foreign Affairs Committee, chaired by Senator Stewart, decided to seek the opinion of the house in order to consider two questions: the International Monetary Fund — without my support, but I did not vote — and Canada's relations with Russia and the Ukraine.

[*English*]

I am not opposed to this motion, but we are piling up many issues for the committee to study. Which issues should have priority? I am very sympathetic to this issue. I have my doubts with respect to enlarging NATO.

The Hon. the Speaker: Honourable senators, is leave granted for the Honourable Senator Lynch-Staunton to reply? With Senator Carstairs having risen and spoken, the only questions that can be addressed, under our rules, are to Senator Carstairs.

Is leave granted for the Honourable Senator Lynch-Staunton to reply?

Hon. Senators: Agreed.

[*Translation*]

Senator Lynch-Staunton: Honourable senators, Senator Prud'homme may rest assured that I consulted Senator Stewart before introducing my motion.

[*English*]

In return, he has assured me that, while this adds an additional burden to an already heavy committee schedule over the next few months, he finds and his committee has found that this could become a priority item. He is able to reschedule the committee's other projects accordingly so that, in time, hopefully before he leaves us, this matter will be completed and the other two will be well on their way. He believes that he will find the time, the energy and the resources of his committee to deal with all three issues.

Hon. J. Michael Forrestall: Were you intending to take the adjournment, Senator Carstairs?

Senator Carstairs: No.

Senator Forrestall: Might I have a few words, then? I properly advised colleagues that the authority to strike has now passed from the body politic to the military. A state of emergency has now been raised in the former Yugoslavia, and strikes are expected. Hence, honourable senators, we are at war, and we have not even discussed this problem.

• (1840)

I wish to lend my support to Senator Lynch-Staunton's motion. Honourable senators, we are talking about peacekeeping, but we are not in a peacekeeping mode in this case. We are in a peacemaking situation with military intervention in what is a defensive military alliance.

This issue, to my knowledge, has not been thoroughly studied anywhere. It has not been discussed in the other place, nor here in the Senate.

These are important questions with respect to the implications of this new NATO policy course and our ability to implement the Kosovo operation. In my opinion, we have an opportunity to take a timely and very critical look. We have among us many experienced people in these fields, such as Senator Rompkey, Senator Kenny, Senator Andreychuk on foreign affairs, and my leader, Senator Lynch-Staunton, who has expressed interest in this field for a number of years.

My concern, honourable senators, rests on our military capabilities and the glaring gaps in the implementation of the 1994 white paper. That white paper arose out of a joint parliamentary committee report on Canada's defence. Both were well-respected documents and still are, not only by parliamentarians but by professional military and the academic community. There are gaps, though, in our capabilities which I believe must be addressed, preferably before action in Yugoslavia commences — which it now has.

Yugoslavia has a large and generally well-armed military with modern fighters like the MIG-29, excellent surface-to-air missiles such as the mobile SA-6, and T-72 main battle tanks. It is clear that NATO, and Canada, will face casualties. For this reason and many others, honourable senators on both sides of the house want a committee to study national security matters, manned by senators who are dedicated to the defence of Canada.

Honourable senators, gaps in the implementation of the 1994 white paper may hamper our operational readiness to undertake a variety of military operations, including our operations in NATO. I believe that it must be part of the Standing Senate Committee on Foreign Affairs study, especially if we are to become heavily involved in that divided nation.

The present government defined its defence policy with the *1994 Defence White Paper* which committed Canada to the maintenance of a modern combat-capable land, sea and air force to deal with operations across the spectrum of international combat. In terms of implementing our national security objectives, the government directed the Canadian forces to provide a joint task force headquarters and one or more of the following: a naval task group of four major surface combatants, one support ship and maritime air support; three separate battle groups or a brigade group; a fighter wing; and a transport squadron, for a grand total of 10,000 personnel who could be deployed abroad from our current Canadian resources at any one time. This was done by a regular standing force of some 60,000. It is interesting at this point that when we crunched the numbers, to sustain that many people in the field we felt would take a minimum of 66,700 men and women.

In terms of the navy, the government stated that there was an "urgent need" for new maritime helicopters to replace ageing Sea Kings before the end of the decade. The white paper also promised to examine the option to buy the Upholder class submarines. Lastly, the government said it would consider replacing our old operational support vessels.

Canada's army was promised three adequately equipped brigade groups and some 3,000 more soldiers in three light infantry battalions. The white paper called for new armoured personnel carriers to replace the obsolete M-113 fleet. There was also a discussion, in very loose terms, of a future replacement of direct-fire support vehicles.

The air force was promised an upgrade of its CF-18 fighter aircraft fleet and new search and rescue helicopters. The government also stated its intention to reduce Canada's fighter fleet by 25 per cent, but the remaining fighters would receive new precision-guided munitions for close-ground support.

In the end, though, as always, the *1994 Defence White Paper* was very big on promises and very slow on implementation. Canada's navy has yet to see a new maritime helicopter. As everyone knows, it takes some three years, once ordered, to get the first one. It will be at least three more years before the last of the new helicopters would arrive. Now the aging Sea King has an availability rate of only 30 to 40 per cent and its missions fail about 50 per cent of the time. This unreliable helicopter seriously hampers NATO fleet operations and maritime peacekeeping operations. There has been little discussion of the proposed multi-role support vessels, and a lack of strategic sea-lift means that the army we do have is largely landlocked here on this continent.

On the other hand, the government should be applauded for its purchase of the Upholder class submarines. Additionally, the army has started to receive its new armoured personnel carriers in the form of the LAV-25s. Soon we will have enough to provide reasonably good armoured reconnaissance squadrons to supply a couple of regiments. As well, three light infantry battalions of about 3,000 soldiers have been created.

Sadly, there is no mention of a new main battle tank to replace the obsolete Leopard. I do not know for sure whether we really need one or not, but there is no talk of replacing it. Unfortunately, the army at this point in time, without main battle tanks, is not capable of shock action, nor is it capable of defence. However, to address this weakness, the government has, to its credit, examined the purchase of a direct-fire vehicle that may bridge the tank gap, and that might work well with an army rapid reaction force.

Additionally, the recently released Conference of Defence Association's "Strategic Assessment" questions Canada's army organization and our ability to sustain our Bosnian forces at our current personnel levels. As well, the minister has said that we would be "stretched to the limit" to come up with another 800 for Kosovo to add to the 2,000 abroad now. Maybe our army should be restructured with these operations in mind. Perhaps we should have a high-tech brigade for NATO, a general purpose brigade group that can step in to support the high-tech group and a light infantry or rapid-reaction group. Maybe our reservists could take on more of a role in settling quieter commitments here at home, relieving the permanent force. Perhaps an action like that would go a long way to resolving our rotation and retraining problems.

I believe these capability gaps and organizational concerns should be examined by the Standing Senate Committee on Foreign Affairs.

We should remember as we go forward that the Nazi armies tried to pacify Yugoslavia in 1941 and, for the next four years, failed. When they left that country, they were bloodied and bowed. They left in defeat. Those who do not sufficiently understand the past are bound to repeat it. Thus, I support this timely motion.

I would hope that the committee can get on with it before anything like prorogation comes into play. The committee should find an early way to continue its work should prorogation intervene and we find ourselves without a Parliament; there is precedent for that. More important, there is will. I trust there would be will to find such a vehicle to sustain its operation in the event that we are not here in a formal sense.

Senator Prud'homme: Honourable senators, I have a question for my old friend from the House of Commons Committee on Foreign Affairs and National Defence. In the old days, for many years I felt that we should have only one committee on foreign affairs and national defence so that members could be exposed to each others' ideas. The security-minded people would then be exposed to the problems relating to international affairs, foreign affairs and CIDA.

• (1850)

In the Senate we have a Foreign Affairs Committee. Is my friend, who is a long-time expert in the area of national defence, of the opinion that the time may have come either to return to the old practice of having a Foreign Affairs and a National Defence Committee or to have, as we have now under the chairmanship of Senator Stewart, a Foreign Affairs Committee and a separate committee on national defence?

Senator Forrestall: Honourable senators, as Senator Prud'homme knows, we tried it both ways in the other place. The division of efforts and responsibilities was found to be wanting. The ideal is when there are good, active oversight committees on both defence and external affairs which work jointly. That can happen without too much interference.

Another option would be to have a separate and independent committee which would follow National Defence issues. I am a supporter of that position since I think it would have more chance of getting through.

In the final analysis to ask an external affairs committee to review National Defence policy is not the right way to go. By its very nature, it does not contain the people who have long-term interests in either defence or foreign affairs. Foreign affairs is so much broader while defence is so much narrower in terms of concept.

Yes, I wish we had our own committee. However, I am very happy with Senator Stewart. Some of the names I mentioned, and Senator Prud'homme is one, knows that we did weather that storm for a while.

Hon. Nicholas W. Taylor: Honourable senators, because events are moving along so fast in Kosovo and the former Yugoslavia, I have decided to speak on this matter.

Senator Kinsella has put forward some good ideas, as has Senator Forrestall. I make my intervention today to see what effect we in Canada could have on the UN not to make a military intervention.

During the 1960s, I spent about six years working in the former Yugoslavia and down through the hills of Kosovo. I was helping to establish a geological survey for Marshal Tito. I first met him in 1960 and he retained me a couple of years later.

Marshal Tito was a Croat who led the communist movement in Yugoslavia backed by Russia. The right wing movement, which was based mostly in Croatia, tried to take over the country. Tito won out. As a Croat with Serb backing he was able to keep the republics of Montenegro, Macedonia, Croatia, Serbia and Slovenia together. Slovenia had most of the money.

Having spent quite a bit of time going through the hills of Kosovo and on through the south in setting up the geological survey, I would back Senator Forrestall's notion that the German army found it impossible to occupy Yugoslavia. The idea of any military force on the ground going anywhere there is almost nil. From a military point of view, it is probably some of the worst country you can imagine in the world.

As Senator Kinsella mentioned, at that time Joseph Stalin's only outlet in Europe was Albania. Marshal Tito was considered a revisionist. The Albanians were heavily oppressive of their people and Tito was quite receptive to Albanians fleeing across the border into Kosovo. That moved the Albanian population from 50 per cent up to the present 80 per cent or 90 per cent of today. Tito's helping Albanian refugees flee the hard communism of the Stalinist era has, in part, created this problem.

I do not know what we can do as senators or as individual Canadians. However, I think the wrong move is to attack. It did not work with Saddam Hussein, and I did a lot of work in Iran, too.

When you attack a leader of a country, all you do is cement his or her hold on the people. The idea that you can bomb people into throwing out their leaders is foolish. If you are going to go in, then you have to conquer, and that country is impossible to conquer.

Senator Kinsella's breakdown of events today was as good as I have ever heard. It should be published in every press in the country.

Our own government, our foreign minister and others should think carefully about a policy that has done nothing but cement Saddam Hussein into his spot. I would like to see Senator Kinsella's speech written and broadcast all across Canada. If bombs are dropped, we can be sure that innocent people will suffer. It will be the innocent civilians who will become angry enough to keep in place the dictatorship and the type of system that we all want to get rid of.

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

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

INTERNATIONAL POSITION IN COMMUNICATIONS

TRANSPORT AND COMMUNICATIONS COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. Lise Bacon, for Senator Forrestall, pursuant to notice of motion given on Thursday, March 18, 1999, moved:

> That notwithstanding the Order of the Senate adopted on December 1, 1998, the Standing Senate Committee on Transport and Communications, which was authorized to examine and report upon Canada's international competitive position in communications generally, including a review of the economic, social and cultural importance of communications for Canada; be empowered to table its final report no later than May 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.

She said: Honourable senators, we had planned on tabling the report on our study on Canada's international competitive position in communications on April 9. I have been informed by the chair of the committee that they have now reached the final phase of the drafting of the report. It is possible that the tabling of the report will take place a little later than April 9. We wanted to give enough time to the Subcommittee on Communications to draft its final report and to submit it.

[*English*]

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I should like to ask a question of the chair of the committee. Is it anticipated that this extension will be costly? In other words, will this committee need a large budget in order to complete its final work?

Senator Bacon: No.

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, March 24, 1999, at 1:30 p.m.

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ORDERS OF THE DAY