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(HANSARD)

Tuesday, April 20, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Tuesday, April 20, 1999

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

Prayers.

SENATORS' STATEMENTS

MR. WAYNE GRETZKY, O.C.

TRIBUTES ON RETIREMENT FROM NATIONAL HOCKEY LEAGUE

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, one of Canada's all-time great runners, Bruce Kidd, once said that "The rink is a symbol of Canada's vast stretches of water and wilderness, and its extremes of climate. The player is a symbol of our struggle to civilize such a land." He called hockey "the great Canadian metaphor."

For most Canadians, the sound of the first slapshot, the first puck hitting the boards, was and is the first shock of psychic electricity that unites hearts and minds in this country.

High over Times Square in downtown Manhattan looms a gigantic relief of a pale, slender hero with a mischievous grin — a hero from Brantford, Ontario: a prince gazing over this frenetic city of light; a city of dreams, a city that never sleeps.

When Wayne Gretzky skated nobly off into the sunset and took his last bow on Broadway, the curtain descended and the fans at Madison Square Gardens wept. Even for those Americans who cared little for the great sport of hockey, the sight of the Prince of Times Square meant something transcendent, something magical — that special something that permeates consciousness and hearts and minds.

Gretzky was, quite simply, uncannily good. He was uncannily good as a hockey player; he was and is also uncannily good at being a great human being. Someone even went so far as to say that he was a better person than he was a player. Small and slender, he was an artist in a fast and sometimes violent sport. He was cerebral and imaginative, the Picasso of the power play and the Stravinsky of the short-handed situation, as one commentator so aptly put it.

Along the way, he became hockey's leading goal scorer, with a creative vision of the ice which was unparalleled — an ice surface he seemed to float over, knowing at all times where the puck was, and knowing intuitively where all the players would be over the next few seconds.

The ice surface was his personal chessboard; the area behind the opposing goal, his personal office. He dominated that ice surface for 21 years with understated grace and elegance, and always with class. He was always the most brilliant playmaker of all time.

All of us who love this game understood the significance of the emotion-packed opening face-off at last Thursday night's game at the Corel Centre here in Ottawa, and the historic chance for Canadian fans to say good-bye, which they did with such love and devotion as thundering cheers resonated throughout the building.

•(1410)

As Wayne Gretzky and Alexei Yashin skated away from centre ice, many of us thought of the young Yashin who, as a teenager, had idolized The Great One from afar; the young Yashin who, along with hockey enthusiasts throughout the country, never missed a chance to watch the Canadian genius on skates: the Great Gretzky who captivated their imagination and who took the time, as Yashin recounted, to attend a training camp with Vladislav Tretiak, a man of modesty and selflessness who, in spite of his stardom, to quote Yashin, "was willing to learn hockey from every level because he loves the game so much."

Wayne Gretzky was and is the finest ambassador of the sport for all time. There is another eminent ambassador of three-star quality, our colleague Senator Frank Mahovlich.

Wayne Gretzky was crucial to the expansion of the National Hockey League in the United States. He brought what was essentially a Canadian game to the Sun Belt, to places where it never snows, from Anaheim to Dallas, to Miami and Tampa Bay. The game grew and expanded through the energy and the drive of this passionate emissary.

As we watched the final emotional moments in Madison Square Gardens and the stick-drumming on the ice, we watched a time-honoured ritual of players paying tribute to the quintessential missionary, hockey legend and role model, a sports hero who never lost touch with who he is off the ice. This was and is an accessible man, a generous man, a fair man, a loyal man, a man who showed the same class in losing as he did in winning, and who calls his father his best friend.

Canada's pre-eminent play-by-play broadcaster, my old friend the late Danny Gallivan, once said that the love and respect Gretzky showed for his mother and father were much greater than all the goals he ever scored.

Many thanks to a decent, gracious man, a Canadian who distinguished himself on and off the ice, who loved every part of the game, a game which was and is a unifying principle of a compassionate and free society, a special place whose proudest emissary abroad is a boy from Brantford, Ontario, destined always to be The Great One.

Hon. Francis William Mahovlich: Honourable senators, my career came to an end in 1978, the same year that Wayne Gretzky began his hockey career. However, there were many parallels — and horizontals — in our careers. A few years ago, I was invited to the all-star game in Pittsburgh. In the lobby of the hotel, I ran into Wayne's father, Walter. He said, "Frank, come over here. I want to tell you a story." He said that when Wayne was a little boy of eight, they would watch *Hockey Night in Canada* on TV on Saturday nights with Wayne's grandmother. The advice that Wayne's grandmother gave young Wayne was to watch Frank Mahovlich play.

Hon. Senators: Hear, hear!

Senator Mahovlich: Wayne said, "No, I think I will watch Gordie Howe." I then said to Walter, "Who knows more, an 85-year-old lady or an 8-year-old boy?"

In 1978, honourable senators, I got on my horse and rode into the sunset. The other day, on April 18, 1999, Wayne got into his black Mercedes and off he went.

I ended up with a pin in my knee. Every time I go through security at the airport, the buzzer goes off. The security guard brings out a little stick-like device and waves it up and down my leg. The buzzer of the device then goes off, but the guard does not understand why. To this day, that pin reminds me of my hockey career.

Honourable senators, I wish to commend the wonderful job that the New York Rangers did in honouring a great athlete. One of the great tributes ever made to an athlete happened a few years ago in 1990. A fellow by the name of Rick Barry played basketball for the San Francisco Warriors. That team won the NBA championship a few times. Mr. Barry is in the basketball Hall of Fame. It was in Palm Springs that I had a discussion with Mr. Barry about sports, and he said, "We have a guy over here, Michael Jordan, who will be the next Wayne Gretzky." I thought, what a compliment to both human beings.

When we think about sports in the 1980s, we think about Wayne Gretzky; and in the 1990s, we think about Michael Jordan. I thought that was one of the greatest compliments ever paid to Wayne Gretzky or to Michael Jordan. They complement each other.

JUSTICE

INADEQUACIES OF SYSTEM

Hon. Norman K. Atkins: Honourable senators, during the legislative conference of the Canadian Police Association held in Ottawa a few weeks ago, I met with four representatives of the association from the York Region Police Department. They described to me a slice of Canada that I really did not believe existed — or if I had thought it might exist, I did not believe it existed to the extent that it does.

I was told of a portion of the Borough of North York, in the northern part of Canada's largest city, that mafia-like gangs call home. I was told of a drug trade that completely spans Canada from east to west; a drug trade spurred on by a system of justice that continues to hand out sentences in relation to drug matters which are light enough to be seen as licences to commit crimes. Criminals in Canada simply view our light sentences, long court delays, easy bail regime and easily accessible parole system as part of the costs and benefits of carrying on criminal activity in Canada.

In addition, the federal government has disbanded the port police. I am not sure how that was allowed to occur without a full debate either in this chamber or in the other place, but it did. Without port police, Canada's long coast lines, with many small and large ports on both sides of the continent, have become prey to those smuggling illegal drugs. The port police knew their ports intimately, and knew what to look for when trying to detect the existence of illegal substances. The police are literally trying to fight crime with both hands tied behind their backs.

What is necessary? We need to look at funding. We need to look at where money designated to protect Canadians is being spent. Is it being spent on a firearms registry system, which we told the government four years ago was ineffective? We were told by Allan Rock that such a system would cost $80 million. We now find out the cost will exceed $300 million.

Honourable senators, money must be allocated to put more police on the street, not behind desks. Recent information from one detachment in British Columbia suggests that the RCMP can no longer fulfil its mandate due to a lack of funds, and that Canada is losing many experienced officers as a result.

We need to look closely at our parole system and at our sentencing criteria, especially as both relate to drug offences.

Something else that needs our attention is attempting to protect police officers as they carry out their duties. Several examples given to me dealt with police officers who were involved in a chase. Failure to stop for a police officer when directed to do so should become a criminal offence. Too many people, including police officers, are being injured or killed as a result of accidents caused by people fleeing from police.

Finally, I turn again to the issue of the port police. Canada has become a North American funnel for the importation of illegal drugs. Would the government please reconsider its position on this matter and reconstitute this vitally important part of our security system? Surely it is the government's responsibility to protect our borders from criminal elements. The money that the government thinks it is saving through budget cut-backs will be spent, in the long run, in dealing with the problems that our law enforcement agencies are facing.

HUMAN RIGHTS

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Hon. A. Raynell Andreychuk: Honourable senators, at this time I wish to put on the record a statement with respect to the convention prohibiting and eliminating racial discrimination. Although the issue was, in fact, dealt with earlier in the Senate, time did not permit me to make this statement, so I would like to do so at this time.

In particular, I draw your attention to Article 5 of the Convention on the Elimination of all Forms of Racial Discrimination, which commits signatories to prohibiting and eliminating racial discrimination in the enjoyment of the right to justice, security, political freedom, and fundamental rights. Canada has made important strides in eliminating discrimination in these spheres. Today, Canada has a Constitution which guarantees fundamental rights in such areas as equality before the law, mobility, traditional aboriginal prerogatives and minority languages. We have human rights legislation at the federal, provincial and territorial levels which is designed to protect against discrimination in employment and the provision of services.

Yet, as far as we have come, there is still some distance to cover before the convention's vision of non-discrimination with respect to basic rights is fully realized, and it is encouraging that at least some branches of the government appear to recognize this reality and are ready to take action. We are gratified to note, for example, that the federal Department of Justice has supported the position before the Supreme Court of Canada that racism exists in Canada and, therefore, that courts should consider the possible effects of "institutional racism." Other initiatives include a race awareness program, and cross-cultural training for prosecutors; a program to improve access to the justice system for people who do not read English or French; preparation in a variety of languages, among them dozens of languages spoken by aboriginal peoples; distribution to minority, immigrant and ethnocultural groups of information material in print and audio formats; a plan to fund, in 1998-99, public legal education and information projects to meet the needs of ethnocultural minority communities; and amendments to the Canadian Human Rights Act — which came into force on June 30, 1998 — improving protection against hate propaganda and allowing the Canadian Human Rights Tribunal to order special compensation for the victims named in hate messages, along with penalties against authors of hate messages.

The last development clearly enhances security of the person against violence based on race or ethnicity as called for by Article 5. It is also linked to the initiatives on hate crimes flagged by other colleagues in the Senate.

These positive initiatives notwithstanding, I must reiterate what I said at the outset: Legal, political, and social rights are still not equally enjoyed by all Canadians. Evidence of this was contained in the recent five-year study by the Canadian Bar Association which found that the law profession is rife with racism at every step of the way, from the design of the law school admission test to the appointment of judges to the bench. Minorities are said to be excluded both overtly and subtly.

Therefore there is still plenty of work for the Department of Justice and other federal organizations to do in order to try to correct inequities of these sorts. I commend their efforts to date and encourage their continued elimination of racism and discrimination.

[*Translation*]

POST-SECONDARY EDUCATION

MILLENNIUM SCHOLARSHIP FOUNDATION

Jean-Claude Rivest: Honourable senators, once again, I would briefly like to make the members of this house aware of the problems facing university students in Quebec with respect to the millennium scholarships. Everyone will remember that this intrusion by the federal government in the field of education was totally inappropriate.

The Liberal Party of Quebec, through its education critic, the MNA for Verdun, Mr. Gautrin, had a resolution passed in the Quebec National Assembly proposing a very promising way to resolve the issue in the dispute, both for the students and the two levels of government.

The initiative by the government, and specifically the Right Honourable Prime Minister Jean Chrétien, in the field of education did nothing to help the cause of federalism in Quebec. We have to defend this cause daily. We must avoid as much as possible constantly feeding the sovereignist discourse in Quebec with this sort of measure.

Again this morning, the Fédération des étudiants universitaires raised this issue. Ridicule must not kill or harm the federal option in Quebec. The Minister of Human Resources Development, Mr. Pettigrew, says he agrees with the terms of the National Assembly resolution, which was passed by both the Parti Québécois and the Liberal Party. At the moment, we are faced with an impediment in a very delicate political matter that, once again, has consequences on the larger debate of Quebec's constitutional future. At issue is the fact that the federal minister is refusing to speak to the Quebec Minister of Education, referring him instead to the president of the Millennium Scholarship Fund. This seems to be the essence of the current dispute.

I would simply like to remind the house that the argument of the federal minister seems rather specious. For some reason I fail to grasp, the federal ministers are refusing to speak to the provincial ministers because there is an agency that looks after a given field. Do the provincial ministers responsible for culture not speak to the Minister of Canadian Heritage because we have a Canada Council? Do the ministers of agriculture of each of the provinces not speak to the Minister of Agriculture because marketing offices or farm credit offices exist?

I would simply ask those close to the federal minister to remind him — I do not think this would be such a huge capitulation — to pick up the telephone and talk to Quebec's Minister of Education, who has been given a mandate by Quebec's National Assembly, by sovereignists and federalists alike, to sort the matter out.

The National Assembly's resolution proposes a way of resolving this dispute. It would be not only in the interest of both levels of government, but also in the interest of Quebec's

students. Unfortunately, the attitude of the federal minister strikes me as completely ridiculous. On behalf of the students of Quebec and the entire educational community of that province, I should ask him to set aside the federal government's pride and try to resolve this problem that requires a very speedy solution because the students of Quebec, just like students from other parts of Canada, cannot manage without the money available to them.

[*English*]

•(1430)

ROUTINE PROCEEDINGS

PRIVATE BILL

CERTIFIED GENERAL ACCOUNTANTS' ASSOCIATION OF CANADA—REPORT OF COMMITTEE

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

Tuesday, April 20, 1999

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

TWENTY-SECOND REPORT

Your committee, to which was referred the Bill S-25, respecting the Certified General Accountants' Association of Canada, has examined the said bill in obedience to its Order of Reference dated Tuesday, March 23, 1999, and now reports the same with the following amendments:

Pages 2 to 3, clause 4:

(a) on page 2, replace lines 15 and 16 with the following:

"to promote the practice, profession and common"; and

(b) on page 3,

(i) replace lines 10 to 12 with the following:

"(*g*) to encourage and assist certified general accountants to",

(ii) replace lines 21 to 24 with the following:

"general accountants or society generally and to do all such things as are calculated to give the public a greater and more general appreciation of the profession of accountancy;".

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

[*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 tomorrow, Wednesday, April 21, 1999, at 1:30 p.m.

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

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

CANADA ELECTIONS ACT

BILL TO AMEND—FIRST READING

Hon. A. Raynell Andreychuk presented Bill S-28, to amend the Canada Elections Act (hours of polling in Saskatchewan).

Bill read first time.

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

On motion of Senator Andreychuk, bill placed on the Orders of the Day for second reading Thursday next, April 22, 1999.

YOUNG PEOPLE AND TOBACCO USE

NOTICE OF INQUIRY

Hon. Colin Kenny: Honourable senators, I give notice that on Thursday, April 22, 1999, I will call the attention of the Senate to the issue of youth and smoking.

NATIONAL COUNCIL OF WELFARE

REPORT ON PRESCHOOL CHILDREN—NOTICE OF INQUIRY

Hon. Erminie J. Cohen: Honourable senators, I give notice that on Thursday next, I will call to the attention of the Senate a report by the National Council of Welfare entitled, "Pre-school Children: Promises to Keep."

STATISTICS ACT

RELEASE OF CENSUS INFORMATION—
PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present several signatures from Canadians in Grande Prairie, Alberta, who are petitioning the following:

> We, the undersigned, being duly registered voters in Canada, do hereby petition the Government of Canada to effect a retroactive amendment to the Statistics Act which would ensure public access to the 1911 census records, and all subsequent census records, through the National Archives of Canada after the accepted 92-year waiting period.

QUESTION PERIOD

FISHERIES AND OCEANS

AQUACULTURE—LIFTING OF BAN ON EXOTIC FERTILE FISH SPECIES—EFFECT ON CONSERVATION—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, I have a question for the Leader of the Government in the Senate.

Is the minister aware that the Minister of Fisheries and Oceans has given approval to lifting the ban on the use of exotic fertile fish species at aquaculture sites on the Canadian East Coast? Has the government given consideration to the environmental impact this might have on the wild Atlantic salmon stock and what it might do to the last viable salmon runs in Atlantic Canada?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am aware of the lifting of the ban. I am sure that matter was taken into consideration. However, I shall bring the concerns of my honourable friend directly to the attention of the Honourable David Anderson, Minister of Fisheries and Oceans.

Senator Comeau: The government continues to boast that conservation of fish stocks is the bedrock of its fisheries policy and yet, by lifting the ban, it is breaking the North Atlantic Salmon Conservation Treaty and, in the process, waiving all promises to follow conservation rules.

I should like the Leader of the Government in the Senate to pass that point on to the Minister of Fisheries as well, and to urge the minister to cease and desist from using this approach if we wish to continue to be a model for other countries to follow in conservation measures.

Senator Graham: Senator Comeau raises an important point. As a matter of fact, as the chairman of the Standing Senate Committee on Fisheries, he has an excellent opportunity to promote a discussion in his committee on this particular matter. However, in the meantime, I shall bring his concerns to the attention of the Minister of Fisheries and Oceans.

FOREIGN AFFAIRS

WORLD TRADE ORGANIZATION—
SUPPORT FOR CHINA'S APPLICATION—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate about the World Trade Organization and the recent interesting visit concluded by the Premier of China.

It was reported in the newspaper that Canada would be entering into an agreement to formally support China in its application to the WTO. Other reports indicated that it was not a formal agreement but certainly some agreement in principle.

Could the Leader of the Government in the Senate advise us of the actual position of Canada with respect to China's application to the WTO?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, there were indeed discussions between the Premier of China and the Prime Minister of Canada with respect to the WTO. However, no formal agreement was announced. I was not privy to the discussions that took place but I shall attempt to bring forward a more complete answer.

Senator Andreychuk: Honourable senators, I have a supplementary question. On what basis did those discussions take place, and why would we enter into such discussions with respect to one country, China or any other, and go any further than agreeing in principle that it would be a good thing to have as many countries as possible in the WTO?

My point is, are we binding ourselves to supporting China's application and the negotiations, and do we then become guarantors of the action of that country?

Senator Graham: Honourable senators, I am not aware of just how formal were the discussions. Many subjects were raised by both our guest from China and the Prime Minister. However, if it is possible to bring forward more information I shall certainly do so.

WORLD TRADE ORGANIZATION—SUPPORT FOR CHINA'S APPLICATION—EFFECT ON HUMAN RIGHTS ISSUES

Hon. A. Raynell Andreychuk: Honourable senators, as a further supplementary question, were there discussions with respect to human rights issues, particularly those that might affect China's entry into the WTO?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know that the Prime Minister, in any discussions with the Premier of China, would have put conditions on the entry of China into the WTO based on its human rights record. Specifically, I do know that concerns were expressed by the Prime Minister of Canada with respect to human rights generally and human rights policies in China.

Discussions are ongoing, of course. We have established the Joint Committee on Human Rights, and I understand that there have already been several meetings of this group. There will be a further meeting in China this coming fall. We have also activated a plural-lateral symposium involving over 10 countries, and the second round of that group is to be held in China this coming July.

UNITED NATIONS

NATO FORCES IN FORMER YUGOSLAVIA—
STATEMENT BY UNITED NATIONS ASSOCIATION IN CANADA
ON POSSIBLE INITIATIVE—GOVERNMENT POSITION

Hon. Douglas Roche: Honourable senators, I have a question for the Leader of the Government in the Senate.

A letter dated April 16, 1999, from the United Nations Association in Canada to the Prime Minister of Canada has been released. I believe the leader will agree that this association is one of the most prestigious bodies in our country. The letter was signed by Geoffrey Pearson, its national vice-president.

•(1440)

In the letter, the association noted the action of Canada in dispatching war-planes to the Kosovo crisis is in contrast to the policies followed by every Canadian government since the founding of the United Nations, and also that UN members were revolted by the actions of the Milosevic regime. The association went on to suggest that, taking account of all the circumstances prevailing in this tragic situation, the government should, first, urge NATO to consider a temporary halt in the bombing, and second, recommend a United Nations-centred process of negotiation led by the UN Secretary-General that would seek to assure UN-sponsored protection for the refugees, protection of individual, community and religious rights in Kosovo, and a permanent end to the bombing that is going on in Kosovo and neighbouring states.

What is the response of the Canadian government to this important statement?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, unfortunately, while I have been made aware of the letter, I have not seen it. I will examine it as soon as the Senate adjourns today. Certainly the signature of an eminent former diplomat such as Geoffrey Pearson adds a lot of weight to the representations being made. I believe Senator Roche is a former president of that particular organization.

With respect to the UN-centred initiative, we are aware that the Secretary-General of the United Nations has issued his own proposal with respect to the bombing. The Secretary-General of the United Nations is also in the process of appointing a special envoy to that particular part of the world.

With respect to a UN-sponsored group to provide protection to refugees, the matter is under discussion, and continual contact is being maintained with countries such as Russia on this particular matter. We would hope that, in such an eventuality, Russia will be very much involved.

NORTH ATLANTIC TREATY ORGANIZATION

FORTHCOMING SUMMIT—STATEMENTS OF GOVERNMENT
ON NUCLEAR POLICY—REQUEST FOR TABLING

Hon. Douglas Roche: Honourable senators, yesterday, the government tabled its official policy on nuclear weapons, a document of some 27 pages and seven accompanying documents. The central point in the government's policy was to request NATO to review the alliance's nuclear policy and its relationship to proliferation, arms control and disarmament developments, which is similar to the motion the Senate sent forward to the government.

I ask the Leader of the Government in the Senate if he would make available to the Senate, at an early date, the statements in this respect that Canada will submit to the NATO summit meeting starting at the end of this week.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, if that information is available, I shall certainly make it available here. This week's summit meeting will be an ideal opportunity for the alliance to agree to examine its nuclear policy in the context of renewing NATO's strategic concept.

By the way, in its report, the standing committee of the other place did not recommend our advocating a no-first-use policy for NATO. Such guarantees can only be offered by nuclear-weapons states or by NATO as a whole. There is no prospect of either doing so at this time.

Let me assure all honourable senators that Canada's priorities are to promote universal adherence to the nuclear non-proliferation treaty, nuclear disarmament, and the complete elimination of nuclear weapons.

FOREIGN AFFAIRS

NATO FORCES IN FORMER YUGOSLAVIA—SUPPORT FOR
KOSOVO LIBERATION ARMY—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. Yesterday, two of his colleagues claimed that the Kosovo Liberation Army was part of the problem in Kosovo, Yugoslavia.

Is it the position of the Government of Canada that the KLA is a problem and that NATO should neither cooperate with them nor assist them? If that is so, could the minister explain the nature of the problem that gives Canada concern?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, most people who follow this question are concerned with respect to the KLA's involvement in this crisis. I do not know that the Government of Canada has ever said that the KLA is a problem or taken an official position on the KLA.

Senator Forrestall: Honourable senators, a review of the record will show that they did make such statements. Failing to take an official position is drawing a fine line with respect to the issue. However, when ministers of the Crown speak out, Canadians have a right to believe that they are voicing the position of the Government of Canada.

I have two articles from the *Electronic Telegraph*, one from *Jane's Defence Weekly*, talking about NATO's special forces supporting the KLA and the campaign on the ground in Kosovo.

If the KLA are a part of the problem in Kosovo and NATO is assisting them, then what is the government's position vis-à-vis KLA? Are we, in this respect, different from our NATO allies?

Senator Graham: Honourable senators, I am not aware that Canada is providing any particular assistance to, or condoning the actions of, the KLA. Any citizen who watched citizens of their country fight for their own rights and freedoms would have a certain sympathy with respect to the efforts of the KLA.

Senator Forrestall: The leader should check his literature a little more closely.

[*Translation*]

TREASURY BOARD

CONFLICT IN FORMER YUGOSLAVIA— FUNDING FOR HUMANITARIAN AND MILITARY INITIATIVES— REQUEST FOR INFORMATION

Hon. Fernand Roberge: Honourable senators, the U.S. President has asked Congress to approve the allocation of $6 billion for continuation of the U.S. military operations against Yugoslavia in the coming weeks. Yet the Canadian Prime Minister and Minister of Defence are not exhibiting the same transparency as there is in the U.S., when it comes to informing the taxpayers of what amounts are invested in this conflict. The Prime Minister, the Minister of Defence or the Minister of Finance still have not made public any list of Canada's expenditures in this conflict. Nor do we know if the money being used for the operations comes from the National Defence budget allocation for 1999-2000 or from a special budget.

With this in mind, can the Honourable Senator Graham tell us which budget the money committed by National Defence to pay for Canadian Armed Forces operations is coming from? Were these expenditures approved by cabinet? What is the total amount spent by Canada since the conflict began?

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, any expenditures, whether by the Department of Defence or through CIDA or the Department of Foreign Affairs, are being taken out of the normal budgets of the respective departments. They will be reimbursed from the centre at a later date. With respect to the specific numbers, I am informed that there has been an announcement of an additional $10 million in humanitarian assistance for the United Nations High Commission for Refugees and other relief agencies.

•(1450)

Canada has committed approximately $22 million in humanitarian assistance funding since the Kosovo crisis began, and I understand that CIDA is now considering providing an additional $30 million in assistance, which would bring the total to approximately $52 million in humanitarian aid.

The costs of our military contribution will accumulate over time. However, on the weekend the Minister of National Defence announced that Canada would send six more CF-18s to the region. I believe that the cost of operating our contingent of 18 CF-18s for six months would be in the order of $13 million.

The figures I have mentioned do not include the cost of expended munitions. The cost of munitions will depend upon what missions the aircraft fly and how they are used.

[*Translation*]

Senator Roberge: Can the government leader find out and tell us the total already spent on the military and humanitarian initiatives? What additional expenditures does the government intend to make?

[*English*]

Senator Graham: Honourable senators, I will repeat the numbers for Senator Roberge. We have announced an additional $10 million in humanitarian aid to the United Nations High Commission for Refugees and other relief agencies. Prior to that, we had committed $22 million. I understand that CIDA is contemplating providing an additional $30 million which, as I mentioned earlier, totals $52 million.

[*Translation*]

Senator Roberge: Will the Prime Minister undertake to table in the House, Supplementary Estimates for the participation of Canadian Armed Forces in this conflict? There is no mention of this in the Department of National Defence estimates for 1999-2000.

[*English*]

Senator Graham: Honourable senators, that will happen over time. The government and, as I understand it, all parties represented in Parliament, support, for the most part, the initiatives that have been taken, particularly those on the

humanitarian front. However, I should be happy to bring forward a more complete report on these expenditures and the actual sources for the funds.

Hon. Pierre Claude Nolin: Honourable senators, could the Leader of the Government in the Senate explain to us how the spending of that money is authorized? Is it authorized by a special committee of the Treasury Board, by a special committee of the cabinet, or by the full cabinet? How does it work?

Senator Graham: Honourable senators, all expenditures are made with the approval of the minister involved in the pertinent department, Treasury Board, and the Prime Minister. As has been stated, all matters are brought before cabinet, including regular reports on the expenditures and the progress being made in that part of the world.

Senator Nolin: Honourable senators, if that money is already in the budget of the Department of National Defence, for example, and they are not seeking any extra funds, why do they have to go to a special committee of cabinet?

Senator Graham: Honourable senators, I did not say that they must go before a special committee of cabinet. I said that they would report on those expenditures to cabinet. It would go through Treasury Board as a matter of process but, eventually, of course, each of the departments will be reimbursed from the so-called centre.

AUDITOR GENERAL

COMMENTS ON UNDERGROUND ECONOMY IN REPORT—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question for the Leader of the Government in the Senate relates to the report of the Auditor General of Canada and deals with the underground economy.

The tax evasion that results from the underground economy represents an annual loss of $12 billion to federal and provincial governments; a loss that must be made up by other taxpayers. For the past five years, Revenue Canada has pursued its underground economy initiative and claims to have recovered $2.5 billion as a result. The Auditor General begs to differ and in his press release says that the number is closer to $500 million than $2.5 billion. We are told by the Auditor General that it is difficult to assess the overall success of the initiative to combat the underground economy because the department does not measure and report on the full range of initiative activities and how they have changed taxpayer behaviour.

Could the Leader of the Government in the Senate tell us how it is that the government has no idea of the level of success of an initiative that has been underway for the past five years?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, first, I would like to congratulate the Auditor General and his officials on an excellent report. We look forward to further work. They have pointed out some of the weaknesses and, at the same time, have applauded some of the successes that have been achieved by various government departments.

With respect to the specifics of the question posed by Senator Oliver, I have not had an opportunity to thoroughly examine the Auditor General's report. I would be happy to do so and bring forward an answer to this important question.

LEGISLATIVE MEASURES TO COMBAT UNDERGROUND ECONOMY—GOVERNMENT POSITION

Hon. Donald H. Oliver: Perhaps the response to my supplementary question will be in the immediate knowledge of Leader of the Government in the Senate.

The Auditor General has suggested a number of legislative initiatives that could have been undertaken to deter tax cheats. They include new rules for reporting transactions to combat money laundering, about which the government has been thinking for some time. They also include the power to tell the taxpayer to refile, reporting the correct level of income, and replacement of the current court-based penalties with administrative penalties.

Beyond possible cash reporting rules, is the government considering any new legislative measures to combat the underground economy?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, without promising that legislation will be introduced before the summer adjournment, I am sure that the government is contemplating measures recommended by the Auditor General.

POSSIBLE TAX REDUCTIONS TO COMBAT UNDERGROUND ECONOMY—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, Canadians are tired of being overtaxed and tired of paying more to governments than they are getting back while they perceive that the money they send the governments is wasted. At the same time, their personal budgets are stretched to the limit. Last year, the personal savings rate was next to nothing, which means that many Canadians are dipping into their savings to pay their bills. It is not hard to see why they are quick to pay cash to get a discount.

Would the government leader not agree that significant tax cuts would also help to combat the underground economy by reducing the incentive to cheat?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I think we all agree that taxes are too high in this country. However, in order to set the proper climate for future tax reductions, the government had to tackle the deficit first, as it has done successfully. As I have said on several occasions, we have eliminated the deficit and brought forward two successive balanced budgets. As a matter of fact, the last one had a surplus of $3.5 billion. That is in contrast to the $42-billion deficit we inherited from the previous government.

We have created 1.6 million jobs since 1993 and all of the other economic indicators are positive. I am sure that, at the appropriate time, the Minister of Finance will be introducing additional tax cuts, along with those which he announced in the last two budgets.

•(1500)

ORDERS OF THE DAY

EXTRADITION BILL

THIRD READING—MOTIONS IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the third reading of Bill C-40, respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence,

And on the motions in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., that the Bill be not now read a third time but that it be amended:

1. in clause 44:

(*a*) by replacing lines 28 and 29 on page 17 with the following:

"circumstances;

(*b*) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner; or

(*c*) the request for extradition is made for"; and

(*b*) by replacing lines 1 to 6 on page 18 with the following:

"(2) Notwithstanding paragraph (1)(*b*), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the Minister that the death penalty will not be imposed, or, if imposed, will not be executed, and where the Minister is satisfied with those assurances.".

2. in Clause 2 and new Part 3:

(*a*) by substituting the term "general extradition agreement" for "extradition agreement" wherever it appears;

(*b*) by substituting the term "specific extradition agreement" for "specific agreement" wherever it appears;

(*c*) in clause 2, on page 2

(i) by adding after line 5 the following:

""extradition" means the delivering up of a person to a state under either a general extradition agreement or a specific extradition agreement.";

(ii) by deleting lines 6 to 10;

(iii) by replacing line 11 with the following:

" "extradition partner" means a State";

(iv) by adding after line 15 the following:

" "general extradition agreement" means an agreement that is in force, to which Canada is a party and that contains a provision respecting the extradition of persons, other than a specific extradition agreement.

"general surrender agreement" means an agreement in force to which Canada is a party and that contains a provision respecting surrender to an international tribunal, other than a specific extradition agreement.";

(v) by replacing lines 20 and 21 with the following:

" "specific extradition agreement" means an agreement referred to in section 10 that is in force.

"specific surrender agreement" means an agreement referred to in section 10, as modified by section 77, that is in force.";

(vi) by replacing lines 29 to 31 with the following:

"jurisdiction of a State other than Canada; or

(*d*) a territory.

"surrender partner" means an international tribunal whose name appears in the schedule.

"surrender to an international tribunal" means the delivering up of a person to an international tribunal whose name appears in the schedule."

(*d*) on page 32, by adding after line 6 the following:

"PART 3
SURRENDER TO AN INTERNATIONALTRIBUNAL

77. Sections 4 to 43, 49 to 58 and 60 to 76 apply to this Part, with the exception of paragraph 12(*a*), subsection 15(2), paragraph 15(3)(*c*), subsections 29(5), 40(3), 40(4) and paragraph 54(*b*),

(*a*) as if the word "extradition" read "surrender to an international tribunal";

(*b*) as if the term "general extradition agreement" read "general surrender agreement";

(*c*) as if the term "extradition partner" read "surrender partner";

(*d*) as if the term "specific extradition agreement" read "specific surrender agreement";

(*e*) as if the term "State or entity" read "international tribunal";

(*f*) with the modifications provided for in sections 78 to 82; and

(*g*) with such other modifications as the circumstances require.

78. For the purposes of this Part, section 9 is deemed to read:

"**9.** (1) The names of international tribunals that appear in the schedule are designated as surrender partners.

(2) The Minister of Foreign Affairs, with the agreement of the Minister, may, by order, add to or delete from the schedule the names of international tribunals."

79. For the purposes of this Part, subsection 15(1) is deemed to read:

"**15.** (1) The Minister may, after receiving a request for a surrender to an international tribunal, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the surrender partner, an order of a court for the committal of the person under section 29."

80. For the purposes of this Part, subsections 29(1) and (2) are deemed to read:

"**29.** (1) A judge shall order the committal of the person into custody to await surrender if

(*a*) in the case of a person sought for prosecution, the judge is satisfied that the person is the person sought by the surrender partner; and

(*b*) in the case of a person sought for the imposition or enforcement of a sentence, the judge is satisfied that the person is the person who was convicted.

(2) The order of committal must contain

(*a*) the name of the person;

(*b*) the place at which the person is to be held in custody; and

(*c*) the name of the surrender partner."

81. For the purposes of this Part, the portion of paragraph 53(*a*) preceding subparagraph (i) is deemed to read:

"(*a*) allow the appeal, if it is of the opinion"

82. For the purposes of this Part, paragraph 58(*b*) is deemed to read:

"(*b*) describe the offence in respect of which the surrender is requested;" and

(*e*) by renumbering Part 3 as Part V and sections 77 to 130 as sections 83 to 136; and

(*f*) by renumbering all cross-references accordingly."

Hon. John G. Bryden: Honourable senators, the other day I rose to speak to this bill as a pinch-hitter for the sponsor of the bill, Senator Fraser, who was off on Senate business that day. However, since she is back this week, she will be addressing the bill at third reading.

I propose this afternoon to confine my comments to the two amendments proposed by Senator Grafstein. The first amendment deals with the fact that Bill C-40 continues the discretion in the Minister of Justice to assess an application for the extradition of someone to another country if one of the penalties for the crime with which that person is accused is the death penalty. I want to emphasize the fact that this bill continues a discretion that is currently in the act, and which has been adjudicated upon on at least two occasions by the Supreme Court of Canada.

The purpose of Senator Grafstein's amendment to clause 44 is to eliminate that discretion in the case of an extradition to face the possible imposition of the death penalty, requiring Canada to refuse extradition in all such cases unless assurances to the contrary are provided. I strongly disagree with this proposition. As it is now drafted, clause 44 preserves the discretion of the Minister of Justice to decide in each particular case whether or not to seek assurances from the requesting state that the death penalty will not be imposed or, if imposed, will not be carried out.

The Supreme Court of Canada in the *Kindler* and *Ng* cases found such a discretion to be constitutional. In these cases, the majority of the Supreme Court of Canada concluded that extradition to jurisdictions where the death penalty is imposed does not offend the fundamental justice provisions of the Canadian Charter of Rights and Freedoms, and does not constitute cruel and unusual punishment by the Canadian government. The court emphasized the strong interest that Canada has in retaining the ability to extradite to jurisdictions, such as various American states, which maintain the death penalty. This comment deals with the legal implications of such an action.

However, there are overriding policy considerations which require that such discretion be granted to the Minister of Justice. This approach has been incorporated into the proposed legislation for very practical and serious reasons. If Canada, by law, is required to seek assurances against the imposition of the death penalty in each and every case, then this country would be identified as a haven for those who seek to avoid the rigours of the law of the state where the offence took place. This would be contrary to the interests of Canada and to the safety of its citizens.

I believe that the proximity of the United States, with which we share a 3,000-mile unguarded border and where the death penalty exists in 26 states, makes this a real and pressing concern. By eliminating ministerial discretion and mandating assurances, we would be giving murderers seeking to escape the death penalty a strong incentive to come to Canada.

We must remember, honourable senators, that if the foreign state refuses to give assurances that the death penalty will not be sought, Canada would have no other choice but to release into our own communities that fugitive accused of the most serious of crimes.

Without trying in any way to be alarmist, I should like to give a couple of examples of what the implications of this proposal could be. In talking to some people over the last couple of days, I have been struck by the fact that they did not quite understand the implications of this amendment.

Therefore, I will use the example of Charles Ng. I will not go into the details of what Charles Ng did to his victims, for I am sure that all honourable senators have read of his gruesome crimes, although they were committed 10 years ago. I will only remind you that he participated in the torture killings of 11 people in California in the mid-1980s before fleeing to Calgary. I will also remind you that he was sought by the United States on 12 counts of murder, three counts of kidnapping, two counts of conspiracy to commit murder, one count of attempted murder and one count of burglary.

When he was found in Calgary, he was carrying a rucksack containing a mask, a knife, a rope, cyanide capsules, a gun and ammunition. We will never know what he wanted to do with these accessories. We will never know if he would have used them in other horrific crimes in Canada. We will never know, because Charles Ng was finally extradited to the United States where he now faces the possibility of death by lethal injection.

If Senator Grafstein's amendment were included in the bill, it is clearly possible that any future Charles Ng could be roaming the streets of Canada. We must not kid ourselves, for this possibility is a real one, as the amendment would require Canada to seek assurances in all cases that the death penalty would not be imposed. The United States might well refuse to give such an assurance.

What would be our choices, then? We would have none. Since the amendment would remove any discretion that the Minister of Justice presently has, our only possibility would be to release that future Charles Ng into the Canadian community as there would be no grounds upon which we could prosecute him. I am not certain that, with such a gesture, Canadians would find that their safety and interests are well protected.

I want to give just one other example: that of Tim McVeigh, the Oklahoma bomber whose actions resulted in 100 deaths. If he escaped to Canada and if the United States applied for his extradition, Senator Grafstein's amendment would require that the United States not seek or, once having convicted him, not request that the death penalty be imposed. In fact, he has been tried and convicted of these horrendous crimes.

The justice system which convicted him followed a fair judicial process in that regard. A jury within a sovereign state has deliberated and determined that Tim McVeigh should face the penalty of death for his crimes. If he were to escape and come to Canada, under Senator Grafstein's amendment we would have no option but to release him into Canadian society, unless the American state from which he escaped was prepared to say that they would not impose the death penalty upon him.

•(1510)

We live in a real and practical world. I believe that all of us in this chamber supported — and continue to support — the abolition of the death penalty for any reason. All honourable senators would probably advocate that other states and nations follow the same approach as Canada. However, as was mentioned by one of my colleagues, the path for Canada to take in this regard is the same path that it took in relation to the land mines treaty. We must lobby and work through the United Nations. We must work through every possible means to eliminate the death penalty as a sanction in all countries in the world. However, our first requirement is to be in a position to protect the safety and security of our own citizens.

Finally, I wish to address the amendment that deals with the surrender of criminals to international tribunals. The amendments in respect of clause 2 and the new Part 3 in Bill C-40 propose that there be a different process than extradition for the surrender of criminals to the international tribunals investigating events in Rwanda and the former Yugoslavia. That approach is not only unnecessary to meet our Security Council obligations, it is also dangerous. The proposal

to remove a requirement for judicial evaluation of the evidence in support of the request could have the potential for serious problems under the Canadian Charter of Rights and Freedoms.

For example, the Supreme Court of Canada, in upholding the constitutionality of the extradition process, has noted in several cases the importance of the judicial role in extradition. If we were to opt for a different process in this regard, it may well offend constitutional principles. For this reason, given that there is no need to adopt a different process for the surrender to tribunals, it seems imprudent to do so, especially where there are serious concerns about the constitutionality of such an approach.

Despite what may have been suggested during the committee hearings by one group of witnesses, it is clear that Canada's obligation, as mandated by the Security Council, is to take the necessary measures under domestic law to implement the provisions of the Security Council resolution and the statute, including the obligation of states to comply with requests for assistance or orders issued by the tribunals. Thus, if one of the tribunals submits a request for the arrest and surrender of a person in Canada for prosecution, Canada must be in a position to arrest that person and surrender them to the tribunal.

However, I stress that nothing in the Security Council resolution or statute precludes a state from using an extradition process to meet this obligation, nor do they mandate any particular process. While the guidelines developed by the registrar, after the resolution was passed, indicate a preference for a process other than extradition, the guidelines are not obligatory and do not form part of the resolution or the statute. Indeed, this is evidenced by the fact that the United States, a permanent member of the Security Council, which was instrumental in drafting the resolutions, uses an extradition process to surrender criminals to the tribunals.

Our current extradition process is a cumbersome one. If this were the process proposed to extradite to the international criminal tribunals, I could perhaps better understand the motives of Senator Grafstein; however, such is not the case. Two critical features of this bill will facilitate extradition to the tribunals. There are the reduced evidentiary requirements for extradition, and the adoption of a modern, no-list approach to assessing dual criminality.

In other words, the requirement for an offence to be an offence in Canada, as well as in the requesting country, is satisfied under Bill C-40, not on the basis of a comparison of labels or legal definitions, but rather on the basis of a comparison of the actual conduct. To put it squarely, there will not be a need to prove that the crime for which extradition is sought constitutes a war crime or a crime against humanity, as defined in the Canadian criminal law. As long as the conduct would constitute a crime under Canadian law, and irrespective of the label of that crime, extradition can take place.

In regard to evidence, with the adoption of the record of the case there will not be the current requirement of obtaining first person affidavits that might be particularly difficult to obtain with respect to war crimes and crimes against humanity. Thus, while a court in Canada will still evaluate the sufficiency of the evidence and the dual criminality test in cases involving the tribunals, with the application of these new procedures neither requirement will impose a heavy burden on the tribunals nor unduly impede the effectiveness of the process.

Additionally, these new procedures, while more efficient, also provide judicial safeguards for an accused person who may be a Canadian citizen. We should never forget that a person sought by a tribunal might well be a Canadian citizen. The proposal of the Honourable Senator Grafstein may well strip Canadian citizens wanted by a tribunal of these basic safeguards.

Bill C-40 strikes an appropriate balance in relation to the existing tribunals, since it will put Canada in compliance with its obligations in a manner that affords adequate protection to the person sought while being consistent with Canadian constitutional requirements. For those reasons, honourable senators, I shall be voting against the motions in amendment of the Honourable Senator Grafstein.

Hon. Gérald-A. Beaudoin: Honourable senators, I have a question for Senator Bryden.

In clause 44(1), the minister may refuse to surrender pursuant to proposed subsections (*a*) and (*b*). In proposed subsection (2) it states:

> The Minister may refuse to make a surrender order if the Minister is satisfied that the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner.

Therefore, there is an obvious discretion.

The amendment proposed by Senators Grafstein and Joyal reads:

> Notwithstanding paragraph 1(*b*), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the minister that the death penalty will not be imposed, or, if imposed, will not be executed, and where the Minister is satisfied with those assurances.

Prima facie, that is not a bad amendment, in the sense that if the Canadian authorities are satisfied that, in extraditing a person, the person will not be executed, then we will have the better of two worlds in such a case, because we will have abolished the death penalty in our country and we will have contributed to justice elsewhere.

•(1520)

My honourable friend may say that it is a restriction, but why does he oppose that part of the amendment? I understand other parts of it, but that one, prima facie, seems reasonable. Perhaps my colleague could elaborate.

Senator Bryden: Honourable senators, my interpretation of the amendment, drafted in its current form, is that it is a more complicated way of setting out the current provisions of the bill. As I read the bill, the minister currently has the discretion to refuse if he or she is not satisfied.

I do not know what the amendment would add if, in fact, subclause (*b*) is suggesting to simply take away the mandatory requirement in subclause (*a*).

Senator Beaudoin: Is it not the intent of the bill to give a certain discretion to the Minister of Justice, depending on the circumstances, because the death penalty is the supreme punishment?

I agree with your interpretation of the *Kindler* case, Supreme Court of Canada decision. You are quite right; it is legal. On the other hand, we live close to a country where the death penalty exists in many states. Europe does not have the same problem because in most countries they have abolished the death penalty. By the way, we are criticized by some countries in Europe. At any rate, the geography is there, and the fact is that we are in a very special situation. We abolished the death penalty and many states in the U.S. still have the death penalty. They have their laws and we have our laws.

The amendment states, in part:

> (2) Notwithstanding paragraph 1(*b*), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the Minister that the death penalty will not be imposed...

I think it is a good thing, unless you come to the conclusion that if it fails, the minister has no discretion at all. In other words, we may try, but if we do not succeed, that is the end of it and the person will be executed.

Is my honourable friend saying that the minister has no more discretion? Is that his reasoning?

Senator Bryden: As I read the amendment, it states that the minister has no discretion if the penalty is death. It is my understanding that in certain U.S. states there is only one penalty for conviction for certain crimes — death. There are no smaller penalties. In that situation, when would the minister be expected to entertain a submission from the applying state that they will not seek the death penalty or impose it? I do not see how it can be operative in that situation.

Senator Beaudoin: Suppose you say, "No, I disagree with the proposed amendment," or "There is no possibility of succeeding." We then turn back to the law as it is proposed. The minister may refuse to make a surrender order if the minister is satisfied. That is quite a discretion. In other words, he may refuse to make a surrender order because it is punishable in an American state by penalty of death. The minister has that power. It is more than just a discretion. That is the way I read it. I do not know how the court will read it. The minister may refuse, if he or she is satisfied that the conduct in respect of which the request for extradition is made is punishable under the laws that apply to the extradition partner. He may just refuse because there is a death penalty. That is possible.

Senator Bryden: Your interpretation is correct. What would occur with the amendment is that the minister shall refuse, and must refuse. There is no discretion.

Subclause (*b*) of the amendment reads:

> (*b*) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner;

Prima facie — if I can use that term — if you have those circumstances, the minister shall refuse.

Senator Beaudoin: He may refuse.

Senator Grafstein: He may refuse.

Senator Joyal: He may refuse.

Senator Beaudoin: The word "may" means that it is not mandatory, but that it is permissible. If you read the clause in the bill, it states:

> 44(1) The Minister shall refuse to make a surrender order if the minister is satisfied...

The minister shall refuse. That is mandatory.

Under this amendment, the minister shall refuse where:

> (*b*) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner;

That is the way clause would read, and that would apply. If you have a death penalty, it is mandatory. If the person is convicted and the only penalty is death, then the minister shall refuse.

•(1530)

My understanding, honourable senators, is that there are two situations: Clearly there is a situation where if the death penalty is present, it cannot be waived. Let us take the *Ng* case as an example. Mr. Ng was charged, convicted, and then escaped to Canada. There was an application to extradite him and the death penalty was imposed. Under the amendment, one of the provisions reads that the minister shall refuse to entertain the application. However, there is a saving provision stating that, notwithstanding that provision, the minister may make a surrender order where there is an undertaking that the death penalty will not be imposed.

Honourable senators, my problem is that, in a sense, the onus has been reversed. They are saying that, in the ordinary case, if there is a death penalty, no surrender is mandatory. However, even if there is a death penalty, the minister can still exercise discretion if there is an undertaking that the death penalty will not be imposed.

The point is that there are situations in states in the United States and other countries where that is not an option. That request could not be made under the other state's law. The choice left with the Minister of Justice here is that they cannot waive it. There is a death penalty, so we cannot entertain the application. "Welcome to Canada, Mr. Ng."

On motion of Senator Beaudoin, debate adjourned.

THE BUDGET 1999

STATEMENT OF MINISTER OF FINANCE—
INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Lynch-Staunton calling the attention of the Senate to the Budget presented by the Minister of Finance in the House of Commons on February 16, 1999.—(*Honourable Senator LeBreton*)

Hon. Marjory LeBreton: Honourable senators, I am pleased to participate today in the debate on the recent budget.

There is an old saying that many of us have heard: "You reap what you sow." Under this government, this saying has taken on a brand new meaning: You reap what others have sown. There is no doubt this government is reaping what was sown by the previous government. The economy is showing strength at the present time, and the books are in balance, thanks in large part to measures initiated by the former Progressive Conservative government under the leadership of Brian Mulroney. Despite their opposition to these measures at the time, I commend the government for revoking their previous positions and embracing these measures and, indeed, expanding on them.

Honourable senators, last fall the Minister of Finance kicked off the pre-budget hearings in the other place with his economic and fiscal update. This document, as might be expected, is filled with page after page telling us about the great economic strides that have been made since 1993. Fair enough. Towards the end, however, we find a little table entitled, "Government Policies to Promote Higher Living Standards."

Honourable senators, some of those policies are, of course, those of the current government, and they are to be recognized as such, although I wonder how the significant cuts experienced by the research community since 1993 can be spun by this government as "support for R&D," but that is a debate for another day.

It struck me as significant that this document also lists several policies that date from the Progressive Conservative government of Brian Mulroney. I was pleased to see that Paul Martin now acknowledges that our policies are responsible for some of the country's economic recovery, especially, as I mentioned moment ago, when many of these same policies were fiercely opposed by the Liberal opposition of the day.

For example, listed under trade policy, we find NAFTA. Let me get this straight: Are Paul Martin and the Liberal government now claiming credit for the NAFTA? Honourable senators, the North American Free Trade Agreement was negotiated by the Progressive Conservative government. Some of us remember fighting an election over its predecessor, the Canada-U.S. Free Trade Agreement. Canadian exports to United States are now 2.5 times greater than they were in 1998.

Also under trade policy, we find "leading player in the WTO." Honourable senators, the negotiations leading up to the WTO were carried out by the former Progressive Conservative government.

Next we read "ongoing efforts to ensure the free flow of goods and services within Canada." Honourable senators, I again remind you that work towards the agreement on internal trade began under the Progressive Conservative government.

Under the heading of "let the market work," we see "partial or full privatization of Air Canada, Petro-Canada, Canadair, De Havilland Canada and CN." Honourable senators, I could not believe my eyes. I thought that I was reading from a list of the 23 privatization initiatives either completed or initiated by the Progressive Conservative government. Perhaps I was.

I suppose that if there had been space to list other policies that let the market work, the Finance Minister would also have taken credit for ending the punitive National Energy Program. Those of us who have been around a few years remember how the NEP devastated the oil patch.

Perhaps he would like to take credit for replacing the Foreign Investment Review Agency with Investment Canada. The Mulroney government took a government agency that was driving investment out of Canada and turned it into one that promoted Canada as a place to invest. As well, he could have mentioned deregulation of the transportation sector.

In this same document, the Liberals list the Harmonized Sales Tax as a tax policy that promotes higher living standards. Honourable senators, let us step back a few years to when the PC government reformed the sales tax system. The old Manufacturers' Sales Tax was a silent, hidden killer of jobs that drove up the costs of our exports while actually giving a tax break to imports. It had become an increasingly unreliable source of revenue as manufacturers found more and more ways to evade it.

Replacing it with the more visible GST certainly took guts. There is no doubt that we took a heavy political hit for it. Canadians, unaware that they were paying a hidden 13 per cent sales tax, balked at a visible 7 per cent tax. We were swallowed into a vortex of personal attacks, misinformation and, indeed, deliberate distortion of the truth.

The Liberals, of course, took direct aim at the GST. They would scrap it, and Canadians so wanted to believe them, and, indeed, they did believe them, as they did a lot of their other

propaganda. Helicopters and Pearson airport come to mind. At least they were going to scrap it, the Liberals said, until the day they were elected. Then they would bury it in the price through a hidden business transfer tax.

Six years later, we still have the GST, and the best they can offer is harmonization in three provinces in Atlantic Canada. The GST is so terrible that they now want the provinces to apply the same kind of tax. Just as former finance ministers Wilson and Mazankowski predicted, it worked. The GST has produced revenues which have greatly contributed to deficit reduction.

To continue with Mr. Martin's document, listed under "fiscal and monetary policies," we see low inflation. Honourable senators, price stability was an achievement of the Mulroney government. The inflation rate when we left office was 1.9 per cent, down from 3.9 per cent when our government was elected. Do you not recall the opposition of the day telling us to stop paying so much attention to inflation? Interest rates often go hand and hand with inflation rates.

When Brian Mulroney was elected Prime Minister on September 4, 1984, he inherited the largest deficit in Canadian history. I mention that only because Senator Graham today kept mentioning the $42 billion deficit they inherited, when he knows that the largest deficit ever inherited by a government was inherited by the Mulroney government from the Trudeau government.

At that time, the government was paying 12.13 per cent on 91-day Treasury Bills. Nine years later, the rate is down to 4.52 per cent. Honourable senators, can you imagine what the deficit would be today if we were still paying 12 per cent interest on new loans? I am told that an extra $35 billion in annual debt service costs would be a low-ball estimate.

In the Martin document, "Government Policies to Promote Higher Living Standards," he also cites "federal deficit eliminated" as a policy to promote higher living standards. Good for us.

•(1540)

I agree that eliminating the federal deficit will help raise our standard of living, and we all celebrate this achievement across the country. Indeed, that is why, building upon Don Mazankowski's April 1993 budget, Prime Minister Kim Campbell, upon being sworn into office in June, 1993, set out a five-year plan to balance the books. All they had to do on the other side was follow the plan.

Honourable senators, the average growth rate in program spending in the 15 years leading up to 1984 was 13.8 per cent. We brought that down to an average of only 3.6 per cent over the course of nine years. Our 1993 budget had reduced that even further, to 1.7 per cent.

In 1984, it was the accepted norm, a doctrine of Liberal faith, that government spending rise at double-digit rates year after year. By 1993, when the new Chrétien government was sworn in, this kind of thinking was but a distant memory. Through those double-digit annual spending hikes, the previous Liberal government had cranked up program spending to the point where it represented 19.4 per cent of gross domestic product in 1984, a level not seen since the Second World War. After nine courageous budgets, program spending was down to 16.8 per cent of GDP in 1993.

Honourable senators, since 1993, the deficit is down by $42 billion, while revenues have jumped by $41 billion. I am not a mathematician and you certainly do not need a Ph.D. in economics or advanced mathematics to figure out that the single biggest reason why this government has been able to balance its books is revenue growth. Some of this is due to tax hikes. However, for the most part, it flows from a healthy economy pouring billions of dollars of revenue into the federal treasury.

Honourable senators, as I said at the beginning of my remarks, this government is reaping what the previous government sowed. The policies which have generated that economic growth had their origins in the Mulroney government; free trade, Investment Canada, repeal of the punitive National Energy Program, restraint, privatization, sales tax reform, deregulation, are all policies of the previous government that this government has chosen to keep.

I suppose we should be thankful for that. These very policies are driving the economy today. However, the public and Parliament would be better served by politicians of all political parties if there was some honesty and integrity injected into the debate and credit were given where credit is due.

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

PRIVATIZATION AND LICENSING OF QUOTAS

CONSIDERATION OF REPORT OF FISHERIES COMMITTEE—DEBATE CONTINUED

Leave having been given to revert to Reports of Committees:

On the Order:

> Resuming debate on the consideration of the third report of the Standing Senate Committee on Fisheries, entitled: "Privatization and Quota Licensing in Canada's Fisheries," tabled in the Senate on December 8, 1998.—(*Honourable Senator Perrault, P.C.*)

Hon. Michael A. Meighen: Honourable senators, I should like to make one or two brief remarks about the third report of the Standing Senate Committee on Fisheries, which was tabled in this chamber on December 8, 1998, entitled: "Privatization and Quota Licensing in Canada's Fisheries." I should also like to briefly address the minister's response to the major recommendations of our report.

Last year, honourable senators, the committee held a series of public hearings on individual quota fishing licences which, as you all know, are referred to as IQs, ITQs, and EAs. For those of you who do not know what those acronyms represent, I should be glad to tell you what they are later on.

Individual quotas represent a seismic break with the fishing traditions of the past. The so-called process of privatizing Canada's fish stocks began in earnest in the early 1980s with the restructuring of the Atlantic groundfish fishery. Private quotas have since been gradually introduced in other fisheries over successive governments and under successive fisheries ministers and deputy ministers.

Let me, if I may, focus on the committee's first three recommendations. Before doing so, it would be useful to underline the extremely positive reaction to the committee's study.

As a legislative body, honourable senators, our work is measured in part by the way we influence policy decisions, decisions which in our system are primarily made by ministers and their respective departments. Last December, our chairman, Senator Comeau, repeated in this chamber statements made by the Minister of Fisheries and Oceans last October regarding the work of the Senate committee, which are well worth restating. He said:

> In the examination that your committee is making, the Senate is very much fulfilling its traditional and extremely important role.

I only wish other ministers of the Crown would show the same leadership by expressing support for the good work of the Senate chamber and its committees.

Senator Butts, in speaking to the report, drew the attention of honourable senators to the praise that was literally heaped upon the Senate by many coastal newspapers as a result of our findings. Many other Canadians were also congratulatory of the work of our committee. For example, Dr. Charles of St. Mary's University said that the committee is certainly dealing with the crucial issues in fisheries across Canada.

The Maritime Fishermen's Union spoke passionately about the Senate report, saying that they can only hope that the Department of Fisheries and Oceans is listening as much as the Senate committee was.

Roy Alexander, of the Tribal Council of Port Alberni, B.C., said the report had heartened many coastal residents in his province who have felt that the resources that have sustained their regions were being alienated by overzealous public servants setting policies without considering the impacts on their communities. He went on to say:

> The report is well thought out and, if implemented, will balance economic benefits to all Canadians in coastal communities.

The Honourable Keith Colwell, Minister of Fisheries and Aquaculture of Nova Scotia, supported the findings of the committee and called upon the government to implement the recommendations, in particular by embarking on a full public debate on privatization in the fisheries and by immediately placing a freeze on new individual transferable quotas.

The Senate committee also found support among members in the other place. Mr. Peter Stoffer, the NDP fisheries critic, thanked the committee for producing an excellent report. He said he had spoken with many fishermen who are extremely pleased and feel that someone finally got it right.

Finally, journalist Silver Donald Cameron wrote in *The Sunday Herald* of the usefulness of a Senate — imagine that, honourable senators — and describes the committee report as "a stiff reality check" for the Department of Fisheries and Oceans. He also said, "Bravo, senators," a compliment which we do not often hear, with respect to our call to rein in the department's infatuation with ITQ's by looking more critically at Iceland's and New Zealand's experiences and by considering alternatives that would protect coastal communities and small-scale fishers.

A few months ago Senator Stewart spoke in this chamber about the experience of both Iceland and New Zealand with this matter of ITQs. I urge all honourable senators to review Senator Stewart's remarks on that occasion.

What this all means, honourable senators, is, in the words of Mr. Saunders of the Dalhousie Law School:

> The work of the committee is absolutely critical to what the Department is going to be doing for the next several years.

Perhaps what was most striking during our hearings was the number of witnesses who believed that the Senate committee was, perhaps, the only forum capable of studying such a difficult and divisive issue as property-rights-based fisheries. I believe the committee's report is evidence of the unique ability of this place to tackle difficult and politically sensitive issues.

Honourable senators, the committee's first recommendation was that the Government of Canada issue a clear, unequivocal and written public statement as to what individual quotas are and what their role will be in the future fishery.

A fishing permit, we were told by the department, is only a privilege authorizing its holder, at the discretion of the minister, to participate in a given fishery. A private quota, whether assigned to an individual or to a company, is not a grant of property either in the fishery or in the fish and does not privatize the common property fishery resource. Individual quotas are at most quasi-property, or so the committee was informed by the department.

•(1550)

Much of the evidence we heard, however, suggests otherwise. Witnesses testified that the department had been promoting individual quota licences, and ITQs in particular, by telling fishers that, essentially, they would own a share of the fish. We were told that quota holdings can be used as collateral on loans and can be split up in divorce settlements. According to the department, they have a limited time span. Yet, at least one press

release on ITQs issued by the department twice refers to them as being "permanent." They are bought, sold and leased. From the point of view of the people who hold private quotas, they are private property.

A clear, written and unequivocal statement on them is not an unreasonable request, honourable senators, when one considers what is at stake.

As honourable senators know, Canada's commercial fishery generated a production value of some $4 billion last year. What honourable senators may not know, however, is that individual quota-licenced fishers landed about half of what was caught on both coasts, in terms of value.

The minister's response to the committee's recommendation is that:

> ...the department will soon be conducting an overall review of policies for Atlantic Canada,...

and that:

> ...the Department of Fisheries and Oceans will be pleased to issue a public statement on the role of IQs in the fishery of the future once the review is completed.

Second, the department's motives and agenda on partnering or partnerships were also frequently questioned during our hearings. Briefly, proposed amendments to the Fisheries Act in Bill C-62, which died on the Order Paper in the last Parliament back in 1997, would have enabled the minister to enter into these special agreements. Critics of the bill argued that, although not stated explicitly, clauses 17 to 22 of the proposed legislation were meant to extend the process of privatization and to extinguish the common law public right to fish that exists in Canada's tidal waters. In such waters, exclusive fishing rights can be created only by the explicit sanction of Parliament — in other words, by statute.

The committee recommended that the department, first, issue a written statement on what is meant by the terms "legally binding, long-term, multi-year government-industry partnerships or partnering agreements"; second, that it state whether such agreements are meant to extinguish the public right to fish; and third, that it indicate the impediments in the Fisheries Act preventing the minister from entering into such fishing agreements with industry groups.

Last September the minister appointed an independent, three-member panel to advise on the appropriate legislative framework for partnering provisions in a new Fisheries Act. Interestingly, during the course of its inquiry, the panel requested that the department respond in writing on three issues, one of which was the department's policy need for new legislation to pursue partnering. Released two days after the Senate committee tabled its report, the partnering panel report recommended that the minister not go forward at this stage with legislation on partnering.

The third major concern of the committee is that the department has been implementing individual quotas without a public mandate to do so. Small, independent owner-operators who fish competitively believe that individual quotas, especially ITQs that can be sold or leased to others in a fishery, are part of a deliberate plan favouring individual quotas. Their perception is that individual quotas are being imposed on them. Departmental officials, on the other hand, told us that individual quotas were voluntary, that they were only one of a number of management tools, that, although there had not been any debate on them, there had been a great many workshops, and that it was not the department's intention to privatize the fishery.

The minister himself appeared before the committee on April 15 and said that fishermen in traditional fisheries are not forced to adopt IQs and ITQs. However, later on in his presentation, he stated that individual quotas were the department's preferred co-management tool.

On this, the Senate committee recommended that the whole issue be debated in Parliament and that no new individual quota licences be issued until the written public statements on individual quotas and partnership agreements are issued and a parliamentary debate has taken place.

Honourable senators, the findings contained in our report are consistent with those of past reports, namely, that the government must bring about clear, consistent and explicit policy statements.

The fishery has too long been void of vision, and, if you will permit me this comment, may soon be void of fish — indeed, many fisheries are already so — if there is no sense of urgency given to this matter and no common understanding fostered among all stakeholders of what is meant by terms such as "overcapacity," "efficiency," "property," "co-management," and "partnerships."

These recommendations, when adopted by the government, will go a long way towards building a shared understanding.

I therefore urge all senators to support the committee's report.

In closing, honourable senators, I wish to note the undertaking of the minister to return before our committee. At that time, I would expect that members will wish to question him closely on his department's response to our recommendations — a response which, unfortunately, was only received on the morning of April 15, the very day that the minister appeared before the committee.

Hon. John. B. Stewart: Honourable senators, I wish to ask Senator Meighen a question, but before doing so, may I say that, for those of us who come from Atlantic Canada, his attendance at the Fisheries Committee has been most encouraging. His interest, as displayed in his speech this afternoon, gives us all some basis for hope.

My question relates to the minister's appearance before the committee last week. I should like to check my understanding of what the minister said at that time against Senator Meighen's understanding of what he said.

Our argument was that the way the Department of Fisheries and Oceans is handling some of the fisheries is having a highly deleterious impact upon coastal communities. If I understood the minister correctly, and this is where I need Senator Meighen's help, in effect he said, "The mandate of our department relates to the efficient operation of the fisheries. We have no mandate to deal with the community consequences of what we do. That belongs, perhaps, to the Department of Human Resources Development." To put the worst interpretation on it, he was saying, "We will do whatever we think is most efficient for the fisheries, that is to say, to put a large quantities of fish on the market at a good price, and then some other department of government can come along and try to correct the damage that our policy has inflicted on the fishing communities."

I do not mention provincial governments, which have tended to overcapitalize the fishery by lending to fisherpersons who wish to build bigger and better boats.

Am I wrong in what I think the minister said, or at least the implications of what minister said? Can the honourable senator help me?

Senator Meighen: Honourable senators, I am frantically flipping through the text of the minister's statement. I read it earlier and my recollection is in accordance with Honourable Senator Stewart's. I believe Senator Roberston raised that matter with the minister. I would not want to use as strong an expression as that he "washed his hands" of those problems, but he clearly did not think that it fell within his mandate to be concerned about the social fabric of the coastal communities. His mandate was to worry about the fish and those who fish for them when they are on the seas. However, I do not think the minister was prepared to take any responsibility for the community at all.

One could certainly be sympathetic in recognizing that it would be a broad mandate if one were to lump the two responsibilities together, but surely none of us would want any minister who is implementing a policy to say, "This is what I am going to do and to heck with the consequences." Surely it is not above us as parliamentarians to come together with those with a primary responsibility in another area and work together.

•(1600)

Senator Stewart: I have another short supplementary question. If, indeed, the position of the minister is as I understood it to be and that position is based on the law, then is it not to be concluded that the assignment of responsibility ought to be changed by the Government of Canada? If the focus of the minister and his department were not so narrowly concentrated on the efficiency of the fishery, things might be better. The minister could take a more inclusive view of the impact of the fishery on people as well as on fish. Indeed, we should try to involve the provincial governments in working out some overall approach to this serious problem.

Senator Meighen: I would agree with Senator Stewart. The responsibility lies with the government and the Parliament of Canada to initiate that process. Perhaps, in our committee, we could consider the matter of expanding the mandate of the Minister of Fisheries and Oceans so that it is no longer limited to those who swim and those who sail but also includes those who stay at home.

On motion of Senator Fernand Robichaud, debate adjourned.

CAPE BRETON DEVELOPMENT CORPORATION

MOTION FOR PRODUCTION OF DOCUMENTS RELEVANT TO PROPOSED PRIVATIZATION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins:
>
> That there be laid before this House all documents and records concerning the possible privatization of DEVCO, including:
>
> (*a*) studies, analyses, reports and other policy initiatives prepared by or for the government;
>
> (*b*) documents and records that disclose all consultants who have worked on the subject and the terms of reference of the contract for each, its value and whether or not it was tendered;
>
> (*c*) briefing materials for Ministers, their officials, advisors, consultants and others;
>
> (*d*) minutes of departmental, inter-departmental and other meetings; and
>
> (*e*) exchanges between the Department of Natural Resources, the Department of Finance, the Treasury Board, the Privy Council Office and the Office of the Leader of the Government in the Senate.—(*Honourable Senator Graham, P.C.*)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, on February 11, 1999, Senator Murray moved a motion for the production of documents related to the possible privatization of Devco. In his remarks, he described how he had also filed under the Access to Information Act for similar information, though neither the motion now before us nor the original Access to Information request specified any dates.

I understand that Senator Murray is seeking only recent documentation and certainly not the papers produced during the term of government of which he was a distinguished member, or documents from an even earlier period.

In any event, I understand that the information that has been requested under the Access to Information Act has now largely been provided to Senator Murray. Whether it is sufficient for his purposes is another question. However, as he himself stated while speaking to this motion, he has the right to appeal to the Information Commissioner and will consider doing so after receiving the responses from all departments concerned.

Before turning to the motion itself, I would like to comment on the results of Senator Murray's access to information request. I do not think I am breaking any confidences in doing so because Senator Murray clearly placed on the record the fact of his request and its nature. He also described in his remarks a related request he had made under Access to Information Act for polling data on Devco and his satisfaction at the fulsomeness and timeliness of the response. It is in this vein that I am proceeding.

In response to his access to information request, Senator Murray has already been provided with documents from the Department of Natural Resources. He has also received, or is about to receive momentarily, material from the Department of Finance and Treasury Board. These are documents which I would have been pleased to table in the Senate myself in response to the motion which is now before us.

As one would expect, some government departments were in possession of more documentation than others, but the documents released include a number of briefing notes from the Minister of Natural Resources; a strategic environmental assessment of the Cape Breton Development Corporation; and various other papers. All that has been provided is all that the government is in a position to release.

At the conclusion of his remarks on February 11, 1999, Senator Murray stated that the government had no objection to this motion going forward. That was indeed the case when he gave notice of his motion, and it was based on what we considered were the accepted limitations for such motions as provided for in the authorities.

Beauchesne's Parliamentary Rules & Forms, 6th Edition, citation 446 at pages 129 and 130 makes clear that, since 1973, governments have taken the position that motions such as this one for the production of papers should be limited or guided by roughly the same exemptions that are contained in the Access to Information Act.

Furthermore, citation 447, which is on page 131, provides that:

> Any determination of what constitutes "confidential documents" is not a matter for the Speaker to determine. It is up to the government to determine whether any "letters, papers, and studies" are of a confidential nature when deciding how to respond to a Notice of Motion for the Production of Papers.

In his remarks of February 11, Senator Murray put forward the proposition that this is not necessarily so. This is where we must, unfortunately, part company.

In his speech, Senator Murray stated:

> We parliamentarians, members of the Senate or House of Commons, are not at all restricted, I believe, by the exemptions that are available to the government under the Access to Information Act. I am aware that there are various conventions that apply to what governments may table in Parliament, but they are not nearly as broad as the exemptions that are available to the government under the Access to Information Act.

Though Senator Murray apparently recognizes that there are conventions that have and should be followed in such cases, he believes that the limitations imposed by such conventions are significantly and substantively different from those contained in the act.

As I have already explained, Beauchesne makes clear that governments of all stripes have not shared this view. It is for this reason that we cannot support this motion.

This is not the first time that the relationship between the executive and Parliament on the issue of the production of documents has been placed into question. Recently, our own Standing Senate Committee on Agriculture and Forestry grappled with this matter on the legislation dealing with the bovine growth hormone known as rBST.

In its report tabled last month, the committee urged:

> ...the Clerk of the Senate, with the Clerk of the House of Commons, to review the issue of parliamentary committee access to documentation, both generally and with respect to departmental provision of the documentation needed for committees to do their work effectively and efficiently.

Earlier, our 1995 Special Committee on the Pearson Airport Agreements devoted a great deal of its attention and time to this particular issue. Members on both sides quite freely expressed their frustration though, nevertheless accepting, at least in practice, the limitations imposed by the Access to Information Act.

In his introduction to the majority report, the chairman of the committee, our former colleague the Honourable Senator Finlay MacDonald, wrote:

> In the end, we are satisfied that all essential parts of the record have been produced and subject to public scrutiny.

Even many years later, in an article that he had published in the *Canadian Parliamentary Review*, Volume 20[4], 1997-1998, Senator MacDonald was still clearly irritated about the way the document issue was handled.

•(1610)

Clearly, this is an issue of long standing which must be dealt with. However, I am not convinced that we should or can do so by simply adopting this motion in the belief that the government must now produce everything it has in its files on Devco. That is certainly not what has occurred in the past with respect to such motions.

For instance, on April 22, 1986, the Senate adopted a motion on the initiative of our former colleague the late Senator Earl Hastings, ordering that certain documents relating to Corrections Canada operations in Alberta be tabled. According to the *Journals of the Senate*, nothing was ever tabled by the government.

The result was the same in 1987 when, on June 26, our current Speaker, Senator Molgat, moved and had adopted four separate motions for the production of documents relating to equalization and other financial matters between the federal government and certain provinces. Although the session continued for more than another year, according to the *Journals of the Senate*, the documents were never tabled.

In light of these precedents, in view of the difficulties faced by the Special Committee on the Pearson Airport Agreements, and given the more recent experience of our Committee on Agriculture and Forestry, I believe it would be entirely appropriate to have this issue examined in some detail, perhaps in conjunction with the House of Commons, but that is something for the Senate itself to decide upon.

In the meantime, I do not want to leave the impression that, in opposing this motion, the government wishes to systematically withhold information that Senator Murray has been seeking. I have already described the documents that have been provided pursuant to his access to information request. It is also my understanding that officials from the Department of Natural Resources are more than prepared to meet with Senator Murray to discuss the matter in even more detail. However, there are conventions and practices with respect to the production of documents that have been followed for a great many years. They have evolved, and they have been applied because they do go to the heart of the relationship between Parliament and the executive.

As a former cabinet minister and a former Government Leader in the Senate, Senator Murray is well aware of and appreciates the necessity for exemptions based on grounds such as cabinet confidentiality, solicitor-client privilege, and ministerial advice.

For instance, on December 21, 1989, Senator Murray, as the then government leader, following a request by Senator Fairbairn, a future, and now unfortunately former government leader, declined to table a legal opinion from the Department of Justice concerning the constitutionality of an election held by the Government of Alberta to fill a Senate vacancy. Senator Murray said at that time:

> I believe that I am supported by ample precedents when it comes to declining to table a legal opinion from the Department of Justice.

That is found on page 998 of the *Debates of the Senate* of the day.

Not only was Senator Murray supported by ample precedents, but he added to that body of precedents his own actions while government leader.

In conclusion, honourable senators, since there is a clear and significant difference of opinion about the impact of this motion, we cannot support it. We cannot support the interpretation being placed on it by Senator Murray, and I am confident that he himself would not have found favour with that interpretation had it been put forward during the life of the previous administration.

I wish to give my personal assurances to Senator Murray and to all honourable senators that whatever can be released with respect to the privatization of Devco has been or will be released. Our opposition to this motion is not based so much on the wish to protect information as it is on the wish to protect the traditions and conventions that have evolved in Parliament since the time of Confederation.

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

PRIVATE BILL

ALLIANCE OF MANUFACTURERS & EXPORTERS CANADA— SECOND READING

Leave having been given to revert to Private Bills:

Hon. James F. Kelleher moved the second reading of Bill S-18, respecting the Alliance of Manufacturers & Exporters Canada.

He said: Honourable senators, I thank you for your indulgence. I should like to advise the Senate of the contents of this bill. It is a very simple bill.

The Alliance of Manufacturers & Exporters Canada wish to amend the federal act incorporating the Canadian Manufacturers Association. The Alliance of Manufacturers & Exporters Canada is the result of a merger between the CMA and the Canadian Exporters Association, whereby the CEA agreed to transfer its assets to the CMA. As part of this agreement, it was agreed that the CMA would change its name to better reflect the new mandate of the association which now provides support to its members in the areas of manufacturing and exporting.

The CMA was apparently incorporated by a special act of Parliament in 1902. The CMA is one of the senior business associations in Canada and has played a historic and significant role in the evolution of the business environment of Canada. As such, it was decided that the merger of the CMA with the CEA should be effected so as to preserve the CMA's historic legislation. However, since the statute incorporating the CMA of 1902 does not provide a means for the organization to change its name, it is necessary to obtain passage of a private member's bill through Parliament to rename the association.

In addition, since it is necessary to go through this process at this time, the association felt that it was an opportune time to amend the provisions of the act which limits the powers of the association in administering its affairs relating to real estate.

That particular section of the act reads:

> 6. The Association may —
>
> (*e*) purchase or acquire real property, and mortgage, lease, sell or otherwise alienate the same, provided that the value of such property held by the Association at any one time shall not exceed fifty thousand dollars.

The reason for that section being in the act in 1902 is that, at that time, the ability of a private corporation to hold property and deal with it was severely restricted. However, that particular section no longer applies because the Ontario government passed the Mortmain and Charitable Uses Act in 1982, which repealed any restrictions on private corporations holding or dealing with lands. Therefore, section 6(*e*) no longer serves the purposes of the corporation and it limits it in its operations.

The purpose of the bill is, first, to cover a change of name of the association and, second, to provide for the deletion of a section permitting the association to hold property.

•(1620)

I am available for any questions which any honourable senator may have with respect to this very important bill.

The Hon. the Speaker: 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 Kelleher, bill referred to Standing Senate Committee on Banking, Trade and Commerce.

INCOME TAX ACT

INCREASE IN FOREIGN PROPERTY COMPONENT OF DEFERRED INCOME PLANS—MOTION PROPOSING AN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion as modified of the Honourable Senator Meighen, seconded by the Honourable Senator Kirby:
>
> That the Senate urges the Government to propose an amendment to the *Income Tax Act* that would increase to 30 per cent, by increments of 2 per cent per year over a five-year period, the foreign property component of deferred income plans (pension plans, registered retirement savings plans and registered pension plans), as was done in the period between 1990 to 1995 when the foreign property limit of deferred income plans was increased from 10 per cent to 20 per cent, because:
>
> (*a*) Canadians should be permitted to take advantage of potentially better investment returns in other markets, thereby increasing the value of their financial assets held for retirement, reducing the amount of income supplement that Canadians may need from government sources, and increasing government tax revenues from retirement income;
>
> (*b*) Canadians should have more flexibility when investing their retirement savings, while reducing the risk of those investments through diversification;
>
> (*c*) greater access to the world equity market would allow Canadians to participate in both higher growth economies and industry sectors;
>
> (*d*) the current 20 per cent limit has become artificial since both individuals with significant resources and pension plans with significant resources can by-pass the current limit through the use of, for example, strategic investment decisions and derivative products; and
>
> (*e*) problems of liquidity for pension fund managers, who now find they must take substantial positions in a single company to meet the 80 per cent Canadian holdings requirement, would be reduced.—(*Honourable Senator Eyton*).

Hon. J. Trevor Eyton: Honourable senators, I rise today to speak to the motion put forward by my colleague Senator Meighen and seconded by Senator Kirby, which urges the government to increase the foreign property component of deferred income plans from the present 20 per cent to 30 per cent over a five-year period.

I support this motion because I believe it is in the interest of the many Canadians presently saving for retirement, either through company pension plans or RRSPs. Both are affected by the limits imposed by Canada's foreign property rule, or the FPR.

In passing, I might note it is a myth that only rich people are RRSP holders. The fact is, of the 5.2 million Canadians who hold RRSPs, over one-half earn less than $40,000 per year.

There are many arguments I could cite in favour of changing the FPR in Canada. However, in the interests of brevity, I will mention only a few.

The first is the need to provide financial security for people entering retirement. As we are all aware, the number of people retiring in Canada is growing steadily. This number will increase at an ever-greater rate as the so-called "baby boomer" generation starts to leave the workforce. Governments will be hard pressed to provide for all the needs of this important sector of our society.

Realizing this, a growing number of Canadians have begun turning to savings vehicles, such as RRSPs, making private savings an essential component of their retirement income planning. Their goal is simple. It is to ensure that they have enough income to allow them to maintain their present lifestyle throughout their retirement years.

Obviously, the returns these people receive on their investments will largely dictate whether or not they achieve their goal. Increasing the permissible foreign property component will have two main and positive effects on retirement funds.

First, it will lower investment risk. Presently, the Canadian equities market, which accounts for a mere 2.4 per cent of global stock capitalization, is heavily oriented toward natural resource companies. Such a concentration of investment increases risk. Giving Canadians the opportunity to invest in the other 97.6 per cent of the world equities market situated outside Canada will decrease this risk. At the same time, it will offer them the twin benefits of greater diversification and more long-term planning. It will also help protect them against periodic downturns in individual markets.

The other positive effect of increasing or eliminating the FPR is the possibility for higher investment returns. According to the Morgan Stanley Capital International World Index which, by the way, is fully adjusted for foreign exchange fluctuations, if Canadian investors had been allowed a 30 per cent foreign content limit during the past 25 years, they could have earned between 82 and 152 more basis points per year on their retirement savings portfolios. At 152 basis points, this translates into approximately 1.5 per cent.

For an average investor contributing, for example, $5,000 per year to his or her RRSP or pension plan, even a 50-basis point difference over 25 years would amount to an additional $32,000 at retirement. At 150 basis points, we are talking about something in the order of $64,000 in additional funds at retirement.

The second reason we need to change the FPR is market congestion. In 1988, total mutual fund assets stood at a tiny $20 billion. By the end of 1997, they had skyrocketed to over $270 billion. That is about a 500 per cent increase. Assets under management have increased by 49 per cent in the last 12 months alone. Not surprisingly, it is becoming increasingly difficult to find appropriate places to invest these funds within Canada.

This challenge will become even more complicated when the Canada Pension Plan, which will also be subject to the FPR, begins investing its massive funds into the same market.

Allowing retirement funds to increase their foreign content will help relieve this congestion and provide a host of new opportunities for Canadian investors to put their money where they think it will benefit them the most.

This, of course, leads me to the third reason for changing the FPR. It is economic efficiency. Simply put, the FPR prevents Canadians from maximizing investment returns. In turn, this reduces their ability to purchase goods and services. Moreover, forgone returns caused by the FPR drive up the costs of pension benefits for Canadian employers who offer the most common type of pension plans called "defined benefit plans." This reduces their competitiveness which, in turn, costs jobs.

The FPR has also provoked Canadians into using derivative products — Canadian securities whose underlying value is based on a foreign stock index — to reap the benefits of greater diversification in foreign markets while staying under the 20 per cent threshold. As derivatives have to be rolled over at considerable cost over the long term, it would be more efficient simply to offer investors the choice of investing in foreign markets directly.

I would conclude my remarks by noting that the communications revolution we have been experiencing this past decade is showing no signs of slowing down. This revolution has brought an exponential growth in opportunities to Canadians to invest safely abroad. Rather than hinder or ignore these opportunities, we should be encouraging people to profit from them. We can do this by increasing the foreign property limits permitted in deferred income plans or, like the United States, the United Kingdom and Australia, we could have no limits on the amount of foreign investment allowed.

This last option would be my personal preference; however, for now, I join Senators Meighen and Kirby in urging the government to increase the foreign property component of deferred income plans from the present 20 per cent to 30 per cent over a five-year period.

On motion of Senator Lynch-Staunton, debate adjourned.

SEXUAL ASSAULT

RECENT DECISION OF SUPREME COURT OF CANADA—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate:

(*a*) to the judgment of the Supreme Court of Canada in the sexual assault case *Her Majesty the Queen v. Steve Brian Ewanchuk*, delivered February 25, 1999, which judgment reversed the Alberta Court of Appeal's judgment upholding the trial court's acquittal;

(*b*) to the intervenors in this case, being the Attorney General of Canada, Women's Legal Education and Action Fund, Disabled Women's Network Canada and Sexual Assault Centre of Edmonton;

(*c*) to the Supreme Court of Canada's substitution of a conviction for the acquittals of two Alberta courts;

(*d*) to the lengthy concurring reasons for judgment by Supreme Court of Canada Madame Justice Claire L'Heureux-Dubé, which reasons condemn the decision-making of Mr. Justice John Wesley McClung of the Alberta Court of Appeal and the decision of the majority of the Alberta Court of Appeal;

(*e*) to Mr. Justice John Wesley McClung's letter published in the *National Post* on February 26, 1999, reacting to Madame Justice L'Heureux-Dubé's statements about him contained in her concurring reasons for judgement;

(*f*) to the nation-wide, extensive commentary and public discussion on the matter; and

(*g*) to the issues of judicial activism and judicial independence in Canada today.—(*Honourable Senator Nolin*).

Hon. Lucie Pépin: Honourable senators, the Canadian Judicial Council announced recently that it has found no evidence of judicial misconduct by Madam Justice Claire L'Heureux-Dubé in her decision in the case of the *Her Majesty the Queen v. Steve Brian Ewanchuk.*

This decision will no doubt be seen, in certain circles, as further proof that Canada's judiciary has been overrun by feminists. I do not know how to counter this form of paranoia, other than to encourage those afflicted to step into the 21st century and to examine carefully the relevance and fairness of the stereotypes they harbour about gender relations in our society.

Despite the important media coverage given this case last March, it raised several questions that I feel are important enough to warrant revisiting. The first is whether sexual assault should be condoned in Canada. Do all Canadians benefit from the right to personal privacy and physical integrity or do they not? According to the decision handed down by the Alberta's Court of Appeal, they do not.

•(1630)

The Court of Appeal ruling seemed to suggest that our society condones sexual assault in certain circumstances — in circumstances where men are overcome by hormonal urges, and very young women may be seen to welcome sexual advances because of supposedly inappropriate behaviour or dress. Despite the victim repeatedly saying "no," the advances of Mr. Ewanchuk were considered permissible because the victim was wearing shorts, and did not come to the interview in "a bonnet and crinolines."

This ruling raised old and tired stereotypes about relations between men and women — destructive stereotypes of the wily, female temptress and the hapless, hormonal male that were long ago discarded in Canada as unacceptable and unfair.

The second question that the case raised is how a unanimous decision of all judges of the Supreme Court can possibly be transformed into a feminist conspiracy to overtake the judiciary. Honourable senators, I would be quite happy to see the Supreme Court overrun by feminists. Sadly, this is not presently the case. While the Canadian judiciary has come a long way in responding more fairly to women's issues, there is still a long way to go. Evidence the fact that only two out of nine Supreme Court justices, and only a small proportion of Canada's other federal judges, are women.

It has been suggested that the feminist movement is intimidating judges and endangering the independence of Canada's judiciary. I find it difficult to imagine the feminist movement intimidating the judiciary. Instead, I would suggest that the Supreme Court's ruling is the result of an independent judiciary handing down a decision reflective of the majority of Canadians' views on the subject. The majority of Canadians agree that sexual assault is a serious crime that is not condoned in our society, that no means no, and that an adult male should be capable of controlling his hormonal urges in the face of a 17-year-old girl, regardless of how she is dressed, or with whom she is living.

Honourable senators, Senator Cools explained to this chamber that the real issue at the heart of this case was the injury and insult suffered by Justice John McClung at the hands of a Supreme Court Justice. Where could Justice McClung go for unbiased judicial review and reparation, she asked.

However, honourable senators, where was the insult and injury to Justice McClung in Justice L'Heureux-Dubé's observations? All Justice L'Heureux-Dubé did, with courtesy and restraint, was to make it plain that the archaic stereotypes proposed by Justice McClung to explain Mr. Ewanchuk's assault were both inappropriate and unacceptable. I quote from Justice L'Heureux-Dubé's observations in her decision:

> In the Court of Appeal, McClung, J.A., compounded the error made by the trial judge. At the outset of his opinion, he stated "...that it must be pointed out that the complainant did not present herself to Ewanchuk or enter his trailer in a bonnet and crinolines... that she was the mother of a six-month-old baby, and that, along with her boyfriend, she shared an apartment with another couple."
>
> Even though McClung, J.A., asserted that he had no intention of denigrating the complainant, one might wonder why he felt it necessary to point out these aspects of the trial record. Could it be to express that the complainant is not a virgin? Or that she is a person of questionable moral character because she is not married and lives with her boyfriend and another couple? These comments made by an appellate court judge help reinforce the myth that under such circumstances, either the complainant is less worthy of belief, she invited the sexual assault, or her sexual experience signals probable consent to further sexual activity. Based on those attributed assumptions, the implication is that if the complainant articulates her lack of consent by saying "no," she really does not mean it, and even if she does, her refusal cannot be taken as seriously as if she were a good girl of moral character.

I do not understand, honourable senators, how one can possibly characterize these observations as insulting. With all due respect to my honourable colleague, I fail to see that Justice McClung is a victim in this case.

As such, I should like to rephrase in a new way Senator Cools' all-important question lying at the heart of this case. My version of the question is as follows: Where can a young victim of sexual assault go for redress and reparation when her dignity has been

insulted and her emotional pain dismissed publicly, in a court of law, as a result of unfair and destructive stereotyping? To this question I have an answer. Thankfully, in this instance our young victim can rely on Canada's judicial system to consider her plight and deal with the issues raised both wisely and honourably.

Some Hon. Senators: Hear, hear!

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

HEALTH CARE IN CANADA

INQUIRY—DEBATE ADJOURNED

Hon. Wilbert J. Keon rose pursuant to notice of April 13, 1999:

> That he will call the attention of the Senate to the present state of the Canadian health care system.

He said: Honourable senators, I rise today to bring the attention of the Senate to the state of the Canadian health care system; specifically, where we are now and where we should be headed. My purpose is to heighten the awareness of the key issues facing the Canadian health care system and to establish the broad parameters that will lay the groundwork for a clear, sustained focus on health reform.

First, I wish to highlight the key issues facing the health system today that will have a significant impact on the future. Second, I wish to emphasize the need for renewal of the government's commitment to the integration of federal and provincial resources as central to the change process. Third, I wish to propose strategies and directions for addressing these issues. Finally, I wish to articulate the importance of developing a long-term planning focus that will guide the necessary changes in the system.

For many years there has been a hesitant approach to leadership at the federal level, which has prevented progress on a number of fronts. This is understandable, given that health care is delivered largely by the provinces, all of which are struggling to sustain their systems. However, it seems that the tide may be turning on this front. Recent announcements made by the federal government are illustrative of a renewed leadership role being assumed in the health arena. Indeed, the most recent federal budget, tabled in February of this year, marked a historic point for health care in Canada.

The government can be commended on its plan to invest in the health of Canadians. This is a progressive response to the concerns of health professionals and citizens who know that a healthy future for the country starts with a healthy population. Under the leadership of Minister Rock, medical research and care in Canada is being addressed with appropriate funding and further development. Some of the recent initiatives that demonstrate this renewed leadership role include:

- establishment of the Canadian Institutes of Health Research for the promotion, creation and integration of health research across the country, and an extra $47 million in funding for research over the next three years;
- increases to the Canada Health and Social Transfer payments of up to $11.5 billion over the next five years;
- completion of the planning phase of the Health Infoway and the Health Infostructure project;
- enhancements to the funding base of the Canadian Institute for Health Information to support the collection of standardized information on health procedures and health outcomes;
- initiatives focused on improving quality and access of services related to rural and community health;
- greater emphasis on research into the effectiveness of home care services across the country;
- a continued effort to enhance the health status of First Nations.

•(1640)

These announcements were met, quite rightly, with tremendous enthusiasm by the provincial governments, the health care establishment and particularly the health research establishment. However, the question now is: Where do we go from here? Let me share some of my thoughts on this question.

Honourable senators, imagine for a moment a major corporation that does $80 billion worth of business annually. It is an essential business on which millions of people depend. It is a major employer. Its workforce is made up of dedicated, highly motivated and well-trained people. It is a business profoundly affected by both demographic and technological change.

Unfortunately, however, this business is in deep trouble. Its clients are changing, as are their needs. At the same time, its revenue base is shrinking. Part of its service delivery is marked by overcapacity or by undercapacity. Despite strong intentions to make more efficient use of resources, there continues to be waste and duplication at all levels, as those who rely on the business struggle to move from one part of the business to another to receive the "care" they require.

The different parts of the business have grown in isolation from each other. There is no real coordination among the parts, nor is there any type of long-term planning. Though data is collected in different parts of the business, it is not collected in any standardized way, nor is it possible to easily compare data that is collected in many different parts of the business.

In the worst case scenario, this business risks complete collapse. At best, it risks becoming less relevant and useful to Canadians unless immediate and significant remedial action is taken. This scenario, honourable senators, describes the current state of our health care system.

There is no doubt that the economic and fiscal crisis across this country in the 1980s was the primary force that led every province to implement their own agenda for health reform. The reforms currently being implemented have been difficult for all those working in, planning for and using the health care system. The emergence of a more positive fiscal climate today, however, provides us with a window of opportunity to plan for future change and to reshape the health care system into a modern business capable of meeting the needs of today's health care consumers now and in the future.

If we are to preserve a sustainable, high quality and affordable health system capable of meeting the needs of Canadians today, we must be prepared to look toward the future with an open mind and a genuine willingness to make a difference. This willingness must move us beyond our current preoccupation with the protection of the status quo and the preservation of a health system that was put in place over 40 years ago, a system that, in spite of all its merits, is no longer equipped to deal with society's present needs.

Today, for example, our health system is not capable of responding to the needs of the growing numbers of Canadians living with chronic illness. The new and changing health problems facing our population will demand the development of a more integrated approach to care delivery among the different providers working in the system. The new system will place heavier emphasis on the promotion of good health in Canada and the development of strategies to control health risks and prevent disease. Among other things, this new emphasis will allow us to place greater emphasis on rehabilitation, prevention and education, and on the treatment of disease entities such as cancer, AIDS and heart disease.

Honourable senators, let us be clear: There is no one solution to the challenges that lie before us. Health care reform is a complex, multifaceted issue that requires tough, careful reasoning and cooperation of different stakeholders. Preserving our future health care system demands immediate and bold action. It does not, however, require more money or more studies on how to improve health status. While more money may be needed up front to support the transition process, the longer-term objective is to rebalance our current spending in health care by shifting the use of our resources to support delivery of new types of care that will take place in long-term care, home care and other community support facilities.

We do not need to spend more on health care. At just under 10 per cent of gross domestic product, Canadians are spending enough to support access to a good health care system. In fact, we spend considerably more on health care in this country than countries such as Sweden and Holland that have much older populations. What we need is to spend more wisely on health care to ensure that we are spending money at the right time, at the right place and on the right things.

We do not need more studies on how to improve health status. Report after report has told us that improving the health of our population will demand that we go beyond investments in our traditional health care system to invest in other areas that determine health. It includes cost to individuals, families, businesses, underutilized human potential and lost productive capacity.

Reforming the Canadian health system is a task, however, that cannot be underestimated. The "uniqueness" of this country and the enormously strong attachment that the public has to our present health care system poses a set of complex issues that need to be addressed.

For starters, our health care system responds to one of the most economically, socially, culturally and demographically diverse populations in the world, diversity which will grow over the coming years. As the population continues to change and diversify, and pressures on health care costs and services increase, providers and governments will face growing demands for health services that are not only cost effective and responsive to the needs of the changing population but that also take into consideration the importance of those determinants that extend beyond the traditional health care system — that is, the importance of a safe, clean environment, good housing, and a strong, vibrant economy.

We are also faced with finding solutions to respond to the wide inequities that continue to exist between regions in this country and certain population groups, and even within regions and cities. Add to these challenges the fact that an increasing number of Canadians are expressing dissatisfaction with the current system. This dissatisfaction is being translated into growing concern and anxiety about what is perceived to be a decline in the quality of the health care system; a decline in access; a deterioration of working conditions; a demand for a different mix of health services to access different kinds of health providers; and a decline in the nation's ability to control health care costs.

Honourable senators, what is needed is a package of solutions that can be worked on simultaneously; a package of solutions that builds on an exploration of many alternatives, and considers ideas and approaches that may not necessarily fit with "conventional" wisdom; and a package of reforms that builds on the many "goods" in the existing system, not the least of which is the confidence most people have that when they are sick or injured, they do have relatively ready access to services of the range and quality necessary to facilitate their return to health. That confidence is well placed in our "resources" of well-trained health professionals, institutions and organizations.

•(1650)

Today, I wish to table an eight point strategy as a starting point for initiating an inquiry into the health care system. It is my hope that an exploration of each of these strategies will compel us to move forward in developing a clearer strategic plan that signifies strong federal leadership. In the months ahead, I will discuss each of these eight strategies in greater detail and encourage others to come forward with their views.

Strategy 1: The need for a vision. To begin with, we need a clear mission and strategic objectives for our health care system. These strategies should be developed with the broad input of the population at large and involve representation of all sectors within the health system. This vision should include a structured framework which will allow us to create a national health system that creates a given standard of health, based on population and providers' perspective.

Strategy 2: Development of a long-term planning and policy agenda. Once we have a vision in place, we can begin to establish a national long-range plan for change. This plan should not be formulated by the government but within the spirit of the Canadian mosaic whereby existing organizations are encouraged, strengthened and stimulated to contribute to the development of a long-term plan.

The focus on finding solutions to deal with the daily crisis has become the *modus operandi* of most decision makers. There has been a notable absence of any kind of long-range planning. This reactive, on-the-heels type of management gives the appearance of lurching from one problem to the next with no idea of where all this activity will lead. We need to do — and can do — much better.

There is an urgent need to establish a long-range planning group in Canada. The mandate of this group should include the requirements to explore the role and relationship of health professionals, health administrators and governments in working together to develop a longer term change agenda that will guarantee the presence of a national health care system founded on national values, as opposed to principles or beliefs.

Strategy 3: Garner public support of the need for change. One of the biggest challenges will be to involve the public in the change process. Doing so will require that we raise awareness among members of the general public of the strengths and weaknesses of the current health care system. Emphasis must also be placed on educating the public about the importance and value of all aspects of the health care system.

It will also require that we gain a better understanding and appreciation of what the public believes is wrong with the current health care system so that we can begin to sort out some of the myths and misconceptions that exist. Once we get this information, we will be in a better position to develop some options and scenarios for building a health system capable of meeting the challenges of the next century.

Strategy 4: Focus on systems integration. The fact is that we do not have a real health system now — we just talk as though we do. While we may have all the component parts that are capable of building the system, they do not fit together to work as a real system. One of the things that will help promote greater integration is the development of a national health info-system that will bring a greater level of accessibility and accountability to the system. Yet, without a clear sense of direction and well-articulated objectives as suggested by strategy 1, such an information system will not be able to realize its full potential.

I congratulate the government for the progress to date in this area. However, federal, provincial and regional institutional cooperation is now required for implementation.

Strategy 5: Consider the role of the private and third, or voluntary, sector in a renewed health system. There is a candid sense of reluctance in this country to talk about roles of the private and third, or voluntary, sector in the future of the health care system. During the 1990s, we have seen a significant increase in the share of private sector funding, from approximately 25 per cent of the total in 1990 to 28 per cent today. This private sector investment is more than in most European nations, and double the level in the United Kingdom, which actually has a parallel private system. Today, among the 28-member countries of the OECD for which comparable data is available, Canada ranks twenty-third in terms of public sector spending as a proportion of total health spending.

What are the factors contributing to the increase in private expenditures in health care? Is it a consequence of the restricted nature of the Canada Health Act? Can it be attributed to the changing demands of the population, or is it more the result of the changing nature of the services being delivered as a result of new technologies and application of drugs?

We must face the reality that private money has always been in the health care system, and will continue to exist. A failure to factor the involvement of the private and voluntary sectors into the change process will lead to fundamental problems in any future reform agenda.

Strategy 6: Building stronger partnerships between the private and public sectors. Employers and private sector partners need to work more closely with government. There is much that employers can do to work cooperatively with governments to improve overall efficiency and effectiveness of the health system. An enormous, untapped potential exists for building stronger relationships between the government and private sector to work together to build a restructured health care system.

The public sector could learn a great deal from the private sector. Most decision makers in the health field are so preoccupied with fighting the crisis of the day that they do not pay enough attention to the good things that are happening in our own backyard. In the same way that the private sector reaps the benefits of best practices, the health system must learn to do the same.

Strategy 7: Link social and economic policy agendas. We need to do a better job of linking the social and economic policy agendas in this country. In so doing, we will foster a greater understanding of interaction of social and fiscal policies and their ultimate impact on health.

Is it possible that part of our poor productivity record is related to this divergence of policy making? Canada is evolving from a resource-based economy to a knowledge-based economy. A knowledge-based economy is founded on human capital and, as a result, investment in the health of Canadians becomes essential to the health of the Canadian economy. We need to consider investments in Canadians as investments in social capital, which

is ultimately the foundation of our Canadian economy. If we as a country are to reap the benefits of the new economy, then the social and economic policies must be developed together.

Another factor that we often fail to recognize is that our single payer health system has significant economic advantages. In fact, our publicly financed health system is one of the main factors that helps us to keep competitive in the global marketplace and provides Canadian business with a substantial competitive advantage. A report prepared by the former Premier's Council on Economic Renewal in Ontario found that business in Illinois, Michigan, New York, California and Ohio was spending approximately 2.5 times more than those in Canada's largest province for medical benefits, workers' compensation, unemployment insurance and social security. That should be a major selling point in attracting business to Canada, but it is not generally recognized, or at least appropriately advertised. In my own experience in starting a company some time ago, I sold this aspect very highly — namely, the quality of life in Ottawa — and it worked.

•(1700)

The national character of our health system also serves to enhance the mobility of the labour force, which can be important in responding to the change of business requirements and opportunities. If we do not make a concerted effort to develop social and economic policies in tandem, they may end up being counter-productive to each other.

Strategy 8: Illustrate strong federal leadership. Political will is crucial for advancing any national health reform agenda. This will require confronting tough questions: What is the meaning of the social union? How does it differ from the status quo? What can we expect to do with it? How can federal, provincial, regional and private resources be better coordinated to maximize our outcomes? Is the Canada Health Act a limiting factor in creating real change? Has the time come to revisit the act? This could be done in the spirit of respecting and reinforcing it.

The issues we need to confront are complex and inter-related. They are not simple, cut-and-dried issues that are easily solved, as they are sometimes described. Finding solutions will require collective efforts from all levels of government, the private and voluntary sectors, and the Canadian public.

My opening comments recognized some of the current commitments that have been made by the federal government to strengthen the foundation of our national health system. National leadership is essential not only to ensure the sustainability of the national health system capable of meeting future needs of Canadians but also as a vehicle to catalyze the building of a real system of health care in Canada.

There have been a tremendous number of stop-and-go efforts to reform the health system in recent years. Currently, we have studies under way on a whole range of issues such as the benefits of integrated health systems, how to measure accountability, developing and adopting adequate space, decision-making as part of protocol for patient care, guidelines for adopting new technologies, blueprints for creating a national health information system and a health information highway, strategies to improve the delivery of primary health care services, the development of human resource strategies to ensure adequate numbers of providers and professionals — and the list goes on.

All of these studies and initiatives, while necessary and worthwhile, are occurring in an ad hoc, unrelated fashion. Alone, they do not have much impact. We need to find a way to bring these initiatives together. Right now, there is no mechanism for achieving stakeholder consensus on which of these studies should have the highest priority. There is no mechanism to evaluate these projects. There is no way to communicate the results to providers, consumers and governments in any coherent, logical, meaningful way.

We need a single entity, at arm's length from government, established by the federal government to assume a leadership role in integrating the range of research studies under way across the country; a task-oriented entity with clear goals and objectives accountable to the public for its work and for facilitating awareness and adoption of credible research findings as they emerge through the regular advice to the Minister of Health. This would create an expectation for regular public disclosure and discussion of new findings in improving the health system. It would also provide a vehicle that will ensure greater momentum, assurance and support for change.

Honourable senators, a successful future can be ours, but if we do not commit to a change process now and seize this time as a opportunity to embark upon the development of long-range initiatives that will support the emerging needs of a new society, we may find, unexpectedly, that a very different future overtakes us.

On motion of Senator DeWare, debate adjourned.

HEALTH

MOTION TO MAINTAIN CURRENT REGULATION OF CAFFEINE AS FOOD ADDITIVE—DEBATE ADJOURNED

Hon. Mira Spivak, pursuant to notice of March 9, 1999, moved:

> That the Senate urge the Government of Canada to maintain Canada's current regulation of caffeine as food additive in soft drink beverages until such time as there is evidence that any proposed change will not result in a detriment to the health of Canadians and, in particular, to children and young people.

She said: Honourable senators, some 14 months ago, Health Canada proposed a significant change in soft drinks sold in Canada. In Part I of *The Canada Gazette*, it recommended that the government allow Pepsi and other soft-drink makers to add caffeine to a new range of soft drinks for our children and young people. Mountain Dew, Kick, Mello Yello and Surge are some of the soft drinks sold in the U.S. All contain more caffeine than Coke or Pepsi.

The Department of Health's rationale for this proposal as listed in the Gazette was simple: It would harmonize Canadian provisions for these products with the United States and allow soft drink makers to "standardize" their formulae.

Before the department proposed changing our regulation, it consulted with Pepsi, a company eager to add caffeine to Mountain Dew. Some scientists within Health Canada were opposed to the change on health grounds, but they were overruled. There were no outside consultations with physicians or public health groups, or with anyone else who had second thoughts about the wisdom of exposing children and young people to new sources of caffeine.

However, within weeks of publishing its proposal, Health Canada had a response from those who were frankly appalled by the suggestion. It heard from the Canadian Institute of Child Health, from the Centre for Science in the Public Interest and others. They were appalled, because caffeine is a drug. It is a psychoactive drug, a stimulant that affects the brain, speeds up metabolism and prompts the body to lose calcium. It is a drug that can cause addiction. It is the only psychoactive drug that can be legally sold to children. Those facts alone demand that drug regulators be cautious.

The effects of caffeine on adults range from anxiety, insomnia, irritability and depression to severe headaches and other withdrawal symptoms when adults stop drinking coffee and eating chocolate. Doctors warn pregnant women and breastfeeding mothers to restrict their intake of caffeine. Some studies indicate that caffeine increases the risk of miscarriages and retards fetal development. Caffeine is so potent that it has proven fatal at — granted — extremely high doses.

These are the known adverse effects on healthy adults. Health Canada itself recommends that adults consume no more than 400 to 450 milligrams per day, an amount found in three to four cups of drip coffee. That is the recommendation for people whose nervous systems are fully developed, whose body weight is double or triple that of a child, and whose bodies have clearly absorbed enough calcium to grow healthy adult teeth and bones.

What about children and fast-growing teenagers? There is no official recommendation for their caffeine intake. Most of us can remember when caffeine was off limits for children. The adage was: It will stunt your growth.

There was some wisdom in that old saying. Parents denied tea or coffee on a regular basis, and they still do. Back then, the amount of caffeine that children consumed through coke or Pepsi was far less than they get today. Bottles were much smaller — about half the size of today's cans. There were no "Big Gulps" at convenience stores or 40-ounce supersize drinks sold in theatres or at fast food outlets.

•(1710)

Since the late 1940s, soft drink manufacturers have both increased the size of the bottles and vastly increased production. In the U.S., production has increased from an amount equal to about 100 cans per person per year to today's level of almost 600 cans.

By conservative estimates, one in four U.S. teenaged boys who drink pop is downing five or more cans a day, and one in 10 is drinking seven cans or more. Six of the seven most popular selling soft drinks contain caffeine. That is why some people are calling today's American kids "generation wired."

I am not aware of any detailed statistics of soft drink consumption among our young people, but we know that Canadians on the whole are drinking 25 per cent more soft drinks than milk. On the face of it, we should not be encouraging our young people to follow the U.S. example by harmonizing our regulations.

Some of the adverse health effects on kids are obvious. Young people who choose soft drinks over milk or juice are getting a great deal of sugar and few nutrients. If those soft drinks have caffeine, they are losing some of the calcium that their growing bodies need. According to a spokeswoman for the American Dietetic Association, there is a danger that children will not reach sufficient bone mass. There is also a growing body of research showing that too much caffeine makes children nervous, anxious, fidgety, frustrated and quicker to anger.

Judith Rapport, a child psychiatry researcher with the National Institute of Mental Health, found that 8- to 13-year-olds who regularly consumed high doses of caffeine were more restless in the classroom. Two studies have recorded caffeine withdrawal symptoms among children. Dr. William Cochran a paediatric gastroenterologist at Penn State, says that common child illnesses like ear infections, colds, bronchitis and asthma may be exacerbated by caffeinated soft drinks.

It is very troubling that Health Canada's Food Rulings Committee did not properly consider these matters before the decision was made 14 months ago. I have it on good authority that some members of the committee tried to raise health concerns. In the end, they were overruled by others added to the committee who argued for consumer choice and trade and commercial interests.

The only health justification for publishing the ruling was the unsubstantiated claim that Canadians, including kids, would switch from colas to other caffeinated drinks like Mountain Dew. Therefore, our officials surmised there would be no increase in caffeine intake. I say: "Prove it."

The "no increase" argument is Pepsi's argument. It is the argument of a very aggressive marketeer. It is the argument of a company that encourages feeding soft drinks to babies by licensing its logo to makers of baby bottles. It is a company that has distributed half a million free pagers to kids in the U.S., but only after they read the Mountain Dew promo. It is a company that pays up to $11 million to school districts for exclusive rights to distribute their product and hang ads on gym walls and in school buses. It is a company whose ads promise teenagers that there is "nothing more intense than slammin' a Dew."

Our Health Protection Branch uncritically accepted the assurance that caffeine consumption will not increase when high test Mountain Dew and other caffeine-spiked drinks are sold. That is a specious argument. That tells me that something is sadly amiss in our drug approval process. I hope that some Senate committee will investigate the approval of caffeine.

I am pleased that the Minister of Health has not acted quickly on the caffeine proposal. His officials now tell me that there will be a thorough evaluation. He is also considering an external review. I ask: Why? We have competent evaluators within Health Canada. We have people who raise legitimate issues of public health. We have the deputy minister's assurance that the public is the client at Health Canada. All we need do is derail those who think otherwise and insist that all health questions be properly examined.

If the department is intent on an external review, however, there must be no perceived conflict of interest. The department must stringently apply its own good conflict of interest guidelines. No matter how the review is conducted, it must also be based on proper studies and, as the Agriculture Committee recommended in the case of bovine growth hormone, the final decision must rest with evaluators who have the public health foremost in mind.

In closing, honourable senators, I wish to stress some of the same points we raised on bovine growth hormone. No one is clamouring for the addition of caffeine to such products as high-test Mountain Dew, Mello Yello or Surge. Adding caffeine to soft drinks does not treat disease; it does not prevent disease; and it does not encourage good health and nutrition. It only helps the manufacturer.

I know that after my grandchildren have played a game of hockey they are anxious to have a soft drink from the canteen at the community club. Why must there be caffeine in those drinks?

Before the Health Protection Branch helps Pepsi sell more Mountain Dew with caffeine in it in this country, it must be very certain that it will not harm the health of Canadians; in particular, our children.

On motion of Senator Carstairs, debate adjourned.

HUMAN RIGHTS IN TIBET

MOTION AS MODIFIED TO URGE CHINESE GOVERNMENT TO RECOGNIZE SELF-DETERMINATION AND HUMAN RIGHTS OF TIBETANS—DEBATE ADJOURNED

Hon. Consiglio Di Nino, pursuant to notice of March 11, 1999, moved:

> That the Senate urge the Government of Canada to use its good offices to urge the Government of China to respect the right to self-determination and human rights of the people of Tibet and in particular to respect the Universal Declaration of Human Rights as well as resolutions of the UN General Assembly in 1960, 1961 and 1965 which affirmed these rights for the Tibetan people.

He said: Honourable senators, I ask leave to amend this motion by adding to it.

The Hon. the Speaker: Honourable senators, is leave granted to add to the motion?

Hon. Senators: Agreed.

MOTION IN AMENDMENT

Hon. Consiglio Di Nino: Therefore, I move:

> And further, that the Government of Canada urge the Government of China to meet with His Holiness, the Dalai Lama, without preconditions and under the auspices of the United Nations to attempt to resolve the Tibetan problem.

Honourable senators, Wednesday, March 10, 1999, marked the anniversary of the Tibetan national uprising of 1959. On that day, thousands of miles from here, His Holiness the Dalai Lama addressed a crowd in the City of Dharmsala in northern India where he has lived for 40 others in exile. He spoke of Tibet's unique cultural and religious heritage and of the great differences separating Tibet and China in terms of history, language, and way of life.

As well, he referred to the ongoing abuses taking place in Tibet by Chinese authorities, including racial and cultural discrimination and widespread and serious violations of human rights. He said that, at the sight of the slightest of dissent, the Chinese authorities react with force and repression. This repression is aimed at preventing Tibetans as a people from asserting their own identity and culture, and their wish to preserve them.

•(1720)

The extent of the Chinese repression is well documented. It is based on information gathered by a variety of organizations from the International Commission of Jurists to Amnesty International, to Asia Watch, to Human Rights Watch and to the Tibetan Centre for Human Rights and Democracy. According to these sources, last year alone hundreds of monks were arrested in Tibet, and thousands more were expelled from religious institutions as part of what is called a "patriotic re-education campaign." Among the population at large, 56 people were arrested for writing poems, shouting slogans and pasting posters. Others were victims of forced sterilization, political trials, torture and that old Chinese communist favourite, forced education through labour.

To strengthen its hold on Tibet, China has stationed more than 200,000 troops throughout this profoundly pacifist nation. It has also installed a growing military infrastructure, including radar stations, military airfields and missile bases. Tibet, the peaceful buffer state, has been transformed into an armed camp.

Despite nearly 50 years of so-called liberation, Tibetans' spirit and their will to be free in their own land remains unbroken. The Dalai Lama realizes this as, I suspect, do the Chinese. However, the vicious circle of Chinese repression and Tibetan resistance continues.

In an effort to break the deadlock, the Dalai Lama has renounced the idea of outright independence. Instead, he has called on the Chinese authorities to allow Tibet to become a fully autonomous region within the People's Republic of China. The Chinese have refused this peace offering. Indeed, they have hardened their attitude, daily denouncing the Dalai Lama as a separatist and a loyal tool of anti-China forces.

Honourable senators, the solution to the tragedy that is Tibet will not be found in slogans and doctrinaire propaganda. The solution, as His Holiness the Dalai Lama rightly points out, is in dialogue. Formal statements, official rhetoric or that favourite Canadian response, "We have spoken about this matter privately," gets us nowhere. There has to be real, face-to-face discussion and negotiation. However, it takes two to tango, which leads me to our present Prime Minister.

Mr. Chrétien has said that he is a good friend of President Jiang of China. Can he not use his friendship to promote the dialogue that the Dalai Lama asks for? Perhaps the Prime Minister could write to President Jiang and urge him to meet with the Dalai Lama, or maybe even play the honest broker and offer to mediate a meeting between the two. At the same time, could he not urge President Jiang to respect human rights in Tibet, to stop cultural genocide and to put a halt to the environmental degradation that is happening there? Finally, perhaps he could do so publicly so that the rest of Canada and the world would see for themselves what Mr. Chrétien has to say, and to whom he says it.

By writing President Jiang, the Prime Minister of Canada would not be telling China what to do. He would not be advising them on how to run their country, or how to deal with their internal affairs. He would simply be reminding them that, as a nation, they have certain obligations to their citizens, and that among these are, or should be, to respect the provisions of the Universal Declaration of Human Rights and the resolutions of the UN General Assembly dated 1960, 1961 and 1965 affirming these rights for the people of Tibet.

During the past week, honourable senators, Premier Zhu of China has been in our country. Everywhere he went, he was greeted by protesters demanding an improvement in human rights in China and freedom for the Tibetan people. Did our Prime Minister use this golden opportunity to raise these issues with the Chinese premier? Mr. Chrétien is quoted as having said that he and Mr. Zhu talked frankly about everything. Did they speak about Tibet? Who can tell? As usual, our Prime Minister talks a lot, but says little.

I was more than astounded, however, when I heard the Prime Minister offer Premier Zhu a public way out when he said that Tibet could not be compared to Kosovo. Has Mr. Chrétien forgotten that over one million people have been killed in Tibet since the Chinese invasion of 1959? Has he forgotten the persecution, the rapes, the forced sterilization, the cultural genocide and God knows what else that has gone on, and is going on as we speak, in Tibet?

Premier Zhu says that there is religious freedom in Tibet. I must say that his definition of "freedom" must be a lot different from mine, and that of most of the people I know. I am sure, for example, that the world's hundreds of millions of Catholics would be less than pleased if they were to learn that the Pope was henceforth to be chosen by the state. Yet, this is exactly the case in Tibet.

Honourable senators, we are all aware that Canada is one of the few western countries that has not publicly advocated negotiation as a means of ending the conflict in Tibet. Unfortunately, I think the reason for this is that we do not want to upset the Chinese. We are afraid to offend them because this might lead to lost commercial opportunities.

However, as the Prime Minister knows, foreign affairs is more than just trade and money. It is about values. It is about the protection and defence of the ideas and the ideals that a nation believes should be adhered to by all.

In closing, honourable senators, for close to half a century China has occupied Tibet. However, time has not brought legitimacy. In fact, the opposite has been the case. Today, China's presence in Tibet is just as wrong, just as immoral as it was when it began soon after the Second World War. Obviously, Canada alone cannot force the Chinese out of Tibet, but it can do its part.

The purpose of this motion is to ask each and every one of you, honourable senators, to join with me in asking Mr. Chrétien and his government to do their part and to help find a solution to the tragic problem of Tibet.

Hon. Marcel Prud'homme: Honourable senators, I should like to ask a question of the honourable senator.

I read with great interest the motion of the Honourable Senator Di Nino in which he mentions the Universal Declaration of Human Rights, as well as resolutions passed by the UN General Assembly. He is asking us to respect the resolutions passed by either the UN General Assembly or the UN Security Council.

Is the honourable senator of the opinion that all resolutions of the UN General Assembly or Security Council should be put on an equal footing, respected and implemented?

Senator Di Nino: Honourable senators, without hesitation, I say "yes."

On motion of Senator Carstairs, debate adjourned.

The Senate adjourned until Wednesday, April 21, 1999, at 1:30 p.m.

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