



Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 23

OFFICIAL REPORT
(HANSARD)

Thursday, December 16, 1999

—

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate
Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,
Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, December 16, 1999

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

Prayers.

SENATORS' STATEMENTS

RICHARD G. GREENE

TRIBUTES ON RETIREMENT

Hon. Joyce Fairbairn: Honourable senators, I should like to say a special Senate farewell to a man whom I am proud to be able to call a friend, our retiring Deputy Clerk, Richard Greene. I would not want Richard to leave without saying publicly how much I have relied on the wisdom, knowledge and skill he offered so generously to me long before I ever entered the Senate.

I was reading his resumé yesterday and noted that he started his career in this place as a page in 1956. That was the same year I set out from Lethbridge on an adventure that would take me and other young Canadian and American students all across this country and down to the United Nations for a week. I was 16 years old and had never been east of Medicine Hat. It was my very first visit to Ottawa and Parliament Hill. As I trotted up to the Peace Tower, as thousands of students do each year, Richard was ahead of me, beginning what he probably thought was just an interesting work experience to get him started. Clearly, both of us were bitten by the bug that exists within these walls, and it has become the workplace of a lifetime.

I met Richard first when I worked with Prime Minister Trudeau and was told that part of my job was to “get along” with the Senate. The first priority, of course, was to meet someone named Jean Sutherland, who was widely and respectfully regarded as, I quote, “the lady who runs the Senate.” From what I could gather at the time, she seemed to be a key element that kept this place purring along.

Jean Sutherland had a young assistant who knew pretty much everything about how the Senate operated, what was happening with legislation, and the pitfalls that might befall a careless government if it did not keep its mind on the right course of consultation and cooperation. He was there also to keep people like myself from bothering Jean Sutherland, so he had to know everything that she did.

That person, of course, was Richard Greene. Apart from all the skill that Richard possessed, he was also a wonderful guy, and we became cheerful friends at once, in spite of the fact that I was usually calling him when something was threatening to move down the wrong track.

I would venture to say that the Senate of Canada has never had as loyal an employee as Richard Greene. Whatever the pressures,

his focus has always been on ensuring this place was functioning correctly and not on the political preoccupations of its inhabitants, to whatever party they might belong. In my experience, he has never lost his patience or his sense of humour, which is more than I can say for myself. I am sad that he has chosen to leave us, but I know that his real family — Ethel, Lesley and Steven — will be delighted to become the focus of his attention.

Last week, honourable senators, this house adopted a motion designating Richard as an honorary officer of this place with an entry to the Senate and a seat at the Table on occasions of ceremony, and I hope he will perform these duties fully and spend time with us in between.

I simply assure Richard that our friendship will never end. I wish him all the best in the new challenges and adventures life has in store for him.

• (1410)

Hon. Sharon Carstairs: Honourable senators, when Richard Greene arrived here in 1956, he arrived with a newly appointed group of senators that included the likes of Chubby Power, David Croll, Hartland Molson, Muriel McQueen Fergusson and my father, Harold Connolly. At about the same time that he began his wanders through this chamber, I began my wanders through this chamber because I came frequently with my father during those early years of his appointment.

I am not sure if Richard knows this, but I was responsible for one black Cadillac hitting another black Cadillac out in front of the Senate entrance, when Senator Basha's wife insisted that I drive Senator Basha's Cadillac. He and I will both remember that in those days there was still some work going on within the chamber corridors with regard to sculpting. Up would go the scaffolding and down would come the scaffolding, and a new gargoyle would appear overnight. Those are the memories I have as a 12- to 15-year-old girl wandering around this place. Those memories I share with Richard Greene.

Honourable senators, there is a special relationship between the Deputy Leader of the Government in the Senate and the position filled by Richard — that is, until he announced his retirement. Each day, at a time usually around 10 a.m. or 11 a.m., Richard Greene would arrive in the deputy leader's office with “the scroll.” Many senators do not know what the scroll is, but it is those long pieces of paper held by the Deputy Leader of the Government and the Leader of the Opposition. It shows what will happen in this chamber. Richard and I would sit down together and decide whether it was right for the day. By that, I mean that Michelle MacDonald, my assistant, would take great pleasure in finding Richard's mistakes. We did not find them very often but, when we did, we would have a great chuckle that the document had not arrived in its usual pristine form. Michelle joins me in saying how much we miss those daily occurrences in my office.

Richard was a professional to the end. He had an amazing capacity to listen, to take note of what he heard, and to do everything he could to make life just a bit easier — not only for the deputy leader and the leader of the Senate but also for every other senator in this chamber. I needed his support and help, and he gave it to me willingly, and with affection and good humour.

I thank you for those years in which we worked together, Richard. You will be missed.

Hon. Marcel Prud'homme: Honourable senators, there is an underlying plot here that we did not see. My good friend Mr. Greene has attempted a nice coup. He has a superb memory about everything that has taken place in the House of Commons and the Senate. I am sure he recalls that when the Right Honourable Prime Minister Pierre Elliott Trudeau announced his resignation, Parliament sat for hours. So many tributes were paid to him that we all know what happened: He came back. I think Mr. Greene was highly inspired by that event.

Honourable senators, I cannot believe that the senior staff member of both Houses would drop me like this. With his departure, I will now become the second longest-serving person here — that is, after Herb Gray on the other side.

Mr. Greene and I have travelled and worked together. Mr. Greene and his wife were very kind to one of my sisters when we travelled together, and we became friends.

I have not prepared notes, honourable senators, because I did not want my remarks to become merely functional and official. We will miss Richard, but I still believe that, ultimately, he will not leave this place. Look at him now, smiling and enjoying all the good words that we are saying about him. However, soon he will have no choice but to say, "After listening to how upset you are at my leaving, I have changed my mind and will stay." That is what I am hoping he will do.

Nevertheless, in case he does decide to leave this place, I want him to know that I, for one, will always be his friend. On behalf of all honourable senators, I should like to personally offer to him and to his wife our very best.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

THE ORGANIZATION FOR SECURITY AND CO-OPERATION
IN EUROPE PARLIAMENTARY ASSEMBLY
FROM OCTOBER 13 TO 15, 1999

Hon. Jerahmiel S. Grafstein: Honourable senators, later this day, I will table in the Senate the report of the Parliamentary Assembly, OSCE, Second Parliamentary Conference entitled "Subregional Economic Cooperation Processes in Europe Faced with the New Challenges," held in Nantes, France, from October 13 to 15, 1999.

The history and theory of economic regionalism came alive at the Nantes conference through the creative leadership of our good friend Jacques Floch, the distinguished member of the National Assembly of France. When Jacques, Chairman of the Economic Committee of the OSCE, invited me, as deputy

chairman of that committee, to describe the unique region of Canada, none was more appealing than Canada's North.

Examine the globe from the top down and you will see that the circumpolar region is the largest untapped, unmapped region in the world. You will notice that North America and Europe are close geographic neighbours. The United States lies only a narrow waterway away from Russia, the former land bridge called the Bering Strait. Canada closely parallels all northern extremities of Russia, and as we move along the circle beyond the 60th parallel, we note the proximity of the northern reaches of the Scandinavian countries: Norway, Sweden, Denmark, Finland, Iceland and the Baltic states. You will recall the early dreams of a northwest passage to China which first excited the earliest explorers such as Jacques Cartier who left for Canada over five centuries ago from Saint-Malo, up the coast from Nantes where we held our meeting.

On closer examination, the northwest sea passage, transversing the top of the globe, is 2,200 to 2,900 nautical miles in length, depending on the exact route. Planners tell us that a viable water route following a plan promoted by Russia could shorten sea routes from Europe or Asia by 35 per cent to 60 per cent. The obvious impact on travel costs and cost efficiencies could trigger economic benefits and development all along any new northern sea route.

As co-chair of the Canada-U.S. Inter-Parliamentary Group, I attended a conference in Washington when Senator Murkowski of Alaska, our U.S. co-chair, painted an exciting vision he had sketched at our meeting at Quebec City earlier this year. He proposed that Canada and the U.S. combine to create a north-south rail link between Alaska, the Yukon and British Columbia in Canada, all the way to the U.S. border, by completing 900 miles of rail link. Senator Murkowski went on to project a further rail link beyond the Arctic Coast. This new rail link could ultimately connect with a tunnel under the Bering Strait to mainland Russia. Eurasia and North America are just 50 miles apart at this point and almost touch each other like two fingers reaching out. Thus, a rail link — even a road link — between Russia, the United States and Canada could be established with technology developed in Europe for the "chunnel".

Imagine boarding a train from London to Paris, travelling via rail on a high-speed trans-Siberian express across Russia to the Pacific Coast, continuing by tunnel under the Bering Strait to Alaska, then swiftly moving south through the Yukon to British Columbia, to Vancouver in Canada, and then south to Hollywood, or east to New York City or Halifax on the Atlantic Coast. All this will be economically feasible early in the next century. It could transform the strategic platform of the world economy and alter dramatically strategic and economic relationships.

Once again, I wish to thank Jacques Floch of France for inspiring us to imagine a northern vision for the 21st century, spawning new economic partnerships for the benefit of all citizens of the globe.

I take this opportunity to wish all senators a merry new millennium.

[Translation]

CONTRIBUTIONS OF PROMINENT CANADIAN WOMEN

Hon. Lucie Pépin: Honourable senators, the century that is coming to a close has seen some major changes for the women of Canada in all spheres of activity. These changes would have been impossible without the untiring efforts of a number of truly exceptional women, women who were not afraid to work untiringly for social justice and change, in the face of strong opposition.

As a society, we owe them a great deal. On the eve of a new millennium, it is only right for us to call them to mind and to pay tribute to them.

[English]

Time prevents me from mentioning them all. In naming the small number I will today, my heartfelt appreciation is extended to all Canadian women who have made an impact on women's equality over the last century.

[Translation]

This year, we are celebrating the seventieth anniversary of the Persons case. No one could speak of the changes in women's lives without referring to the Famous Five: Irene Parlby, Nellie McClung, Emily Murphy, Henriette Muir Edwards and Louise McKinney, who succeeded in having the Judicial Committee of the Privy Council declare that the term "person" in the British North America Act included women, and that women could be appointed to the Senate.

We cannot forget Agnes MacPhail, the first woman elected to the House of Commons in 1921. Without her and the Famous Five, how many of us women would be here today?

• (1420)

Thérèse Casgrain was the first Canadian woman to lead a political party. Between 1942 and 1962, she was elected nine times to federal and provincial legislative assemblies. A president of the Ligue des droits des femmes, she helped found the Fédération des femmes du Québec, and the Voix des femmes, a peace movement. One of the most important things we will remember Mrs. Casgrain for is getting Quebec women the vote.

Jeanette Viviane Corbière Lavell is another exceptional woman who devoted her life to defending the rights of native women. In 1971, she challenged section 12 of the Indian Act, which decreed that native women who married non-natives lost their native status. The Supreme Court ruled against her, but Sandra Lovelace decided to take the case to the UN Human Rights Commission, and the Indian Act was amended in 1985.

There is also Madeleine Parent, who was active for 40 years in Quebec's union movement. In 1942, she presided over the unionization of Dominion Textiles' garment factories, where most employees were women. Nor should we forget the late Senator Yvette Rousseau, who was one of the pioneers in unionizing the garment factories.

Also memorable is Kay Livingston, the founding president of the Canadian Negro Women's Association, who was the key organizer of the First National Convention of Black Women in Toronto. The convention is still held today, a lasting tribute to her efforts.

Other Canadian heroines include Elizabeth Bagshaw, Dr. Marion Powell and Dr. Lise Fortier. Dr. Bagshaw was the director of the first birth control clinic in Canada. She directed the Ontario clinic illegally from 1932 to 1966. Dr. Powell did the same in Toronto. Dr. Lise Fortier established the first family planning clinic in Quebec and worked tirelessly to obtain the right to choose for Canadian women.

There have been many exceptional women in our history, whether in politics, health care or human rights. All have shown courage, tenacity, leadership and talent. Without them, Canada would not be the dynamic, prosperous and exemplary democracy that it is today. Let us hope that there will be as many heroines in the 21st century as there were in the last decade. And may these words of Nellie McClung inspire our heroines of tomorrow.

Never retreat, never explain, never apologize. Get the thing done and let them howl.

[English]

THE SENATE

SENATOR WILLIE ADAMS

Hon. Isobel Finnerty: Honourable senators, I am very happy to report that Senator Willie Adams, who had major surgery yesterday, is recovering extremely well and will, hopefully, be back soon. The prognosis looks very good.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the gallery of Richard Greene's wife, Ethel, and their son, Steven.

Honourable senators, I know that Speakers are not permitted to speak in debate, but on this occasion I should like to say a personal thank you to Richard, a friend with whom I have worked for more than 29 years.

ROUTINE PROCEEDINGS

SECURITY AND INTELLIGENCE

GOVERNMENT RESPONSE TO REPORT
OF SPECIAL COMMITTEE TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table, with a pleasure which, I am sure, will be shared by other honourable senators when they read it, the government's response to the report of the Special Senate Committee on Security and Intelligence.

STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE
REQUESTING AUTHORITY TO ENGAGE SERVICES
AND TRAVEL PRESENTED

Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, December 16, 1999

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

THIRD REPORT

Your Committee, which was authorized by the Senate on Tuesday, November 23, 1999, to examine and report upon the present state of the domestic and international financial system and to present its final report no later than December 31, 2000, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of its examination.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets and Administration on December 16, 1999. In its Second Report, the Committee noted that it is undertaking a review of the budgetary situation pertaining to Senate Committees, and recommended that no more than 6/12 of the funds be released until February 10, 2000. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

E. LEO KOLBER
Chairman

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the third report of the Standing Committee on Internal Economy, Budgets and Administration, regarding the appointment of the Deputy Clerk and Principal Clerk, Legislative Services.

With leave of the Senate, I would ask permission to say a few words at this time.

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

Hon. Senators: Agreed.

Senator Rompkey: Honourable senators, I want to welcome Gary O'Brien to his new position.

Hon. Senators: Hear, hear!

Senator Rompkey: Gary needs no introduction to any of us. He has served us faithfully and well. He is a rather deceptive person because behind that rather meek exterior lies much experience and knowledge. He personifies that old saying that still waters run deep. This is Dr. Gary O'Brien, a Ph.D., who has academic merit in his own right, including being an expert on John F. Kennedy. He is a teacher. He has been engaged in a number of extra-parliamentary activities and he has brought honour to this chamber in that regard.

Above all, Gary has given us outstanding service. He is one of those who is intent upon serving. I have been impressed with the concern that Gary takes in the service that he provides to us all. He wants to ensure that things are done properly and he spares no effort to do that for us. I know that he will continue that attitude in his new position.

Welcome to your new position, Gary, and congratulations.

Honourable senators, I also want to thank Richard Greene. Among other things, Richard has a great sense of humour.

Allow me to recount an apocryphal story. I will not attribute the source, but I am told that when Richard first came to the Senate, there was a suit available for the person who would fill the job. It was a suit for a height-challenged and rather rotund male. Richard fit the suit perfectly. He got the job and has been with us ever since. Therefore, you might say that Richard was well suited to the Senate.

Senator Carstairs said that Richard has been involved with a number of bashes, one in which she, too, was involved. I am sure that Richard was involved in more than one bash around this chamber over the years.

Richard exercised real power in this place. He was responsible for Royal Assent here. As you all know, judges sometimes replace the Governor General in our Royal Assent ceremonies, but they must have the proper written authority to do so. It has happened from time to time that eminent jurists of this land have come here for the ceremony without the proper written authority, and Richard would send them back to get it. That is the exercise of power.

• (1430)

Richard, I want to say congratulations from Gerry and Nicky as well.

Honourable senators, if I may, I wish to congratulate those of the table officers who have moved on to other appointments. We welcome them to their new positions. We congratulate them and thank them for their work in the past. We know they will keep up their high standard of work for us in the future.

At this time, I would also thank all of the people who work for us in this chamber, both on this floor and elsewhere, and those who keep our record. I thank them for the high quality of service that they have provided to us. I wish them and all honourable senators a very happy season.

[Translation]

The Hon. The Speaker: Honourable senators, is leave granted to allow Senator Nolin to speak?

Hon. Senators: Agreed.

Hon. Pierre Claude Nolin: Honourable senators, as the Deputy Chair of the Standing Committee on Internal Economy, Budgets and Administration, I, too, would like to welcome Gary O'Brien and wish him every success in his work.

I know Gary fairly well as I have worked with him for the past five years on that committee. He is a most efficient man and a very reserved man as well. As Senator Rompkey has said, behind his meek exterior there certainly lurks a man of great efficiency and joie de vivre. I therefore join with Senator Rompkey to wish Mr. O'Brien good luck, wishes I also extend to all of his colleagues at the Table who have recently assumed their new duties.

[English]

**NATIONAL DEFENCE ACT
DNA IDENTIFICATION ACT
CRIMINAL CODE**

REPORT OF COMMITTEE

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

Thursday, December 16, 1999

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

THIRD REPORT

Your Committee, to which was referred Bill S-10, An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code, has, in obedience to the Order of Reference of Thursday, November 18, 1999, examined the said Bill and now reports the same with the following amendments:

Page 9, Clause 1: add after line 19 the following:

“(3) A peace officer, or any person acting under a peace officer’s direction, who is authorized to take samples of bodily substances from a person by an order under section 196.14 or 196.15 or an authorization

under section 196.24 may take fingerprints from the person for the purpose of the *DNA Identification Act.*”

2. *Clause 9, page 18:*

(a) Replace line 26 with the following:

“**19. (1) The portion of subsection 487.06(1) of;** and

(b) Add after line 38, the following:

“**(2) Section 487.06 of the Act is amended by adding the following after subsection (2):**

(3) A peace officer, or any person acting under a peace officer’s direction, who is authorized to take samples of bodily substances from a person by an order under section 487.051 or 487.052 or an authorization under section 487.055 or 487.091 may take fingerprints from the person for the purpose of the *DNA Identification Act.*”

Respectfully submitted,

LORNA MILNE
Chair

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

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

**STATISTICS ACT
NATIONAL ARCHIVES OF CANADA ACT**

BILL TO AMEND—FIRST READING

Hon. Lorna Milne presented Bill S-15, to amend the Statistics Act and the National Archives of Canada Act (census records).

Bill read first time.

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

On motion of Senator Milne, bill placed on Orders of the Day for second reading on Tuesday, February 8, 2000.

INTER-PARLIAMENTARY UNION

REPORT OF CANADIAN GROUP ON
102ND INTER-PARLIAMENTARY CONFERENCE
HELD IN BERLIN, GERMANY TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table the report of the Canadian Group of the Inter-Parliamentary Union which represented Canada at the 102nd Inter-Parliamentary Conference held in Berlin, Germany, from October 9 to October 16, 1999.

[Senator Rompkey]

REPORT OF CANADIAN GROUP ON 54TH SESSION OF UNITED NATIONS GENERAL ASSEMBLY HELD IN NEW YORK TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table the report of the Canadian Group of the Inter-Parliamentary Union, which represented Canada at the 54th Session of the United Nations General Assembly, held in New York from October 25 to 27, 1999.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN DELEGATION TO THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY FROM OCTOBER 13 TO 15, 1999

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association to the Organization for Security and Co-operation in Europe Parliamentary Assembly, OSCEPA, second parliamentary conference: "Subregional Economic Cooperation Processes in Europe Faced with the New Challenges" held in Nantes, France, from October 13 to 15, 1999, entitled "The Nantes Document."

[Translation]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN GROUP ON 29TH ANNUAL MEETING FROM SEPTEMBER 8 TO 15, 1999 TABLED

Hon. Gérald-A. Beaudoin: Honourable senators, I have the honour to table, in both official languages, the report of the 29th annual meeting of the Canadian group of the Canada-France Inter-Parliamentary Association, held from September 8 to September 15, 1999 in Montreal, Laval, Ottawa, Vancouver and Victoria.

[English]

INTER-PARLIAMENTARY UNION

REPORT OF CANADIAN GROUP ON 102ND INTER-PARLIAMENTARY CONFERENCE HELD IN BERLIN, GERMANY—NOTICE OF INQUIRY

Hon. Sheila Finestone: Honourable senators, I give notice that on the February 8, 2000, I will call the attention of the Senate to the report of the Canadian Group of the Inter-Parliamentary Union on the 102nd Inter-Parliamentary Conference, held in Berlin from October 9 to 16, 1999.

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

PLIGHT OF WESTERN GRAIN FARMERS—
RESPONSE TO REPORT OF HOUSE OF COMMONS COMMITTEE

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. I was most disappointed to read this morning in the *National Post* that the farming crisis will not get the Prime Minister's attention until after the holidays. I have been asking questions on this topic for a year and a half. The premiers of the provinces and, even now, Dennis Mills — and I give him credit for it — are indicating that they will bring this to the attention of those living in the City of Toronto by holding a benefit day.

The House of Commons Committee on Agriculture was out on the Prairies, and I attended two of the approximately eight meetings that they held. They did an excellent job. The House of Commons committee admitted that there are serious farm crisis problems and that the AIDA program is not working.

Has that committee yet made a presentation to the Prime Minister and to the cabinet? We are approaching the holiday season and this house will probably adjourn this evening. I understand the House of Commons may not resume until February 7. This matter cannot wait. This is a very serious situation. Has the committee made recommendations to the Prime Minister and to the cabinet as a result of their findings in the Prairies?

• (1440)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I agree with the honourable senator that the committee of the House of Commons did some good work in the Prairies. They returned with some very strong views that have been communicated to the Prime Minister, to the Minister of Agriculture, and to cabinet colleagues.

The Prime Minister has had an opportunity to speak to his colleagues with respect to the committee's trip to the Prairies, and is very much seized with this problem. Even though there may not be, as the article indicated, a formal first ministers meeting before Christmas, one cannot assume that the Prime Minister will, in any way, put the problem out of mind.

Senator Gustafson: Honourable senators, one wonders how urgent this situation would have to get before the Prime Minister would give it his attention. Did the Prime Minister meet with the committee? I was parliamentary secretary to Prime Minister Mulroney, and it did not take that much to get people who had a serious problem a meeting with the Prime Minister.

That committee did a wonderful job, and I was there to see it. It admitted that the AIDA program did not work, that there had to be redirection in this whole area of agriculture, and that the situation constituted a most serious national problem. I cannot understand why that committee cannot get a meeting with the Prime Minister.

Senator Lynch-Staunton: What golf course is he on? That is what we have to find out.

Senator Boudreau: Honourable senators, I am not aware of what meetings may have taken place between the Prime Minister and members of that committee. I am sure that the members of the committee have indicated their views, both privately and in groups, to the Prime Minister, to the Minister of Agriculture, and to others. As to what arrangements will be made with respect to a formal meeting, I am not aware at the moment. I am sure the Prime Minister is aware of their views and will remain seized of the problem over the next number of weeks and months, even though there may not be a formal meeting of first ministers.

PLIGHT OF WESTERN GRAIN FARMERS

Hon. David Tkachuk: Honourable senators, I have a supplementary question on this issue. I think if David Milgaard's mother was trying to meet this Prime Minister rather than the former one, David Milgaard would still be rotting in jail.

Some Hon. Senators: Oh, oh!

Senator Tkachuk: Well, it is time to get a little rough around here!

Senator Graham: Be sensible. Ask a question.

Senator Tkachuk: I am being sensible. We on this side of the floor have been very patient. We have asked these questions for a year and a half now. It is not as though we raised this issue just yesterday. Senator Gustafson has asked these questions. Senator Andreychuk has asked these questions. I have asked these questions. Even senators on the opposite side of the house, such as Senator Sparrow, have asked them. We have returned to this issue over and over, and the only response we ever get is, "We will see. We may have a bad program." Everyone in the country knows it is bad. All we get is procrastination, while people on the Prairies will not have the kind of Christmas that Mr. Chrétien will have this year.

Will the Prime Minister be taking a holiday as well from the financial loans and grants to his own riding over the Christmas holidays, or will the financial tap remain on there, while it is turned off on the Prairies?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Prime Minister will remain seized of all of the problems of the country as there is very little escape for him, regardless of the time of year.

Nothing I say is meant to diminish the serious nature of the situation in the farming communities, particularly on the Prairies. However, I would remind honourable senators that this government has committed significant funding. Admittedly, the program, as we have said in debate here in this place, is not working the way everyone would like. There was a commitment to review the program and to ensure that the money would get to the farmers more quickly. In addition, since I arrived, another \$170 million has been committed to the program.

Premier Romanow, who is so concerned about additional assistance, chose not to match that and make a similar commitment, even though the agreement for additional funding requires a commitment by the province.

I am not sure, but I believe Premier Romanow may have introduced a budget a few days ago. In any event, there does not seem to be any significant commitment of new monies from the provincial government. Their solution is simply to ask for more federal money. I think that Mr. Romanow's government has to come to the table and work with the federal government.

Mr. Romanow has spoken for a number of years now about his surpluses, one surplus after another. He is very proud and should be. However, if he wants to raise a concern on this matter, he should be prepared to come to the table as well.

PLIGHT OF WESTERN GRAIN FARMERS—
REQUEST FOR RESPONSE BY PRIME MINISTER

Hon. A. Raynell Andreychuk: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate.

I am not speaking in defence of Premier Romanow, who will have to answer to the citizens about the agriculture issue directly, but I can say that there is no point in putting more money into an AIDA program which has poor reception in Saskatchewan. That money has a direct benefit elsewhere, if it has any benefit, but when a program does not fit the farmers of Saskatchewan, when they cannot take up the program because they do not meet the criteria, what is the point of putting in more money, either federally or provincially? I would say Premier Romanow has been prudent in not putting more money into a bad program.

The government leader's answer, therefore, does not get the government off the hook. What we need in Saskatchewan is a clear statement from the Prime Minister, first, that he cares about this issue. It will go a long way to tell the people of Saskatchewan that Canada has Saskatchewan's interests in mind. Second, we need a clear statement that something will be done.

So far, we have heard such sentiment from the ministers and from members of Parliament, but the Prime Minister has certainly not made it one of his top issues. If the government leader is correct about what the Prime Minister will do later, then the best thing he could do this Christmas season would be to give us a sign.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I would disagree slightly with the honourable senator's generous approach to the Premier of Saskatchewan. I am not an expert on the program, but I am informed that the provinces were involved in creating these criteria. There was a process and it is a joint program. Admittedly, the program is not functioning as well as we hoped, and we have discussed that in the Senate on many occasions. The Minister of Agriculture has said that the deficiencies in the program should be reviewed and addressed.

It seems to me that that still leaves the Premier of Saskatchewan in a rather untenable position. He is insisting that the solution is to have the federal government commit funding; meanwhile, he is in charge of a government which has run surpluses for longer than the federal government.

Senator Tkachuk: A coalition government!

Senator Boudreau: I do not have the statistics now, but I remember reading that the cuts in assistance to agriculture by the Government of Saskatchewan have been substantial. They were something in the order of 60 per cent to 70 per cent over 10 years. I think he has an obligation at least to say, "I am prepared to commit funding." The federal government committed \$170 million to the program. If it had been a matching program, they could have said, "We will not commit this \$170 million unless Premier Romanow matches it." That would have been consistent with the joint program. Premier Romanow did not match it; nor did he offer other funding.

• (1450)

Senator Andreychuk: Honourable senators, some examination of the issue in Saskatchewan by all parties is required. In saying that, I am not excusing the past. As my mother would say, two wrongs do not make a right. If Premier Romanow is not doing the right thing, or has not done the right thing, that is no excuse for the Prime Minister. The Prime Minister has a responsibility for the entire country. We need a signal from the Prime Minister, and from no one else, that Saskatchewan issues are important and necessary and that he is dealing with them. That much now would go a long way to easing the plight of people in Saskatchewan whose future is uncertain.

Senator Boudreau: Honourable senators, I appreciate the concern raised by Senator Andreychuk. I am confident that this problem as faced by Prairie farmers is a matter of concern to the Prime Minister. As I have in the past, I will certainly make both him and the Minister of Agriculture aware of the discussions that have taken place here.

[Translation]

INTERGOVERNMENTAL AFFAIRS

ONTARIO—REGIONAL RESTRUCTURING LEGISLATION— LEGAL PROCESS REQUIRED TO DECLARE OTTAWA OFFICIALLY BILINGUAL

Hon. Jean-Robert Gauthier: Honourable senators, yesterday, the Ottawa municipal council debated and adopted a motion asking the Province of Ontario to designate as officially bilingual the City of Ottawa that will be created next year. According to an article published in *Le Droit*, today, the new city will not have the right to declare itself bilingual. In a 1986 decision, the Ontario Superior Court ruled that the City of Kapuskasing had neither the right nor the authority to declare itself officially bilingual. This is yet another problem!

On the one hand, there is no provision in this regard in Bill 25 authorizing the restructuring of the new City of Ottawa. On the

other hand, the province rejected a recommendation made by Mr. Shortliffe, which begins like this:

I recommend that the enabling statute establish and designate the City of Ottawa as officially bilingual, in French and in English.

It would appear that the province's response is that the new council to be elected in November 2000 will have the power to determine the linguistic status of the new City of Ottawa. However, the city does not have the authority to declare itself officially bilingual, and it will therefore be up to the province to decide whether the new city will be officially bilingual.

Can the minister tell us if the Premier of Ontario is playing games regarding this issue, knowing full well that the new City of Ottawa cannot declare itself officially bilingual, with equal rights for English and French? Can the minister assure this house that he will try to get clarification from legal advisors regarding this issue, so as to put an end to the uncertainty and confusion generated by Mr. Harris' decision?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the issue raised by the Honourable Senator Gauthier was drawn to my attention earlier in the day. I was able to seek some advice with respect to it. The new municipality, as with all municipalities in the province and, indeed, in the country, is legally a creature of the provincial government and falls under provincial law. It exercises that authority within the constitutional jurisdiction given to it in the form of provincial legislation.

To the best of my knowledge and information, the new municipality of Ottawa, indeed, any municipality in the Province of Ontario, would not have the jurisdiction or authority under legislation governing municipalities to declare itself bilingual. There is, however, legislation in Ontario dealing with the provision of French-language services which allows a municipality to deliver certain services through bylaw. In fact, it may decide that in certain situations services may be delivered in two languages. However, that does not translate into an ability to declare itself officially a bilingual city. I am told that jurisdiction remains with the Province of Ontario.

The old City of Ottawa, if I can call it that, acted under this legislation and through bylaws to provide bilingual services. I am told those bilingual services will remain in place until a new bylaw might change that. The authority to designate the new City of Ottawa as officially bilingual rests solely with the Province of Ontario.

Hon. Serge Joyal: Honourable senators, my question is for the Leader of the Government on the same issue. When I had the opportunity to address the chamber earlier this week, our colleague Senator Grafstein raised the possibility that the federal government could use either its jurisdiction over the National Capital Region or the disallowance power. I was of the opinion that the second suggestion was not one that would be welcome as a first choice.

Yesterday, the Minister of Intergovernmental Affairs said:

We will consider what constitutional means we have in our own jurisdiction to help the situation under the circumstances.

Today, *The Toronto Star* reported that some constitutional experts think that the federal government might have in mind a 1960s Supreme Court of Canada decision giving the federal government powers to legislate on issues affecting the national capital. Will the Leader of the Government in the Senate consult with the Minister of Justice and Attorney General of Canada to see whether, under that decision of the Supreme Court of Canada, the federal government has the capacity to intervene under its general power to legislate on issues affecting national issues, including the national capital, to declare the new City of Ottawa bilingual?

Senator Boudreau: I am sure that all honourable senators would prefer as a resolution a clear statement by the Province of Ontario to declare the capital city officially bilingual.

The government has indicated that it is reviewing possible options. No decision has been made at this point with respect to those options. One still hopes that Premier Harris and his government will move in an appropriate way. Failing that, I will pass on the request of the Honourable Senator Joyal and have the appropriate minister review that possibility if it is not already under review.

[Translation]

Hon. Gerald J. Comeau: Honourable senators, the senator asked the very question I had in mind. Bilingual city status means a bit more than bilingual services in Ottawa. Ottawa, our nation's capital, must send a clear message throughout the country by being declared bilingual. I wish to emphasize that bilingual city status means more than obtaining services in French.

[English]

• (1500)

Senator Boudreau: I thank the honourable senator for that comment. Indeed, I was attempting to make the distinction. While there may be legislation in place that may allow a municipality to deliver bilingual services at its discretion, the Senate would not regard that as being an official bilingual status for a city. The municipality has no authority to declare official bilingual status.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. I asked Senator Joyal about the disallowance power. He did advise, and I have since discovered, that the disallowance power was utilized regularly until about four decades ago. I understand that it has fallen into disrepute. There are some constitutional views on the matter, but it is still in the Constitution.

[Senator Joyal]

Would the Leader of the Government in the Senate also seek advice from the Attorney General of Canada as to whether, *in extremis*, which many of us consider this situation to be, the disallowance power would be adopted for legislation we feel is inconsistent with the 21st century and Canada?

Senator Boudreau: Honourable senators, I am sure that the Attorney General is now reviewing all of the options possible in terms of a response. None is the preferred option. The preferred option is to have the government and the Premier of Ontario act. However, I will ensure that this option is before the Attorney General as well.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, in the course of 6 years in the Senate and 30 years in the House of Commons, I think that I have made my position on what Canada really is sufficiently clear.

A country has one capital. Some call it the national capital, but I call it the federal capital because it is a federal institution. The national capital must reflect the country's history and diversity; in it, Senator Hays from Alberta, Senator Prud'homme and all the other senators must feel at ease.

I take a different approach. I am going to do everything I can to depoliticize the issue: I am going to speak to a group in the Legislature of Ontario on Friday, January 14, in the very heart of the provincial Parliament.

[English]

All honourable senators should join together, some going the judicial route and others using persuasion. In the end, we should make Canadians understand that we are not asking that any city be bilingual. That is another debate.

We should make it clear — and I should like the minister to comment briefly — that there is a difference between the debate concerning “la capitale fédérale” and all of the other issues. That is a completely different debate.

Senator Boudreau: Honourable senators, I would say to the honourable senator, as I have said on at least one previous occasion, that his very eloquent words on the subject are words with which I associate myself.

Given the comments on this topic in this place, a number of things are clear. First, honourable senators regard this as an extremely serious, fundamental issue for our country. Second, it is not a partisan issue. Senators from both sides of the floor have spoken to the issue, and I think we have demonstrated clearly that it is not a partisan issue. Third, this issue is peculiar to this city as the national capital, or the federal capital as the senator puts it.

I have expressed and will continue to express my views on this subject. The views of honourable senators are well known and must be regarded seriously. I am confident that the government shares those views.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, my question is for the Leader of the Government in the Senate. If the Attorney General of Canada does a study of the bilingual status of Canada's capital, could we not also study section 16 of the Constitution, which has to do specifically with Canada's capital and the residual power of the Parliament of Canada, in section 91, under which certain powers are given and recognized in law for Canada's national capital region?

[English]

Senator Boudreau: Honourable senators, the Attorney General is acting in her role as chief lawyer to the Government of Canada. As any good lawyer would do, she reviews and presents a range of options to the government in the hopes that none are necessary and that the issue will be resolved in other ways.

I will undertake to provide the substance of the honourable senator's remarks to the Attorney General. I am confident that she will review all of the options available, as any conscientious lawyer would do on behalf of a client.

Hon. Sheila Finestone: Honourable senators, my question is for the Leader of the Government in the Senate. In reviewing the situation at hand and in looking at the obligation of the government to designate Ottawa as officially bilingual, would that designation include the full concept of equality under official status, including the equality of rights and privileges, not just language? The question revolves around the expression itself.

Senator Boudreau: Honourable senators, obviously the ramifications of full bilingual status will be elucidated in the judicial forum.

In addition to having a conversation with the Minister of Justice, my colleague Anne McLellan, I will undertake to leave with her the transcript of comments that have been made today and days previous on this topic and to ask if she could address them. I give that undertaking not only to the Honourable Senator Finestone but to the other honourable senators who addressed this topic as well.

TRANSPORT

HALIFAX INTERNATIONAL AIRPORT AUTHORITY AGREEMENT— OBLIGATION BY FEDERAL GOVERNMENT TO CONTROL ACIDITY OF SLATE

Hon. J. Michael Forrestall: Honourable senators, my question for the Leader of the Government in the Senate arises from concerns being expressed with respect to the arrangement between the Government of Canada and the pro tem Halifax International Airport Authority that will take over full control of the airport in a formal way sometime in February.

The concern arises over a problem that I thought had been resolved early on in the negotiations. My question deals with the actions that must be taken on a regular basis to control the acidic

nature of the slate on and around the airport. As the minister is well aware, the airport is high on a hill and drains into a number of watershed areas, and there are potential dangers associated with that situation.

• (1510)

Has the minister had any communication with officials of the new airport authority on this issue on which they believe the federal transport authority has reneged?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am aware of the situation of which the honourable senator speaks. These negotiations are conducted like all negotiations; there is give and take, much argument on both sides and positions are advanced and compromises are made.

I spoke to officials of the airport authority shortly after they agreed to and signed the arrangement. I do not think any changes have been made to the agreement since it was executed.

Senator Forrestall: Honourable senators, is it then the case that the \$700,000 that was agreed upon to effect remedial action remains in place, that there is not, as has been alleged, an ongoing responsibility for damages that might occur in the future, and that this matter has been resolved? Is it correct that these arrangements are in place and, if anything is to happen, it would happen between now and the middle of February when the takeover is to become effective?

Senator Boudreau: Honourable senators, to the best of my knowledge, the agreement covered matters such as ongoing environmental liability and responsibility for costs of operations, including operating costs connected with the environment.

The key point is that the agreement that the authority and the Department of Transport signed covered those matters and, to the best of my knowledge, it has not in any way changed since it was signed.

As in any negotiation, I am sure that the agreement does not reflect everything that the authority wanted and reflects somewhat more than the Department of Transport wanted to give. However, as far as I am aware, both parties signed a final agreement which addresses the issues the honourable senator raises. I do not know if it addresses them in the way that everyone would like, but it does address them. It was signed by both parties.

Senator Forrestall: Honourable senators, the minister is then not able to give assurance that the \$700,000 a year will be forthcoming to effect the remedial action necessary. I am sure that is where it now stands.

Senator Boudreau: Honourable senators, it has been three weeks or more since I had that brief meeting. To the best of my recollection, the sum of \$700,000 to address that problem is included in the agreement. I will check that to make sure, but I do recall very specifically that, when I met with the group, the agreement had been signed. It dealt with all the issues, and, to my knowledge, no one has changed the agreement since that time.

ABORIGINAL PEOPLES

REQUEST FOR RESPONSE TO COMMITTEE REPORT ON ABORIGINAL VETERANS

Hon. A. Raynell Andreychuk: Honourable senators, I commend the government for its timely response to the report of the Special Senate Committee on Security and Intelligence. We work long and hard on our reports in this place, and the government often looks to them for assistance in making public policy.

However, when can we expect to receive the response which we requested from the government on the report of the Standing Senate Committee on Aboriginal Peoples on aboriginal veterans? Senator Fairbairn was the Leader of the Government in the Senate at the time that report was presented. She assured us that the government was working on it and we would be receiving a response.

Many aboriginal veterans have died since that report was presented. The government's response is extremely important to those who survive. It is extremely important that we not ignore people who put their lives on the line for our safety and security. When will we receive a response from the government?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, this is the first time this issue has been brought to my attention. I will contact the minister responsible and attempt to get an answer to the honourable senator over the recess.

The Hon. the Speaker: Honourable senators, I regret that the time for Question Period has expired.

ORDERS OF THE DAY

APPROPRIATION BILL NO. 3, 1999-2000

THIRD READING

Hon. Anne C. Cools moved the third reading of Bill C-21, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it was well that the appropriate time elapsed between the report stage and third reading stage of Bill C-21 for it afforded us the opportunity to take one last look at this bill. I would draw to the attention of honourable senators that the title of the bill is "An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000."

On page 3 of the bill, clause 6 provides:

(1) An appropriation that is granted by this or any other Act and referred to in Schedule 2 may be charged after the end of the fiscal year that is after the fiscal year for which the appropriation is granted...

In other words, clause 6 of this bill attempts to provide authority for the expenditure of funds after March 31, 2000.

In *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, at page 258, we find described the business of supply and ways and means. Under "Purpose", paragraph 933, we see:

The purpose of the Estimates is to present to Parliament the budgetary and non-budgetary expenditure proposals of the Government for the next fiscal year.

Honourable senators, clause 6 presents a problem with this bill. Is there an easy explanation for it which a member of our National Finance Committee, which examined the bill in detail, could share with us?

Senator Cools: Honourable senators, I thank the Honourable Senator Kinsella for his question. If I understood him correctly, his question deals with the fact that an appropriation seems to be straddling two years.

Had he signalled this during the committee hearings, we could have studied the matter in more detail. I believe that a similar situation occurred with our last supply bill and that Senator Bolduc raised the issue at that time.

• (1520)

I believe the department's response was to the effect that the vote had been managed in one year, but that the completion of the expenditure would take place partially over and into another year. If we are talking about the same thing — and I believe they informed us at the time that this was not unusual — this practice was becoming a little more common because of the complexity and the size of these appropriations.

I hope that I have answered the honourable senator's question, but I am prepared to look into the matter in more detail. As I said, I missed part of the honourable senator's question.

Senator Kinsella: Honourable senators, this is the issue and this is the principle. If you look at page 30 of the bill, Schedule 2 is:

Based on the Supplementary Estimates (A) 1999-2000, the amount hereby granted is \$234,733,521, being the total of the amounts of the items in those Estimates as contained in this Schedule.

In addition, Schedule 2 refers to:

Sums granted to Her Majesty by this Act for the financial year ending March 31, 2000, that may be charged to that fiscal year and the following fiscal year ending March 31 and the purposes of which they are granted.

This applies mainly to the Canada Customs and Revenue Agency, but that situation raises the question as to whether or not a good practice is being contemplated. I do not wish to go the route of raising a point of order on this matter, but the National Finance Committee may wish to look into the matter of voting a supply that is to be expended on or before March 31, 2000.

Senator Cools: I would be prepared to commit to Senator Kinsella that our committee — and I can consult with the chairman, Senator Murray — will look at this particular question and study it in greater detail. If it is a recurring phenomenon, we should get our heads around it and find out why it is happening. I take the criticism and the honourable senator's consideration with great seriousness, and I commit myself to follow through on the matter.

Honourable senators, in speaking to the second reading of Bill C-21 yesterday, I gave substantial detail about the contents of the bill. Senator Murray, as chairman of the National Finance Committee, joined in the debate and gave the chamber his thoughtful and detailed remarks.

I should like to say as well, with a bit of levity, a bit of seriousness, and with great appreciation and gratitude, that yesterday I had believed that consensus was high on this bill, that the Senate had given the matter serious study and that the Senate's consideration was properly satisfied. Therefore, as deputy chair of the committee, and representing the government's interests in the matter, I rose to my feet yesterday and I asked leave to bring forward by one day the third reading of this bill.

I am honoured to say, honourable senators, that, fortunately for all of us, Senator Lynch-Staunton was alert and vigilant. He quickly said no. He was absolutely right. I agree with him now, and were I not sponsoring the bill for the government, I would have supported him yesterday. It is his duty to keep the government on its toes, particularly in matters of this nature, and it was his duty, properly so, to compel that third reading be given today.

Honourable senators, this bill deserves proper consideration. I thank the Honourable Senator Lynch-Staunton again because he was doing his duty as Leader of the Opposition and performing his role in a manner we all respect. In addition he was performing his duty as a senator. That duty is especially important because our Constitution awards to the Senate a constitutional role in these supply bills, and this bill gives the authority to spend a kingly sum of money or, shall I say, a princely sum of money.

I thank honourable senators again and wish you all a Merry Christmas. I am grateful that we all will be paid.

Motion agreed to and bill read third time and passed.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Gauthier, for the third reading of Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I thank Senator Cools for that royal consent, which I appreciate very much.

Senator Andreychuk, yesterday, gave an excellent presentation on the concerns that have arisen on Bill S-3. Her comments are sufficient enough that mine will be very brief. At the risk of repeating some of her comments, it is only to emphasize what the debate was all about.

Honourable senators, it is highly unusual that a tax treaty bill would have taken so much time. I believe it is because we are now tending to go from the pure financial trade aspect of treaties to their human rights aspect. Hopefully, that is something which will be emphasized over the years.

The government only has itself to blame for our taking a special interest in this bill because its briefing book was just outstanding. The briefing book in support of the bill was one of the best, if not the best, I have yet to see. That briefing book gave the background of tax treaties. It explained the nature of each treaty, how each treaty was different from the others, and a background on each country affected. I wish to congratulate the authors of the book for having given such support to those who took an interest in the bill.

Honourable senators, we had a bit of sport with the Deputy Leader of the Government in our insistence that the bill go to the Foreign Affairs Committee and his insistence, quite rightly at the time, that it should go to the Banking Committee because that has always been the custom. Therefore, the deputy leader generously allowed the bill to go to the two committees. That was somewhat amusing and confusing at the time, but, in retrospect, I believe it was a good exercise. The Banking Committee looked at the tax treaties themselves, and the Foreign Affairs Committee concentrated more on the countries affected — one in particular — and how Canada, in its foreign policy, considered human rights in its determination of relations with certain countries.

I feel that these bills should go more to the Foreign Affairs Committee than to the Banking Committee because more and more the discussion on tax treaties will be on the countries themselves, rather than on the nature of the treaties. The treaties are all fairly similar. They are meant to avoid double taxation and tax avoidance.

• (1530)

The fundamental question, therefore, was: What effect does our assessment of a country's human rights record have on our foreign policy? That is really what we were trying to determine in singling out Uzbekistan as one country with a record that is pretty shabby. I will not repeat what I said on second reading, but it is not a country that I would like to trade with, even less to visit, under the present circumstances. The answer that we were given is not a very satisfactory one — at least to me.

One of the witnesses before the Foreign Affairs Committee was the Director, Human Rights, Humanitarian Affairs and International Women's Equality, Department of Foreign Affairs and International Trade. Her answer was as follows:

From a Canadian perspective, Canada is not a large enough partner on its own to coerce change in a country's human rights practices through unilateral sanctions. Even when sanctions are multilateral and well enforced, they are not always particularly effective.

She also said that, to date, Canada has only adopted sanctions endorsed by the United Nations. There is a lot of realism in that comment, but there is also, I think, an abandonment of principle.

Whether a country is small and its influence marginal — which is not the case for Canada — if it has certain principles, it should not be afraid to forward them and to act upon them. That is what we were trying to get in front of the committee and in front of the Foreign Affairs officials.

Senator Taylor yesterday asked whether we should confuse human rights with trade. Many people share his belief that trade, eventually, has an impact on the human rights record of a country. I disagree. This is a philosophical argument that we need not get into today. Some people feel that engagement is the key. I feel that isolation and boycotting might have more impact. Again, though, that is highly theoretical and hypothetical at this stage. We just want to stress, as Senator Andreychuk did yesterday, that, when we engage in similar treaties, a more-than-passing interest should be taken in the human rights record of that country with which we intend to have an agreement.

As Senator Grafstein pointed out at the Foreign Affairs Committee meeting, in the United States, every year, the state department prepares a thorough analysis of the human rights record of just about every country in the world. That analysis is submitted to the administration and to the Congress, for them to do with whatever they wish. At least they have that analysis in front of them. It is done not only by the state department and American officials all around the world, but with the support of Human Rights Watch, Amnesty International, and other NGOs

[Senator Lynch-Staunton]

whose credibility cannot be challenged. We do not appear to give as much importance to that kind of work in this country. It is not a question of duplicating what is done elsewhere, but a question of using what is available to enforce the principles that we have tried to adopt regarding human rights, and to implement them.

As some honourable senators know, I did have amendments which I would have presented to remove the Uzbekistan treaty from the bill, but I think the point has been well made. I agree, after hearing Senator Andreychuk and others, that it would be unfair to single out a particular country at this stage and penalize it without really having more information on that country. However, now that our point has been made I hope it will be acted on so that, whenever the time comes for other tax treaties, the officials responsible will go beyond the traditional drafting process and take into consideration the human rights record of that country to determine whether we should or should not carry on with an agreement. Human rights should not be an exclusive consideration, but it should be given more than the passing consideration it is given now.

Hon. Jeremiah S. Grafstein: Will the honourable senator accept a brief question?

Senator Lynch-Staunton: Certainly.

Senator Grafstein: I agree in principle with everything the honourable senator said about the disconnection between government policy and human rights violations, and how one can link those in a useful way to bring some moral suasion on an offending state. Has the honourable senator given any consideration, for instance, to passing a resolution of this chamber telling the Canadian delegation to the OSCE that the Senate of Canada is unhappy with the human rights record of a particular country, in this instance Uzbekistan, and instructing the delegation to take the concerns to the OSCE for debate there? In that small way, possibly his concerns, which I share, could be brought to an international forum where there might be some moral suasion and the opportunity to bring outside other states that share those particular views.

Senator Lynch-Staunton: Honourable senators, I thank Senator Grafstein for that excellent suggestion. It had not occurred to me, but I will be happy to follow through on it.

[*Translation*]

Hon. Céline Hervieux-Payette: Honourable senators, at this third reading stage, I would like to make a comment, if I may, on what the Leader of the Opposition and my colleague Senator Andreychuk have said. We do not disagree on the issue of the principle of human rights; the lack of agreement is, instead, on the means for advancing human rights. In my speech on third reading I referred to the actions undertaken by CIDA to facilitate learning about respecting human rights, application of the rule of law, and the encouragement of progress in Uzbekistan. Senator Taylor commented that what should be done instead was to gauge progress, to determine whether the country is advancing in the area of human rights or regressing, before any steps are taken. At any rate, the learning process for this new democracy is very difficult.

Under these circumstances, Bill S-3 is in the general interest of Canada and of the populations that will benefit from trade. It will improve the condition of the people of these countries and at the same time will facilitate the advancement of human rights. When the fundamental rights and the survival of individuals are protected, it is far easier to ensure that those rights are respected. I therefore move passage of Bill S-3.

[English]

Motion agreed to and bill read third time and passed.

NISGA'A FINAL AGREEMENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jack Austin moved the second reading of Bill C-9, to give effect to the Nisga'a Final Agreement.

He said: Honourable senators, no legislation, the effect of which is to alter the distribution of rights, powers, privileges, and responsibilities, or the appearance of such, or long-standing practice or customs with respect to those matters amongst peoples and communities, is likely to see ease of passage. So it has been with the legislation before us now. Bill C-9, the Nisga'a Final Agreement Bill, is a bill which has come to this last legislative phase in the Senate from a process which has been long, over 100 years, and oft-times tumultuous, disputatious and divisive until, but hopefully not much beyond, this day.

• (1540)

As one of the senators in the chamber who represents a region of Canada famously known as British Columbia, it gives me great pride and pleasure to sponsor the introduction and recommend the passage of Bill C-9. In this I am supported especially by my fellow senators from British Columbia, Senators Perrault and Fitzpatrick on this side of the chamber; but I hope also in good time by British Columbia senators on the opposite side of this chamber. Of course, I seek the support and endorsement of all honourable senators from every region of Canada.

Bill C-9 is the first modern aboriginal treaty of its kind in British Columbia. While this legislation specifically addresses the Nisga'a people only, my colleagues and I are convinced that, in a broadly based way, Bill C-9 will encourage the process of reconciliation of the many aboriginal peoples in other communities that make up British Columbian society. Bill C-9 may not be a template, that is, a structure, for all agreements with the diverse aboriginal communities and there will no doubt be many variations as the product of future negotiations. We believe that Bill C-9 offers what is possible and will increase the momentum to negotiate, which is critical to the social stability and economic progress that all British Columbians seek.

The bill before us is an historic achievement. It represents the best about Canada and Canadians, namely, our willingness to

listen, to seek consensus, to accept diversity, to find solutions and to develop compromises. This bill, which would give effect to the Nisga'a Final Agreement, marks another milestone in the negotiation of modern treaties in this country.

Beginning with the James Bay and Northern Quebec Agreement of the mid-1970s, and the more recent Inuvialuit, Nunavut and Yukon agreements, this chamber has had the privilege to review legislation that brings Canadians together, that recognizes the place of aboriginal people within the fabric of Canada's economy and society, and develops a new and more positive relationship between governments and aboriginal peoples.

Honourable senators, the Nisga'a Final Agreement and this implementing legislation can be included under that umbrella and history of modern treaty settlements. Our role is to consider whether this legislation accurately reflects the final agreement, as negotiated by the three negotiating parties, and whether the bill deserves to be passed into law. I firmly believe that this bill and the accompanying treaty serves the best interests of Canadians, operates within Canada's Constitution and legal framework, and that it should be passed into law.

Before moving to some of the substantive issues, I should like to give honourable senators a description of who the Nisga'a people are, where they live and how their land claims agreement and the bill giving it effect arrived here for the consideration of this chamber. The Nisga'a live along the Nass River in a relatively remote area of northwestern British Columbia, 100 kilometres north of Terrace and Prince Rupert. Other than the 2,500 Nisga'a who live in four villages along the river and its mouth, only approximately 125 other permanent residents occupy the 24,000 square kilometres of this valley. The only organized communities in the Nass Valley are Nisga'a communities.

The Nisga'a who live in the Nass Valley are one cultural group among the northwest coast aboriginal peoples. They have a complex culture which is based on the rich resources of the sea. Historically, like other northwest coast people, the Nisga'a were great artists, builders and crafts people. Their art still graces the exteriors and interiors of many of the buildings in their villages.

Salmon and the other resources of the Nass provided both food and the raw materials for Nisga'a architectural, artistic and social achievement. Here on the banks of the Ottawa River, Nisga'a artistic and cultural achievements are on view in the Grand Hall of the Museum of Civilization and in the recently mounted "Common Bowl" exhibit. They can also be found in many of the world's museums.

Today, about 2,500 of the 5,500 Nisga'a live in four villages: Kincolith, Greenville, Canyon City and New Aiyansh. Most other Nisga'a live in Terrace, Prince Rupert or Vancouver. Nisga'a houses have modern housing and infrastructure. The schools and community buildings are in constant use to host Nisga'a social, cultural and ceremonial activities.

Although some Nisga'a share the difficulties common to aboriginal communities, such as unemployment and family breakdown, the Nisga'a have worked hard to improve those circumstances. High value is placed on schooling and post-secondary education. The Nisga'a operate their own provincial school district, School District No. 92. It offers kindergarten to grade 12 to both Nisga'a and other residents of the Nass Valley. One seat on the elected school board is reserved for a non-Nisga'a resident. The Nisga'a also operate a post-secondary college in connection with the University of British Columbia. It offers degree programs, life skills training and cultural language programs. They also operate their own health board and, again, provide for non-Nisga'a representation.

They have taken up every available opportunity to take over education, health care, social and family services and other government programs, seeking wherever they could to strengthen their families and community. They have also worked cooperatively with their neighbours. They participate in regional district government where Nisga'a elder Harry Nyce sits on the board.

The Nisga'a have pursued a settlement of what they describe as the land question since at least 1887 when, as honourable senators have heard, Nisga'a chiefs first travelled to the legislature in British Columbia to seek recognition of aboriginal title, a treaty settlement and a measure of self-government. Their trip to Victoria was unsuccessful.

In 1890, they established their first land committee. In 1913, that committee sent a petition to the Privy Council in England seeking to resolve the land question. Again, they were unsuccessful.

From the 1920s to the 1950s, the Nisga'a and other nations' efforts to have their rights recognized and practise their culture were repressed. Legislation outlawed traditional practices such as the potlatch and made it illegal to raise money to advance land and other legal claims. Following repeal of this legislation in 1955, the Nisga'a re-established their land committee. Under the leadership of Mr. Frank Calder, the tribal council took the land question to the courts. This was a bold decision and a mark of the Nisga'a's commitment to seeking a resolution of their rights.

Many other First Nations were concerned that this court case might be unsuccessful and, therefore, would destroy any hope that their rights would be recognized in the political process. In the face of unfavourable lower court decisions, the Nisga'a pursued their case to the Supreme Court of Canada.

In 1973, the Supreme Court issued the *Calder* decision. Although the court split evenly on whether the Nisga'a continued to hold aboriginal title, it recognized the possibility of aboriginal rights and title continuing to exist in Canada. This decision was a major factor in prompting the Trudeau government to adopt a policy of negotiating land claims where they had not already been settled in Canada.

Through their action and commitment, the Nisga'a have led, and continue to do so, the way towards the reconciliation of

aboriginal people and other Canadians within British Columbia. They are now at the threshold of putting that leadership into the implementation of this agreement. It is in our hands, after careful deliberation, to do our part to bring that reconciliation about.

We also have an opportunity to put this chamber squarely behind the principle that the treaty negotiation process in British Columbia is valid and necessary. Only through negotiation, compromise and vision can treaty settlements be reached that meet everyone's interests. Only with the full consent of the stakeholders can we progress.

The Nisga'a were one of the earliest groups to take up negotiations as a part of this new process. Negotiations commenced in 1976. However, without the participation of the Province of British Columbia, progress on issues related to land could not be made. The Mulroney government continued to press the negotiations and succeeded in 1990 in bringing the provincial government, headed by Premier William Vander Zalm, into the process. After that, the pace of negotiations began to pick up.

Five years after signing the 1990 framework agreement on how to proceed with negotiations, the Chrétien government, the Harcourt government and the Nisga'a signed an agreement in principle which set out the main elements of the agreement which is before us today. That agreement in principle received considerable public debate and legislative scrutiny in British Columbia. The principles agreed to in that document formed the content and structure of the final agreement negotiations.

• (1550)

Two and a half years later, in August 1998, the Chrétien government and the Glen Clark government initialled a final agreement. This was a great achievement and the culmination of over 100 years of perseverance by the Nisga'a. Not only did this process include the participation of four national governments — those of Trudeau, Clark, Mulroney and Chrétien — but also three different provincial governments. In addition, more than 500 public consultations and information meetings were held in British Columbia.

The Nisga'a treaty marks a milestone in Canada's long history of treaty making with First Nations in this country. This is Canada's first treaty to include self-government, a self-government which addresses the rights of the Nisga'a people within the Canadian legal framework and one which was negotiated with the rights of all Canadians in mind.

In this context, I would refer to a statement made in the House of Commons in second reading debate there on October 26, 1999, by the Honourable Robert D. Nault, Minister of Indian Affairs and Northern Development. He said:

The government believes that self-government is like other aboriginal rights recognized and affirmed by Section 35 of the Constitution of 1982. As the courts have suggested, these rights are best negotiated, not litigated and that is precisely what we have done.

I now want to outline how the Nisga'a government will operate, because I think the agreement demonstrates how effective and accountable aboriginal government can be negotiated and how practical and workable arrangements can be established.

The Nisga'a Final Agreement Act and the Nisga'a Final Agreement are, in part, intended to modernize Nisga'a government and to create a local government structure for the Nisga'a people which is democratic, accountable and effective. No longer will the Minister of Indian Affairs and Northern Development retain the ultimate authority to approve decisions that are properly local in nature. Significant limitations to Nisga'a self-governance under the Indian Act will no longer apply and the Nisga'a will be able to provide government which will be inclusive of their communities and all members of the Nisga'a nation.

I know our colleague opposite from Saskatchewan, Senator Tkachuk, in his Bill S-14, gave considerable thought to the subject of aboriginal governance. I think he and others will find that many of the powers available to the Nisga'a government are similar to those listed in the schedule to the former Bill S-14. The Nisga'a government will be a democratic government within the established Canadian model.

First, all adult Nisga'a men and women will be able to run for office and vote for their government representatives. In addition, elections must be held every five years and, consistent with the Nisga'a Constitution, elected officials must take an oath of office that they will "provide good, effective and accountable government." Nisga'a government shares other attributes of the democratic government. For example, it must provide conflict-of-interest guidelines and mechanisms to ensure financial accountability in a manner similar to other governments in Canada. That is accountability both to its own members and to the governments from which it will derive some of its funding.

The Nisga'a Constitution is central to the exercise of a democratic Nisga'a government. It will operate within and be subject to the Constitution of Canada. The treaty sets out specific requirements of the Nisga'a Constitution which must be met. These cannot be overturned by any future Nisga'a government.

The treaty also has provisions to protect the rights of other aboriginal persons and the rights of non-Nisga'a individuals who reside on Nisga'a lands. The Nisga'a Constitution must provide for the recognition and protection of the rights and freedoms of Nisga'a citizens and must provide the ability to challenge the validity of Nisga'a laws. It must also contain key features, such as mechanisms to provide rights to appeal administrative decisions and rights of access to information. Although the Nisga'a government will contain elements unique to the Nisga'a culture and heritage, it will be quite recognizable as a government similar to other governments in Canada. It can and will be held politically and legally accountable for the decisions it makes.

Nisga'a government is structured in two levels: Nisga'a Lisims government will be the central government, responsible for those things that touch all Nisga'a citizens such as language and

culture. Lisims government will also be primarily responsible for relations with other levels of government. The four Nisga'a village governments will make up the second tier of Nisga'a government. These bodies will be responsible for local matters of the four Nisga'a communities now named New Aiyansh, Gitwinksihlkw, Laxgal'tzap and Gingolx.

The Nisga'a treaty also takes into account Nisga'a people living off Nisga'a lands. The treaty establishes three urban locals in Terrace, Prince Rupert and Greater Vancouver. These locals do not have law-making authority but will participate in Nisga'a government by each electing a member to the Nisga'a Lisims government.

Let me now turn to the Nisga'a law-making authority. The only law-making powers the Nisga'a will have are those set out in the treaty. I must remind honourable senators that there are no exclusive Nisga'a law-making authorities. Federal and provincial laws will apply to Nisga'a lands concurrently with Nisga'a laws. This will be just like other jurisdictions in Canada where Canadians are subject to federal, provincial and municipal or regional laws simultaneously. In this type of model, rules of priority are necessary to set out what would happen in the case of conflicts or inconsistencies between two valid laws. The Nisga'a treaty contains rules of priority in each case where the Nisga'a government will have law-making authority.

In order for Nisga'a laws to be valid, they must be consistent with these rules of priority. They must meet a number of other requirements. First and foremost, they must be consistent with the Constitution of Canada, including the Charter of Rights and Freedoms. They also have to be consistent with the Nisga'a Constitution itself.

I would now like to expand a bit on the relationship between validly enacted Nisga'a laws and the laws of Canada and British Columbia. Honourable senators, there are only a few limited areas where the Nisga'a government would have principle authority. These are areas that are internal, integral and essential to the Nisga'a and the Nisga'a government. Specifically, the only Nisga'a laws that would fit that category are those that are related to the administration of Nisga'a government, to the management of Nisga'a lands and assets, to Nisga'a citizenship, and to Nisga'a culture and language.

Honourable senators, I wish to make it clear that the authorities I have just mentioned relating to Nisga'a citizenship do not include the right to make laws concerning immigration, Canadian citizenship, registration as an Indian under the Indian Act, or to impose obligations on Canada or British Columbia to provide rights or benefits. The Nisga'a treaty makes this abundantly clear.

There will also be a second category of Nisga'a law-making authority which includes education, child and family services, adoption, Nisga'a fish and wildlife harvesting and forestry, but Nisga'a laws in that category will only be valid if they meet or exceed federal or provincial standards. For example, a Nisga'a law in the area of education would have to meet curriculum and teacher certification standards set out by the Province of British Columbia. That just makes sense.

Finally, there are areas where the interests of other Canadians could significantly and directly be affected by Nisga'a law but where the public interest could still be accommodated while providing some local authority. In this third category, federal and provincial laws would prevail over Nisga'a law. The areas where federal or provincial law would prevail include environmental assessment and protection, public order, peace and safety, health services, social services, buildings and public works, traffic and transportation, solemnization of marriage, fish and wildlife sales, and the regulation of intoxicants.

There can be no doubt raised that the Nisga'a government will operate within Canada's legal framework, Canada's Constitution, Canada's laws and the Charter of Rights and Freedoms.

Honourable senators, the Nisga'a people have occupied the area of the Nass for centuries before the European colonists arrived. The evidence shows that they had a well-organized society which was prosperous and governed according to laws of social conduct and community obligations. The key achievement of this treaty is to reconcile in today's world the fact that the Nisga'a people have their own culture and system of government within the culture and system of the majority population. As I have said earlier, this is a practical and workable arrangement.

Honourable senators, one of the major objectives for treaty negotiations in British Columbia is to establish certainty in connection with the rights of aboriginal peoples, those of the federal and provincial governments, and those of individual Canadians. The Nisga'a Final Agreement achieves this objective. It is a full and final definition of Nisga'a claims to aboriginal rights and title. Through this agreement, and as set out in Bill C-9, those rights will be known with certainty.

• (1600)

In future, we will all be able to use the final agreement for a precise description of Nisga'a rights. All of us will be able to use the final agreement because the treaty stipulates that it can be relied on not just by government and by the Nisga'a but by all other persons.

Achieving certainty is of critical importance to business and labour groups in British Columbia. Groups with interests as diverse as Canadian National Railways and the Canadian Labour Congress advised the standing committee of the other place that certainty was a core reason for their support for this treaty and treaty settlements in general. The Mayor of the City of Terrace, Jack Talstra, said to the standing committee:

We wish our Nisga'a neighbours well. Let us move forward with this new treaty.

Honourable senators, simply put, certainty of aboriginal rights is essential to the promise of a strong economic future for British Columbia.

In future, the Nisga'a will be able to develop Nisga'a lands. Businesses that are interested in economic development

opportunities on Nisga'a lands will know from the final agreement that the Nisga'a own these lands.

Outside Nisga'a land, the Province of British Columbia will be able to develop land and know precisely the scope of Nisga'a rights and the procedures to follow to do so. Businesses that are interested in development opportunities outside Nisga'a land will similarly benefit from knowing the province's authority to develop these lands.

That is what is meant in the preamble of the final agreement when it says that the final agreement is intended to provide certainty with respect to the ownership and use of lands and resources. Those who oppose the Nisga'a Final Agreement risk losing for all of us this opportunity. I say to my fellow British Columbians that such a risk is not justifiable.

One 1991 report issued by Price Waterhouse concluded that, in that year, unresolved land claims in British Columbia cost the province \$1 billion in investment and 1,500 jobs in forestry and mining alone. The cost to our aboriginal peoples is also very high because of the constraints on their own economic opportunities.

In exchange for full and final settlement of all Nisga'a claims in respect of aboriginal rights and title, the Nisga'a will receive a settlement package which includes \$196.1 million paid over 15 years and a land transfer of approximately 2,000 square kilometres in the Nass Valley area, which includes surface and subsurface rights and also a right to take a share of the Nass River salmon stocks and Nass area wildlife harvests.

The total one-time cost of the treaty, including land value, implementation and other related costs, is \$478.1 million in 1999 dollars. Canada's share is \$225 million. However, let us not share the misrepresentations of some that what is involved is a cash transfer of over \$500 million. That is not the case at all.

Who can fully calculate the value to the Nisga'a of having a strong land lease? The Nisga'a believe that, with this agreement, they have the opportunity, through their own efforts and skills, to become economically self-reliant. A prosperous Nisga'a would have an enormous multiplier effect on the whole economy of northwest British Columbia, as the Mayor of Terrace knows.

Some in British Columbia believe it would be better to leave it to the courts to deal with aboriginal claims. This is a false belief. It would be costly and time-consuming to use the courts to examine each claim of an aboriginal right or title for each location in British Columbia.

In the *Delgamuukw* case, the Supreme Court of Canada commented on the disadvantages of litigation and encouraged negotiation as the best way to resolve these issues. Some of you might remember that the *Delgamuukw* case took more than 10 years to go through the courts, and in the end the Supreme Court of Canada ordered a new trial. There is still uncertainty as to the aboriginal rights of the Gitskan and Wet'suwet'en who were involved in that case. The certainty achieved in the Nisga'a treaty clearly demonstrates the advantages of negotiating these issues instead of going to court.

[Senator Austin]

To achieve this objective of a practical and workable alternative, the Nisga'a Final Agreement sets out arrangements that provide certainty in the Nass Valley as to ownership and use of lands and resources. Very importantly, it does so within the Canadian legal framework.

The Nisga'a Final Agreement negotiations were not an attempt to define Nisga'a rights but, instead, to address uncertainty by exhaustively setting out and defining, with as much clarity and precision as possible, all the section 35 rights which the Nisga'a can exercise after the Nisga'a Final Agreement is concluded.

In the past, Canada has achieved certainty through an exchange of undefined aboriginal rights for defined treaty rights using the language of "cede, release and surrender." Objections by First Nations to the surrender technique have been a fundamental obstacle to completing modern treaties.

The Nisga'a Final Agreement provides for a "modification of rights" approach. Using the modified aboriginal right approach, the Nisga'a aboriginal rights, including title, continue to exist, although only as modified, to have the attributes and geographic extent set out in the Nisga'a Final Agreement. This is accomplished through the agreement of all three parties and by the exercise of the legislative jurisdiction of the federal and provincial governments. As a result, whatever aboriginal rights the Nisga'a may have had at common law will be modified to become the rights set out in the Nisga'a Final Agreement. In this way, the certainty technique is based upon agreeing to rights rather than extinguishing them.

If, despite the final agreement and the Nisga'a Final Agreement Act, there is an aboriginal right other than or different in attributes from the Nisga'a nation's section 35 rights as set out in the Nisga'a Final Agreement, that right would be released as of the effective date. Through the modified aboriginal rights approach, the only section 35 rights that the Nisga'a nation would have are those set out in the final agreement.

Honourable senators, I believe that we can see the compromises, the accommodations, and the reconciliation of different views that permits the negotiation of modern, workable approaches to difficult issues. The fact that business, resource interests, local governments and labour organizations support the modified rights model demonstrates that those interests were heard and addressed at the negotiating table.

Many critics and opponents of the Nisga'a Final Agreement appear to be uninterested in the facts. Rather, they have used misrepresentations and half-truths to push emotional hot buttons in an attempt to create a negative and angry public backlash. Senators are familiar with events in the other place in which the Official Opposition, the Reform Party, sought this objective. I

believe that too much has happened in Canada and in British Columbia over the last 10 years both in recognition of the rights of aboriginals and tolerance of the differences among the many peoples of Canada. It is too late for the Reform Party's strategy to work.

Honourable senators, one of the vocal critics of this treaty is the Leader of the Official Opposition in British Columbia, Mr. Gordon Campbell. Mr. Campbell conceded in his submission to the standing committee in the other place that:

British Columbians want treaties that will reconcile the constitutionally protected rights of aboriginal peoples with the sovereignty of the Crown. They want to negotiate settlements because that is preferable to litigated settlements imposed by the courts.

Honourable senators, that is exactly what we have done.

Mr. Campbell charges that the Nisga'a Final Agreement Act creates a new order of government in Canada and as such is, in effect, a constitutional amendment requiring that, among other matters, a referendum be submitted to the people of British Columbia under prevailing provincial law to obtain a majority vote of approval. He has caused litigation to be commenced to seek judicial intervention and interpretation.

It is the view of the parties to the agreement and also of constitutional experts who have appeared as witnesses in previous hearings that Mr. Campbell's charge has no constitutional base. Let me refer again to the Minister of Indian Affairs and Northern Development who, in speaking in the other place on October 26 last, said:

As significant as is the Nisga'a treaty, it is equally significant that it has been achieved within Canada's existing constitutional framework. It does not directly or indirectly change the constitution. Nor is a constitutional amendment necessary to bring the treaty into effect. The Nisga'a treaty is a practical arrangement that defines the rights the Nisga'a people will exercise under Section 35 of the Constitution Act, 1982. Although rights will be protected under Section 35, it does not mean they are absolute. The courts have confirmed that those rights may be infringed where proper justification exists.

• (1610)

Honourable senators, the Nisga'a treaty states:

This Agreement does not alter the Constitution of Canada including the distribution of powers between Canada and British Columbia.

In evidence given to the standing committee in the other place on November 23 last by Dean Peter Hogg and Professor Patrick Monahan of Osgoode Law School, Professor Monahan stated:

The Agreement and the ratifying legislation is valid and does not constitute an amendment to the Constitution of Canada...and the main reason I have reached that conclusion is based on the terms of section 35(1) and section 35(3) of the Constitution Act of 1982....It is not simply the agreements which existed in 1982 and the rights under those agreements that we constitutionally protected, but also rights acquired under future agreements. So essentially my view is that section 35(1) and 35(2) of the Constitution contemplate precisely the process that is occurring here, namely an agreement is reached between aboriginal people and the federal and/or provincial governments.

Further on, Professor Monahan says:

That does not mean that the agreements themselves become part of the Constitution of Canada, but what it does mean is that the rights are protected and any law, federal or provincial, that was inconsistent with the rights under the agreement would have to meet the test of justification which the courts have set for infringement of rights protected by section 35, and that was set in a case called Sparrow.

To summarize, honourable senators, nothing contained in Bill C-9 has any effect over the distribution of powers given to the federal and provincial governments by the Canadian Constitution. The legislative power remains unimpaired. No doubt this will be settled one day by a higher authority than even those to which I have been referring.

A further criticism of Bill C-9 is that it is based on race discrimination. For example, Dr. Keith Martin, Reform MP for Esquimalt—Juan de Fuca, in an article in *The Ottawa Citizen* of November 24, 1999, said:

We are creating animosity and division, much like what was seen in South Africa during the years of apartheid.

In the same article he says:

There must also be one law for all people.

However, Professor Bradford Morse of the Faculty of Law, University of Ottawa, said at the same hearings I mentioned previously:

The fundamental issue that many critics fail to grasp is that aboriginal rights are not recognized for a distinct group by virtue of their race, but rather as the United States Supreme Court has clearly and repeatedly indicated for at least 170 years, certain peoples were in possession of their own territories since time immemorial as independent nations with their own legal, cultural, religious, linguistic and political system...this is reflective of their difference as political entities, not as racial groups.

[Senator Austin]

Honourable senators, the rights provided to the Nisga'a by section 35 of our Constitution are based on their prior presence in the Nass Valley, not because of their race, as some critics have suggested. This self-government model reflects rights based on prior presence and is carefully drafted to ensure that the rights and interests of other Canadians, particularly those who live in the immediate area, are fully addressed. All private property rights are fully protected. All existing property rights on Nisga'a lands will be replaced on equivalent or better terms. All federal and provincial laws will apply, including provincial laws which currently do not apply on Indian reserves. This means that there will be additional protections available for Nisga'a women, for example, that are not available under the existing Indian Act and Indian reserve system.

Negotiators for Canada and British Columbia held hundreds of consultation and public information meetings to ensure that the rights and interests of all British Columbians were understood and respected. The negotiations evolved from a less open style in early years to a very open style of consultation in later years. Therefore, there were ample consultation opportunities on all substantive issues. In fact, ultimately, this negotiation included the most extensive and effective consultation process in the history of treaties in Canada.

In his submission, Gordon Campbell also referred to a number of "equality concerns with respect to the Nisga'a treaty" suggesting that the rule of law will not be equally applied to all British Columbians and that British Columbians will not be treated equally within Canada. The argument that all British Columbians should have exactly the same rights is inconsistent with the accommodation of special rights for some groups within Canada's Constitution.

This view of equality would deny the Nisga'a any treaty rights, but also suggests that there should be no aboriginal rights. Additionally, this view of equality would deny any other special rights protected in our Constitution such as minority rights, educational rights and linguistic rights.

Honourable senators, the Nisga'a should not have to give up their culture and language to live in this great country. It is possible, in Canada, to be aboriginal and to be Canadian. Under the Nisga'a treaty, we allow the Nisga'a to be Nisga'a and to remain Canadians. This is much preferable to Mr. Campbell's misguided version of equality.

Time does not permit me to deal with many of the issues raised by this historic treaty where the right of self-government of an aboriginal people is for the first time the subject of a parliamentary endorsement under section 35. In many ways, the rights of non-Nisga'a living on Nisga'a lands are enhanced by the removal of the restrictions imposed by the Indian Act. In the area of taxation, the Nisga'a have agreed, in brief, that after a phase-out period the Nisga'a people will pay taxes the same way all other Canadians do. The Nisga'a will, as their economy develops, assume a higher and higher responsibility for their own funding. They look forward to freeing themselves from financial dependency.

Honourable senators, I look forward to the further examination with you of Bill C-9. I believe that, after we have given careful study to the bill, we will endorse it wholeheartedly.

I believe that Terry Glavin, a member of the Pacific Fisheries Resource Conservation Council in British Columbia, speaking on November 17 last in Prince George, summed the matter up well for his fellow British Columbians when he said:

I am confident in the knowledge that the overwhelming majority of British Columbians support the objective of concluding treaties with First Nations that are reasonable and fair and uphold the honour of the Crown.

Later in his remarks he said:

It's not a perfect treaty. It was negotiated by human beings. But in the belief that Parliament will soon give force and effect to the treaty between the Nisga'a nation and the Crown in Right of Canada, I will say that my country is about to do a fine thing. And it is a pretty good start.

By way of epilogue, honourable senators, it should be noted that a few senators present here today played a significant role in the Joint Committee of the Senate and the House of Commons on the Constitution in 1980-81 which held hearings and deliberations on what became the Canada Act and the Constitution Act, 1982. Those were historic days: the Charter of Rights, the patriation of the Constitution, and many other significant issues which, taken together, have changed the nature of Canada, very much for the better, in my opinion. As significant as any matter which was enacted at the time was section 35. A number of senators and MPs were much moved when the then justice minister, Jean Chrétien, under heavy pressure from the joint committee, agreed on behalf of the Trudeau government to put section 35 into the Constitution. In Bill C-9 we see one of the substantial results of our efforts at that time.

The joint committee was chaired by the late Senator Harry Hays and by a feisty MP from Quebec, the now feisty Senator Serge Joyal. I represented the government side in the Senate while the opposition side was led by former senator Duff Roblin. One of the permanent members from the other place whose attendance record was exemplary is now Senator Eymard Corbin. I apologize to anyone now in the Senate whom I have not mentioned who also sat on the joint committee as a permanent member.

In closing, I will observe that there is something valuable to be contributed to public policy by a Senate where some of its members have a perspective that spans nearly 20 years.

• (1620)

Hon. Gérald-A. Beaudoin: Honourable senators, I agree that this agreement — it is not a treaty — falls under the Constitution, under the Charter of Rights and under the Criminal Code. This is a great amount.

Only one point concerns me — and perhaps this question should be studied more deeply in the committee — namely, the

concurrent powers with paramountcy for the Nisga'a. That is unprecedented in the sense that there is a division of powers in Canadian federalism — federal powers and provincial powers. Sometimes the paramountcy is with the Parliament of Canada, and sometimes the paramountcy is in the hands of the provincial legislatures. This system works very well.

I am told — and correct me if I am wrong — that a few subjects that are concurrent with paramountcy are neither federal nor provincial, in which case it may be that there is a cloud somewhere in the agreement. If the agreement does not change the division of powers between Ottawa and the provinces, I am quite satisfied. Is that the case?

Senator Austin: I wish to thank Senator Beaudoin for that question. As I said in my address, a specific clause states that this agreement does not in any way affect the distribution of powers between Canada and the Province of British Columbia.

With respect to the rest of your remarks, section 35 of the Constitution Act, 1982, has intervened since the original distribution of powers in the British North America Act. Section 35 is the result of a constitutional process that has the agreement of this Parliament and a substantial number of the provinces, to echo a phrase of a Supreme Court decision with which you are familiar. Therefore, we have the concept of section 35 protecting the rights contained within this agreement. Those rights are given constitutional protection, but in no way does this affect the distribution of powers. We have a Constitution composed of federal and provincial agreement, which protects aboriginal rights once Parliament and the Province of British Columbia ratify the agreement by legislation.

Senator Beaudoin: I have absolutely no problem with section 35 because it gives collective rights to the aboriginal people in the Constitution of Canada. I am 100 per cent in favour of those rights because the aboriginals were here first.

My question relates only to paramountcy in concurrent powers. When this bill is studied by a Senate committee, I hope this question will be studied more adequately. I do not have any problem with the rest of the agreement.

Senator Austin: I look forward to that study.

The honourable senator raises an essential point. I believe that the Nisga'a Tribal Council will have paramountcy in some powers, particularly in the area of linguistic and cultural rights. However, they are still subject to the concept of reasonableness as laid out in the *Sparrow* case because the *Sparrow* case is part of our constitutional law.

Hon. Gerald J. Comeau: Honourable senators, I listened carefully to the honourable senator's speech, and one of my questions concerns the Nass River salmon allocation. The fishery is owned by the public and not by the Crown. It is a common property resource. However, there is a means by which the minister and the Crown can allocate fish, and that is through section 7 of the Fisheries Act. They can even create exclusive reserves of fish, which is what is being contemplated in the Nisga'a treaty. This must be done by a competent piece of legislation, as noted in section 7 of the act.

The treaty provides for an exclusive fishery, which will then be protected under section 35 of the Constitution. The result is that parliamentarians will relinquish their legislative power over the allocation of this common-property resource. For one of the first times in history, parliamentarians will relinquish a duty, constitutionally mandated, to protect a public resource. Was this contemplated by the negotiators, or have you been given any briefing on this subject?

Senator Austin: Honourable senators, I am not as well prepared as is Senator Comeau to examine at this moment the exact ramifications with respect to the fishery. I know that the Fisheries Act and regulations apply to harvests under this Nisga'a agreement. An annual fishing plan must be provided, and the Nisga'a have, as the Honourable Senator Comeau said, an agreement by right to a specific share of the fish harvest. I believe your question will be better answered during the course of committee discussions.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a question for Senator Austin. Section 35 of the Constitution Act, 1982, is one section beyond sections 1 to 34, which constitute the Charter of Rights and Freedoms. Is it correct to state that the Charter of Rights and Freedoms does not apply to section 35 but that under this treaty the Charter of Rights and Freedoms will apply? In effect, I believe the Charter applies under this agreement, which gives greater protection from a human rights analysis than something that is simply under section 35.

Senator Austin: What I am about to say should not be considered authoritative, but what you have outlined, Senator Kinsella, is also my understanding of the situation.

Senator Kinsella: Honourable senators, as we begin our debate on the principle of the bill, I wish to clarify the rights that Indian women have under Bill C-31, the amendment to the Indian Act that repealed paragraph 12(1)(b) of the old Indian Act. Some describe that as the "right of return." Is that right continued under the Nisga'a agreement, or is it lesser or greater protection for women who return to the Nisga'a community?

Senator Austin: Honourable senators, I cannot answer that question except in a general way by saying that as the Charter applies and the Charter bars discrimination, I believe that the rights of Nisga'a women have been elevated to the same rights that all women have in Canadian society.

On motion of Senator Kinsella, for Senator St. Germain, debate adjourned.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

[Senator Comeau]

RIDEAU HALL

December 16, 1999

Mr. Speaker:

I have the honour to inform you that the Right Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 16th day of December, 1999, at 5:00 p.m. for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

The Hon. the Speaker: Honourable senators, you will have noted from my reading that the retiring Chief Justice will be attending this evening. This will be his last Royal Assent before he retires, and it will also, presumably, be the last Royal Assent of this millennium.

I hope that all honourable senators will be able to attend the reception for the Chief Justice at the conclusion of Royal Assent.

[*Translation*]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Callbeck, for the second reading of the Bill S-5, An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate).—(*Honourable Senator Hays*).

Hon. Eymard G. Corbin: Honourable senators, Senator Grafstein knows that I do not have much enthusiasm for his bill. Nevertheless, I am grateful to him for making this suggestion to the Senate. If I understood correctly, the purpose of Bill S-5 is to institutionalize poetry by creating the position of Parliamentary Poet Laureate.

My timetable did not afford me the time to prepare my reservations as I would have wished. But since Senator Grafstein has been urging me for the last 48 hours to speak before we adjourn for the holidays, so that the bill can be referred to a committee for consideration and the hearing of the witnesses it chooses, I will try today to accommodate him, but this will not necessarily be my last word.

He has had the time to prepare, to give the matter thought, and to seek and receive opinions. He has had months to do so. Now he wants the rare few in Parliament who live and breathe literature to race headlong into the waves of his enthusiasm. He must, however, know that the products of the intellectual process, the quantity of which he sometimes deplores, require time for research, reflection and writing. In the end, I will help my honourable colleague, because the clash of ideas is never a waste of time.

That having been said, I now learn that the debate will be adjourned after my remarks. As if by chance, but what a fortunate coincidence, on the weekend I was rereading *Edgar Allan Poe, sa vie et ses ouvrages*, written by Charles Baudelaire in 1852. I hold these two great poets, literary giants whom I have not abandoned over the years, in the greatest esteem. You should therefore know that I am biased.

I found this sentence written by Beaudelaire:

Alfred de Vigny wrote a book (*Stello*, 1832) to demonstrate that the place of poetry is not in a republic, an absolute monarchy or a constitutional monarchy...

And Beaudelaire added:

...and no one answered.

Stello defends a very particular point of view, which I share almost entirely. I do not have the time, for the reason mentioned at the beginning of my speech, to get into details. To be honest, and without claiming that *Stello* can be transposed *mutatis mutandis* from 1830 to the current situation of poetry, there is a fundamental consideration to keep in mind, at least from my point of view. To save time, I will summarize by asking a very rhetorical question: What in the world does poetry have to do with this place, this republic, this constitutional monarchy, this Parliament? In chapter XL of *Stello*, Dr. Noir, the key character in the story, answers the question when he gives his prescription, a first precept or advice to the narrator of the novel. He says:

To separate poetic life from political life.

And to achieve that:

Render therefore unto Caesar the things which are Caesar's, that is the right to be, every hour of every day, held in contempt on the street, deceived in the palace, fought against underhandedly, undermined for a long time, beaten promptly and expelled violently.

Here is Dr. Noir's second precept to the poet:

Alone and free, to accomplish one's mission. To follow the condition of one's self, free from the influence of Associations, however good. Because Solitude alone is the source of inspiration.

There is a lot more, but that is the essential.

The essential is the very nature of creative poetic work, and this cannot be compelled. A writer of verse, a rhymester paid by the verse, yes, perhaps, but not a true poet, never! I cannot imagine that a true poet could take on the yoke of the official word.

In fact, it seems to me that the question needs to be asked in another way. What sort of line divides language and power? I would say that it is something as slim as the guillotine blade that beheaded the poet André Chénier.

I would also say that it once took the form of the *Index librorum* or of the tribunal of Rome that condemned the poems of Baudelaire and cursed so many others. That will give honourable senators just a very small idea of what is involved to emphasize that poetry owes no allegiance to Caesars, to popes, to emperors, to despots of any kind. And all honour to the poet for that. Today, the line between language and politics is as wide as the distance that separates a persecuted poet in exile from his native land.

Unfortunately, I did not have the time to read what my honourable friend Senator Kinsella had to say. I shall do so during the adjournment, after the holiday season. I do believe, however, from having heard his closing words the other day, that he is indulging in some out-of-date nostalgia. I will soon have a clearer idea, and if I have misinterpreted what he has said, I will be prepared to apologize.

• (1640)

In my opinion, Senator Grafstein's proposal smacks of musty Victorian attitudes, although I must apologize for saying so when we have that lovely bust adorning the front of this chamber, just above His Honour the Speaker's head.

What has happened to our ability to dream, our talent to explore? It is as if we Canadians still had one foot on either side of a yawning abyss, one as deep and vast as the ocean that separates us from our mother countries, torn between our past and the challenges of our future. Might grasping on to an empty practice or meaningless symbol not be one more manifestation of our national insecurity?

It is as if we lacked the maturity to do anything new. Are we so lacking? I thought, but perhaps I was deluding myself, that our democratic tradition was strong enough for us to shake off the fetters of old ways of doing and being. I am not speaking for the poets; I am expressing a profound conviction of mine.

On motion of Senator Kinsella, for Senator Lynch-Staunton, debate adjourned.

[English]

IMMIGRATION ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Ghitter, seconded by the Honourable Senator Cohen, for the second reading of Bill S-8, to amend the Immigration Act.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would ask for leave to have this item stand in the name of the Honourable Senator Grafstein who intends to speak to it.

The Hon. the Speaker: Is it agreed, honourable senators, that this order stand in the name of the Honourable Senator Grafstein?

Hon. Senators: Agreed.

Order stands.

[Translation]

OFFICIAL LANGUAGES

SECOND REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Joint Committee on Official Languages (bilingual nature of Canada's Capital) presented in the Senate on December 14, 1999.—(*Honourable Senator Losier-Cool*).

Hon. Rose-Marie Losier-Cool: Honourable senators, I move that this report be adopted.

In so moving, I wish to quote the Right Honourable Pierre Elliott Trudeau, who said at the ceremony to proclaim the Constitution on April 17, 1982:

[English]

I speak of a Canada where men and women of aboriginal ancestry, of French and British heritage, of the diverse cultures of the world, demonstrate the will to share this land in peace, in justice, and with mutual respect. I speak of a Canada which is proud of, and strengthened by its essential bilingual destiny, a Canada whose people believe in sharing and in mutual support, and not in building regional barriers.

[Translation]

It is in the spirit of this vision that the Standing Joint Committee on Official Languages believes in and works for the defence of the promotion of the linguistic rights of anglophone and francophone communities in Canada, and it is also in the spirit of this vision that the members of the committee are

moving that this second report presented December 14 be adopted.

[English]

Hon. Mabel M. DeWare: Honourable senators, we agree with the recommendations contained in the report presented by the Honourable Senator Losier-Cool and we are prepared to support the motion for the adoption of the report.

Hon. Senators: Hear, hear!

Motion agreed to and report adopted.

[Translation]

SCRUTINY OF REGULATIONS

FIRST REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Joint Committee for the Scrutiny of Regulations (permanent order of reference), presented in the Senate on December 9, 1999.—(*Honourable Senator Hervieux-Payette, P.C.*).

Hon. Céline Hervieux-Payette: Honourable senators, I move that this report be adopted.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

EUROPEAN MONETARY UNION

REPORT OF FOREIGN AFFAIRS COMMITTEE ON STUDY—
ORDER STANDS

On the Order:

Consideration of the fourth report of the Standing Senate Committee on Foreign Affairs entitled: "Europe Revisited: Consequences of Increased European Integration For Canada", tabled in the Senate on November 17, 1999.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I should like Order No. 4 to remain standing in my name.

I believe that I owe honourable senators a word of explanation since this matter has been on the Order Paper for 12 days. I have taken this matter over from Senator Stewart who recently retired. The Foreign Affairs Committee has been quite busy of late. I will get around to dealing with this matter, but I have not had time thus far.

Order stands.

[Translation]

AIR CANADA

ORDER IN COUNCIL ISSUED PURSUANT TO CANADA
TRANSPORTATION ACT TO ALLOW DISCUSSIONS ON PRIVATE
SECTOR PROPOSAL TO PURCHASE AIRLINE—REPORT OF
TRANSPORT AND COMMUNICATIONS COMMITTEE
ON STUDY ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Transport and Communications (power to hire staff) presented in the Senate on December 15, 1999.—(*Honourable Senator Bacon*).

Hon. Lise Bacon: Honourable senators, I move that this report be adopted.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—
REFUSAL TO DECLARE OTTAWA OFFICIALLY
BILINGUAL—INQUIRY—DEBATE SUSPENDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Fraser*).

Hon. Joan Fraser: Honourable senators, when I speak in this chamber I generally try to use both of Canada's official languages. Today, however, I shall speak only in English, as I join my voice with the voices of those who are urging the Government of Ontario to pass legislation stating that the proposed mega-city of Ottawa will be officially bilingual. I shall speak only in English because I believe it is important to recognize that this is a question that concerns all Canadians — anglophones, francophones, what we in Quebec have learned to call allophones, and native peoples, whether we speak both official languages or only one or, indeed, neither.

There are many reasons why Ottawa, the City of Ottawa, not just the federal government's National Capital Region, should be officially bilingual. The first reason, on a human level, surely is

simply that so many francophones — 125,000, I believe — live here. We know that they do receive and will continue to receive many public services in their language; but, as an English Quebecer, a member of Canada's other language minority, I know the difference between simply receiving services and being fully acknowledged by one's government. I know how it feels to see your own provincial government reluctant to acknowledge that your language community is legitimate, entitled to full recognition for what it is: a branch of one of this country's founding peoples.

I know how it feels to have your provincial government say, in effect, "Look how well we treat you. You should be grateful for all the good things we do for you. Just do not ask for recognition or acknowledgement of what you are. Do not expect anything as a right. What you get from us is charity, not acceptance."

• (1650)

How does it feel? Honourable senators, it hurts. It makes you feel that, in your own home, your own province, you are not seen as a full citizen, even though your ancestors helped to build this land and the Constitution recognizes your language as one of the two official languages of the country.

Honourable senators, we all know that, over the past generation, successive governments of Ontario, including the present government, have made impressive efforts to create and extend a very broad range of French language services and to help francophones to build and control their vital community institutions. While we may all deeply regret the situation at the Montfort Hospital, and while we may hope, as I do, that it will be satisfactorily resolved, it is also important to recognize that the present government of Ontario moved to create francophone control of French schools. That is no small matter. I commend the Government of Ontario for taking that step.

We all understand that we are members of the federal Parliament and that, in Canada, it is the provinces which have jurisdiction over municipalities. We know that the creation of the mega-city is a matter which comes under provincial jurisdiction. I am sure that none of us disputes that or would wish to dispute it. It is also indisputable that Ottawa is a special case. It is an Ontario municipality, yes, but it is not a municipality like any other because it is Ottawa and only Ottawa that is the national capital. The National Capital Region is not the capital. It is a region, a beautiful region, appropriately created and administered, a wonderful physical recognition of the importance of the capital to all Canadians; but Ottawa, the City of Ottawa, is the capital.

In Canada, we have two official languages. That fact goes to the very heart of our history, of our existence as a country. It is one of the pillars of our identity and of our national policies. How can it be that the capital city of the country should not officially reflect that wonderful fact? What message does it send to Canadians, not just to francophones but to all Canadians, when we say that even if we have two official languages, only one of them is really official here in the national capital itself?

Honourable senators, last spring I had the privilege of visiting Brussels, the capital city of a country with linguistic difficulties that sometimes make our own arguments look like child's play. You know, I am sure, that Belgium is divided into French and Flemish areas but Brussels is formally, in law and in practice, bilingual. That is how it should be and that, I suggest, is a model for us to carefully consider.

I am aware of the argument that, if we insist that Ottawa be bilingual, we must also insist that Hull be bilingual. That raises a whole different provincial matter. The fact is that Hull is not the capital. Ottawa is the capital. As an English Quebecer, I may fervently wish that the Government of Quebec would designate Hull as an officially bilingual community in the same way that it has recognized bilingual status for a number of other municipalities, including the one in which I live. That, however, does not affect the Ottawa question at all.

I am sure, honourable senators, that we were all pleased to see that the city council of Ottawa has asked Ontario to make the mega-city bilingual. I understand that it is, in fact, only the provincial government that can make any municipality of Ontario bilingual. There have been court cases to that effect.

We know that there is some resistance to this step in some quarters. All of the explicit resistance of which I am aware comes from anglophones and much of it seems to be expressed in terms of fear, fear of what bilingual status for the national capital would mean to the anglophones who live here.

Fear of change is, of course, common and sometimes that fear is justified, but some change is positive. Some change serves to build a better future for our country and for all of us who are so privileged as to be citizens of it. We can come to embrace that change. I think of my own parents, anglophones from Nova Scotia, proud of their roots which stretched back 200 years in this country. They never spoke French. To the best of my knowledge, not one of their ancestors spoke French — Gaelic, yes, but not French.

When my parents were growing up, the question of bilingualism and biculturalism was not even on the horizon. In the 1960s, when English Canada at last came to understand that element of the country's history and identity and future, my parents were among the millions of English Canadians who came to realize, it too, who came to rejoice in this country's bilingual, bicultural identity. They did not learn French, but they made it their business to see that I did because they believed that every Canadian who could have that opportunity should speak both languages of Canada. They were proud that I learned to do so. I am eternally grateful to them for having given me that opportunity.

I am aware of the argument that to grant bilingual status to Ottawa would be only a symbol, that what really matters is the services that are delivered on the ground. Nevertheless, symbolism matters. Why do we have flags, for example, if symbolism does not matter? Symbolism matters enormously to

all of us. Where does it matter more than in the capital of the country?

Finally, I suggest that, if Ottawa is a city not like the others, Ontario is a province not like the others. Ontario is not only the richest and most populace province of this country; it is a province which has historically been a leader. It has so many times in our history set the pace, set the model for where Canada should go. It has been a contributor to so many of the elements of our identity of which we are proud — the tolerance, the openness, and the level-headedness on which we pride ourselves. I urge the Government of Ontario, once again, to assume its historic role of leadership.

As we have heard in this chamber today and previously, very serious consideration is being given to other avenues to achieve for Ottawa the bilingual status which I believe it deserves. A court case is planned by our colleague, the Honourable Senator Joyal, perhaps the most indefatigable fighter for minority rights that we know. There are considerations of possible federal action. If it comes to that, then it will have to come to that, but how much better if the Government of Ontario could do as so many of its predecessors have done and assert its leadership and its historic role as a proud guardian of what is best about Canada.

With my whole heart, I urge the Government of Ontario to hear the pleas that have come from this chamber and from so many Canadians.

Hon. Senators: Hear, hear!

[*Translation*]

The Hon. the Speaker: Honourable Senator Beaudoin, I must unfortunately inform you that there is only one minute remaining before I must leave the Chair for Royal Assent. Once that is concluded, we will continue the debate.

[*English*]

Honourable senators, the Senate will now adjourn during pleasure to await the arrival of the Right Honourable Deputy of Her Excellency the Governor General.

The Senate adjourned during pleasure.

• (1710)

[*Translation*]

ROYAL ASSENT

The Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

I have the honour to inform you that Her Excellency the Governor General has been pleased to cause Letters Patent to be issued under her Sign Manual and Signet constituting the Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, Her Deputy, to do in Her Excellency's name all acts on Her part necessary to be done during Her Excellency's pleasure.

The commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts, (*Bill C-4, Chapter 35, 1999*)

The Honourable Gilbert Parent, Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000, (*Bill C-21, Chapter 36, 1999*)

To which bill I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1720)

The sitting of the Senate was resumed.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Fraser*).

Hon. Gérard-A. Beaudoin: Honourable senators, Canada is a bilingual and multicultural federation, as has been acknowledged in our various constitutional laws from 1867 to this day. It is to be expected that the capital of this country would also be bilingual. A number of federal states have bilingual, if not multilingual, capital cities.

It is true that, under the terms of the Canadian Constitution, the municipalities fall under provincial jurisdiction, according to section 92(8) of the Constitution Act, 1867. In other words, the structures and powers of a municipal council are a provincial matter. The division of jurisdictions must be respected.

However, Ottawa is not just any city; it is the capital of Canada. At the heart of this country, the major federal institutions are bilingual, the federal Parliament, the Supreme Court of Canada, Rideau Hall, and the various departments. All these institutions are subject to the Official Languages Act. Ottawa therefore has a unique character; it is different.

Section 16 of the Constitution of Canada addresses the capital and declares that the seat of the federal government is in Ottawa. In *Munro*, 1966, the Supreme Court of Canada recognized that the federal Parliament may pass legislation on the national capital by virtue of its residual powers and by virtue of the clause on peace, order and good governance.

In this case, the Supreme Court recognized the power of the federal Parliament to create a national capital region and a National Capital Commission, and to empower that commission to expropriate land for the beautification of the country's capital.

This National Capital Commission is subject to the Official Languages Act because it is a body established under federal legislation. The federal Official Languages Act, which puts the use of the English and French languages in federal institutions on an equal footing, is based on the residual powers of the Canadian Parliament as set out in *Jones* in 1975, a unanimous ruling by the highest court in our land.

Part VII of the Official Languages Act makes provision for a certain extension of bilingualism, giving it an obligatory value in addition to its declaratory value in law. Under the Constitution, therefore, there is a certain division of powers in the area that concerns us.

Section 16 of the Constitution Act, 1867, was interpreted broadly and, in my opinion, must continue to be so interpreted. Certain legal experts have already examined the question of a true federal district, like Washington and many other federal capitals. They have studied the question of having a capital on both sides of the Ottawa River, as well as the question of having a federal district on both sides. I do not wish to get into this debate today, because this is not what is before us. The issue before us, however, is nothing less than that of a bilingual capital. That is already something.

In support of his argument in favour of a bilingual capital, my colleague Senator Serge Joyal has already mentioned the principles identified by the Supreme Court in the Reference on the Secession of Quebec to guide the negotiations between Quebec and Canada or between a province and Canada — constitutionality, democracy, the rule of law, respect for minorities, and federalism. If these principles apply in the case of secession, they certainly apply for the renewal of federalism.

I will conclude my legal speech with the comments of Justice Cartwright, in *Munro*, with respect to the theory of national interest:

[English]

I find it difficult to suggest a subject matter of legislation which more clearly goes beyond local or provincial interests and is the concern of Canada as a whole than the development, conservation and improvement of the National Capital Region.

[Translation]

In the reference on the 1976 Anti-Inflation Act, Justice Jean Beetz wrote:

...the development, conservation and improvement of the national capital region are clearly distinct issues that are not related to any of the paragraphs in s. 92 and which, by their nature, are of national interest.

Some will surely argue that there is a difference between the capital and the capital region. This is true and I recognize that, but in my opinion, what is good for Canada's capital region is certainly very good for the national capital itself, which is at the heart of that bilingual region. I have come to the conclusion that the capital of our country must be bilingual.

Hon. Senators: Hear, hear!

• (1730)

Hon. Serge Joyal: Honourable senators, I listened with great interest to the comments made by Senator Beaudoin. I wish to bring to his attention a qualifier regarding his statement on Part VII of the Official Languages Act, which the Official Languages Committee had the opportunity to review. This week, Senator Gauthier gave me information on the precise nature of Part VII. You said that Part VII was obligatory and not merely declaratory.

[Senator Beaudoin]

There is currently a case before the Federal Court of Canada in which the declaratory nature of Part VII of the Official Languages Act is being challenged. Since it is not covered by the sections of the act dealing with possible legal remedies, that part of the act escapes the reviews and orders of Canadian courts. I do not share that opinion in the context of the reference to the Supreme Court of Canada on the secession of Quebec.

This matter was raised by Senator Gauthier and yourself, Madam Speaker *pro tempore*, in your capacity as chair of the Committee on Official Languages. This matter is currently before the courts. By the time it gets to the summation stage, the arguments developed by the Ontario Superior Court in the Montfort Hospital case will be useful to the federal court, which will have to reach a decision in order to clarify once and for all the entire real application of Part VII of the Official Languages Act. As you are aware, it would be extremely important to define the responsibility of the Canadian government with respect to its role in actively promoting the support of official language minorities, both English and French. I wanted to focus my colleague's attention on this important element, which Senators Gauthier and Losier-Cool emphasized in their exchanges relating to the work of this committee.

Senator Beaudoin: Honourable senators, basically we all want the same thing. If there is a challenge, we hope it will be turned down and that it will be found that Part VII of the Official Languages Act has imperative value, not merely declaratory value.

This always reminds me of the famous section 133 decision, in which a lower court had declared the use of French to be indicative, not imperative. In a 9 to 0 decision, the Supreme Court corrected this by stating that when the Constitution speaks clearly and precisely, it is imperative. We are all fighting for the same outcome. It is contested, but this is our system. Very strong arguments may be raised claiming that this Official Languages Act has an imperative character in Part VII. We must try to lay our arguments before the court.

[English]

Hon. Ione Christensen: Honourable senators, as a unilingual Canadian, I wish to add my voice to the debate on the decision of the Ontario government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.

Coming from the furthest western corner of Canada, I find it ludicrous that we should even be having this debate. That the capital of Canada would be anything but bilingual is unthinkable. Canada and bilingualism are synonymous; they are one.

Since 1898, the Yukon has had a very active and proud francophone community. Today, they are represented by the Association francophone Yukonnaise. There is a francophone school, and attendance in the French immersion programs of our education system is very high. Canadians from across Canada have come to the Yukon to have their children learn and share in the great dual linguistic culture.

This is neither a municipal issue, a provincial issue, nor a fiscal jurisdiction issue. It is a unity issue. The reaction coming from the province that borders on Canada's largest group of French-speaking Canadians is unbelievably insensitive. The recommendation for a bilingual Ottawa should not have been a question. It was not needed. Bilingualism is a given. Ottawa, our national capital, should reflect our duality and we must accept nothing less.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, an agreement has been reached. I am greatly honoured to request adjournment of the debate in my name, but not without pointing out that I favour persuasion, not legal proceedings.

On motion of Senator Prud'homme, debate adjourned.

[English]

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

REPORT OF ABORIGINAL PEOPLES COMMITTEE
ON STUDY ADOPTED

Leave having been given to revert to Reports of Committees:

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Aboriginal Peoples (*power to hire staff*) presented in the Senate on December 15, 1999.—(*Honourable Senator Watt*).

Hon. Dan Hays (Deputy Leader of the Government) moved the adoption of the report.

Motion agreed to and report adopted.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY
STATE OF HEALTH CARE SYSTEM

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Mercier:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of the health care system in Canada. In particular, the Committee shall be authorized to examine:

- (a) The fundamental principles on which Canada's publicly funded health care system is based;
- (b) The historical development of Canada's health care system;

(c) Publicly funded health care systems in foreign jurisdictions;

(d) The pressures on and constraints of Canada's health care system; and

(e) The role of the federal government in Canada's health care system;

That the Committee submit its final report no later than December 14, 2001; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.—(*Honourable Senator Di Nino*).

Hon. Marjory LeBreton: Honourable senators, as Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, I wish to make a few comments on this motion.

It is significant that some of the last few words to be spoken in the Senate in this millennium are on this matter. It is appropriate because, as we begin the new millennium, we will be seeking authority from the Senate to examine and report upon the state of the health care system in Canada. This is urgently required and is something that the Senate is particularly suited to doing, as opposed to the House of Commons where other events often get in the way of studies of this nature.

Honourable senators, I support this initiative, as do other members of the committee. We must study this issue seriously. There are many myths about the health care system in Canada. There are many realities that we must face. We must eventually ask what the role of the federal government is and how the system will be economically viable.

I respectfully request that authorization for this study be granted.

The Hon. the Speaker pro tempore: Do any other honourable senators wish to speak?

Hon. Michael Kirby: Honourable senators, I will make only two very short comments. First, in light of the discussion held in this chamber last week about the potential cost of the study, let me clarify that the committee envisions spending no more than \$10,000 between now and March 31, 2000.

• (1740)

Second, with respect to the next fiscal year, we do not think it would be a terribly expensive study because we intend to do our international comparisons largely by way of video teleconference, which the Banking Committee discovered works extremely well. Although the terms of reference are broad, I do not anticipate this being a terribly expensive study.

Finally, honourable senators, I should like to make one comment about the way we hope to manage this study. I believe Senator Carstairs, in talking about the way the committee handled Bill C-6, made the observation that in this place the steering committee technically consists of two Liberals and one Conservative. With respect to Bill C-6, we asked Senator Murray to join us at all our meetings and to make sure that he was completely involved in everything we did. Hence, we reached a consensus on two Liberals and two Conservatives. Similarly, when the steering committee started to work on developing terms of reference for this study, we asked Senator Keon to join us. Senator Keon was able to help us get a handle on what the terms of reference were to be and gave us ideas about how this should be handled. The first thing this morning, I sent him a note telling him how important I thought it was that he continue to play a role in this study.

Some Hon. Senators: Hear, hear!

Senator Kirby: We would operate, just as we did on Bill C-6, with a four-person steering committee, consisting of Senator Carstairs and myself on this side, and Senator LeBreton and Senator Keon on the other. I hope that honourable senators will try to ensure that we get the value of Senator Keon's expertise in going through the work of this study over the next couple of years.

Honourable senators, those are my comments. In talking to senators on both sides of the house, I know that there is considerable interest in this study.

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

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE
OF FINAL REPORT ON STUDY OF CHANGING MANDATE
OF THE NORTH ATLANTIC TREATY ORGANIZATION

Hon. Peter A. Stollery, pursuant to notice of December 9, 1999, moved:

That, notwithstanding the Orders of the Senate adopted on Thursday October 14, 1999, and on Wednesday November 17, 1999, the Standing Senate Committee on Foreign Affairs which was authorized to examine and report upon the ramifications to Canada: 1. of the changed mandate of the North Atlantic Treaty Organization (NATO) and Canada's role in NATO since the demise of the Warsaw Pact, the end of the Cold War and the recent addition to membership in NATO of Hungary, Poland and the Czech Republic; and 2. of peacekeeping, with particular reference to Canada's ability to participate in it under the auspices of any international body of which Canada is a member, be

[Senator Kirby]

empowered to present its final report no later than March 10, 2000; and

That the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until March 31, 2000; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

ABORIGINAL PEOPLES COMMITTEE AUTHORIZED
TO EXTEND DATE OF FINAL REPORT ON STUDY

Hon. Landon Pearson, for Senator Watt, pursuant to notice of December 14, 1999, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 24, 1999, the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the recommendations of the *Royal Commission Report on Aboriginal Peoples* (Sessional Paper 2/35-508.) respecting Aboriginal governance and, in particular, seek the comments of Aboriginal Peoples and of other interested parties on:

1. the new structural relationships required between Aboriginal Peoples and the federal, provincial and municipal levels of government and between the various Aboriginal communities themselves;
2. the mechanisms of implementing such new structural relationships; and
3. the models of Aboriginal self-government required to respond to the needs of Aboriginal Peoples and to complement these new structural relationships;

That the Committee be empowered to submit its final report no later than February 16, 2000, and that the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until February 29, 2000, and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

[Translation]

THE SENATE

MOTION IN SUPPORT OF DECLARING OTTAWA OFFICIALLY BILINGUAL ADOPTED

Hon. Jean-Robert Gauthier, pursuant to notice of December 15, 1999, moved:

That, in the opinion of the Senate of Canada, Ottawa, Canada's capital city, should be officially bilingual.

He said: Honourable senators, the motion I am presenting today is clear and sums up in few words the debate which has been going on here over the last few days. I hope that this debate will continue to be apolitical.

The question of designating my country's capital officially bilingual is essential to the very existence of Canada which, as you all know, has two official languages, English and French. Under this country's Constitution, both these languages have equal status and privileges.

This motion calls on the Province of Ontario to declare the new City of Ottawa officially bilingual. A check in the dictionary shows that the word "official" means:

...emanating from an authority that is recognized, duly sanctioned, authorized, et cetera...

The issue is whether the official status conferred by such a declaration can be put on an equal footing or declared equal in law — and in the case before us, would the two official languages have the same rights and privileges? As far as I am concerned, the new City of Ottawa must be officially bilingual, thus conferring equal status on Canada's two official languages, and must come under provincial jurisdiction. I will explain.

Yesterday evening, in the course of the debate, I said clearly that the Province of Ontario must declare the national capital bilingual. Many of you took part in the debate and I thank you, for this strengthens our position.

In addition, Mr. Shortliffe noted in his report on municipal restructuring that it would be up to the council of the municipality of Ottawa to determine the extent and nature of services to be made available in the country's two official languages.

There is no doubt that an Ontario municipality may decide, via a bylaw, that it will provide certain services in both of this

country's official languages. A municipal bylaw may change very rapidly, depending on the mood of a particular municipal council, and this does not lend much certainty to the exercise of both official languages.

I will close by stating that our objective in the Senate has always been to represent this country's regions and, in particular, to defend its minorities. That is why I am pleased today to note the participation in this debate by a number of you, and I trust that you will also be numerous in supporting the motion.

Honourable senators, I was born in Ottawa. I have lived here all my life. I have trouble imagining that the capital of my country could be unilingual only, or to put it in more optimistically, could not be bilingual. I call upon my friends in the Senate to support this motion.

• (1750)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it is an honour for me to second this motion, which is very important. I imagine that honourable senators can understand why an opposition senator, who is also a senator representing New Brunswick, would feel duty-bound to second this motion with conviction. Ours is an officially bilingual province.

Senator Nolin: The only one.

Senator Kinsella: The only province in Canada to be officially bilingual. Senator Louis Robichaud was a pioneer in that he was the author of the first official languages legislation in our province. I must also mention the contribution of Senator Simard who continues to promote bilingualism in our province. For us New Brunswickers, it is logical for the capital of our country to be bilingual. It is a matter of principle, and it is my duty and responsibility as a senator for New Brunswick to emphasize this and to second this motion.

Hon. Marcel Prud'homme: Honourable senators, all those who are aware of my longtime friendship with Senator Gauthier know very well that I could not remain silent. I fully support the comments made by Senators Kinsella and Gauthier.

Otherwise, it would be inconceivable to think that I could feel at home here as a French-Canadian and as someone who has a passion for Quebec. Ottawa is my capital and when one speaks about one's capital, one must feel comfortable there. It is not that I do not feel comfortable in the other official language. I have been working on it every day since I first arrived in the other place, and if it were not for Senator Rossiter and a few others who correct my English, you would see that I still have a lot to learn.

I always thought of myself as Senator Gauthier's assistant. That was a joke some did not appreciate, but I was never ashamed to say that I shared his concerns. He is the one who opened the doors for me among the minorities who fight for the survival of the French fact across Canada. He put me in touch with all his contacts, in British Columbia, Alberta and even in provinces that are a little less receptive.

[English]

Honourable senators, it is very easy to be divisive in order to be popular. Today, however, I do not have the strength for that and, as I get older, I have less and less strength. For those who have known me on the other side and at times here, you know how passionately I can argue either side. I could be very popular with a group of Canadians but, at the same time, denounce those who may not agree with me. It is too easy to do so. I have done it in your province, Your Honour, in the 1960s, when I was a guest speaker for the Daughters of the Eastern Star, who had rejected me as a speaker. I was supposed to bring greetings from Mr. Pearson, who had to return to Ottawa. Instead of going back to Quebec to denounce those who rejected me, I went directly there and pretended that I did not get the message. Do you know how many friends I made among the Daughters of the Eastern Star? One person said, "We do not need the greeting"; however, 700 others were very happy to receive the greetings expressed by me in my broken English.

Honourable senators, you have two ways to go in this country. You have the people who are builders; and you have the people who prefer to be divisive. I have been hit more often than not for some political opinions that I have on other issues. I have never chosen the easy road, which is to denounce. There are those who almost assassinate you, sometimes, because of your political opinion on any given issue. Even in my old age, I continue to hope that I can persuade people.

Honourable senators, a few hours ago there were young people in my office who come from a project in my home district. They are now in Mr. Pettigrew's district. Half of them have never been interested in politics; and half of them were very sad about the process and did not share our political opinion here. However, after less than half an hour of patience and explanation, they now want to come back to see honourable senators at work because they saw the members of the House of Commons earlier today.

I wish to join with Senator Kinsella and thank our friend, le grand champion.

[Translation]

It is not easy to be a champion in Ontario or in other provinces. This is why I congratulate Senator Kinsella. He is not afraid to express his opinion. I could name all the other ones, but I will abstain because I might forget some. I mention Senator Kinsella because he made his views known, and I thank him for that. I assure him of my unflinching friendship and I will be by his side to fight the good cause, the Canadian cause, but a Canadian cause that is well understood.

[English]

It is too easy to go around the world and claim what Canada is all about but then forget about what you said when you return home. I just returned from Pakistan, among other places. They see in Canada things that Canadians hardly can see. You cannot travel freely outside many countries, like we can in Canada, and then return home and refuse to work for democracy. Canada is a

[Senator Prud'homme]

country that must be built every day. It is a country that is in the making every day. That demands patience. Sometimes, you must refrain from trying to get even, as some of us do. Giving it back to those who give it to you solves nothing. It is a bad example to set for our young pages who come from across Canada when they some people here talking against each other.

Honourable senators, each of us has a duty. We should rededicate ourselves to Canada. This can be done if only 100 senators attended 10 events a year to defend Canada and to explain what it is all about to be Canadian. That is what Senator Gauthier is trying to do, and that is what I am trying to do in my own way.

Hon. Norman K. Atkins: Honourable senators, I want to congratulate Senator Gauthier on his motion. I think it is appropriate that the last order on the Order Paper in this millennium is this issue. As an Ontario senator who is not bilingual — and I am sorry for that — I simply hope that there will be unanimity in support of this motion.

Hon. Senators: Hear, hear!

Hon. Bill Rompkey: Honourable senators, I rise to speak on this motion for two main reasons. First, I want to support Senator Gauthier. Senator Gauthier and I were both elected in 1972. I simply want to support my colleague, the last remaining colleague in Parliament from the class of 1972.

• (1800)

The Hon. the Speaker: Honourable senators, I am sorry to interrupt you but it is six o'clock.

Hon. Dan Hays (Deputy Leader of the Government): Your Honour, I propose that we not see the clock.

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

Hon. Senators: Agreed.

Senator Rompkey: It is not my intention to detain the house, honourable senators, but I will say a few words. I want to support Senator Gauthier and the personal and political courage which he shows today.

My second reason for speaking arises from comments by Senator Fraser, given on another occasion, in another place. She said that this is not a francophone issue; this is a Canadian issue. As a Newfoundlander, I come from a group of newer Canadians, in that we only joined this country in 1949. Then, as unilingual anglophones, we had to learn a lot about Canada. Many of us still do not speak French. As a matter of fact, some of us do not even speak English all that well. We speak the language of Shakespeare. I can see Senator Cochrane admonishing me from her place. Let me just say that we on the island and in Labrador speak a language which began in Shakespeare's time, in the 16th century, and it has not changed a lot since then. We make no apologies for that. It is other people who have changed the English language, not us.

The linguistic status of Ottawa is neither a francophone issue nor an anglophone issue. It is a Canadian issue. I stand in support of a bilingual capital because Ottawa is the capital of those who live in Labrador. It is the capital of those who live in the territories and of those who live in Nova Scotia. It is the capital of those who live in P.E.I. and in New Brunswick, in British Columbia and in Manitoba, in Saskatchewan and in Alberta, in Ontario and in the Province of Quebec. It is the capital of us all. As such, it should reflect the nature of this country.

The nature of this country is that both founding races must feel comfortable. We have gone through that battle any number of times in the House of Commons, making an accommodation with the various groups in this country, making people feel comfortable in Canada, giving services and allowing the Government of Canada to serve in both official languages. This provision is important. This capital city, where we all live and work, should reflect the bilingual nature of this country and the culture of which we are so proud. That is why I support this motion, honourable senators.

Hon. Joyce Fairbairn: Honourable senators, I would not wish this moment to pass without joining with colleagues on both sides of the house to support this motion by my old friend Senator Jean-Robert Gauthier. Senator Gauthier was put on earth for a moment like this. He has been a voice for fairness in this city, in this province and in this country for the many years that I have known him. In a moment like this, when we see an incomprehensible state of mind in the capital city of this province, it is very fortunate that there is such a person with the strength of character and passion of Senator Gauthier. He has once again led the forces of Canadianism and fairness and equality on this issue.

It is very true that the linguistic status of Ottawa is a Canadian issue. You cannot go to any part of Canada without knowing that some of the most inspiring pioneers, no matter how far west or north or east you go, were people who brought the French language and the French culture into every region of our country. We are very proud of those pioneers in Alberta but they are, as my friend Senator Prud'homme says, always struggling to retain their culture. The farther we go from the centre, often the harder the struggle becomes. This issue is a battleground.

I am proud to stand beside my colleague Senator Gauthier on this question. There are people in Saint-Paul, in Lac La Biche, in Morinville and in St. Albert who are watching to see what will happen in Parliament on this issue, to see whether they count as full Canadians. Of course, they do!

I say to Senator Gauthier, "Thank you." I say to all honourable senators that this is a proud moment in the Senate when we can all stand together on an issue as fundamental to our country as this one.

Hon. Senators: Hear, hear!

Hon. Sharon Carstairs: Honourable senators, in 1905, after the birth of her seventeenth child, my grandmother, Sophie Leblanc Martel, left her small fishing village in Cape Breton and

moved to Boston, Massachusetts. When she arrived there, she told her children they were no longer to speak French; that they were now living in an English country and they were to learn and speak English.

My mother was born, the eighteenth and last child, two years later. She never heard her mother speak French except when her mother said her prayers. I think my grandmother would be very happy to know that her grandchildren, at least some of us, came back to Canada, to a bilingual country. I think she would accept that the City of Ottawa, the capital city of this country, should be a bilingual city.

I was raised to think, in the first instance, that I was Irish on one side and American on the other side until, one day, my mother arrived home with a piece of very old stained glass, patterned with a fleur-de-lys. It is now in my office in the East Block. My mother cleaned that glass and put it on a stand in the living room. Then she announced to my father that his children were not just Irish; her children were French-Canadians.

Hon. Francis William Mahovlich: Honourable senators, in 1972 when Senator Rompkey and Senator Gauthier were appointed, I happened to be in Russia with a bilingual Canadian hockey team. We were very successful; and 1972 was a very good year.

I merely wanted to express my agreement with the remarks made by Senator Rompkey.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I wish to express my support for Senator Gauthier's motion. I thought it would be taken for granted that I would support that motion. Of course I support it. It might often be taken for granted — I think many people take it for granted — that the national capital must be bilingual.

When we are a minority, we often make the mistake of taking certain things for granted. The fact that we have to table a motion to ask that the national capital region be bilingual shows that we must always be vigilant. We must encourage people to respect both official languages of the country. I unconditionally and sincerely support this motion.

• (1810)

Hon. Marie-P. Poulin: Honourable senators, today we see the position the Senate occupies in our country. As several of our colleagues have so eloquently said, it is entirely fitting that we end 1999 with pride and a unanimous motion in principle. The Senate of Canada represents all minorities and professions, the full cultural diversity and resources of our country.

Last Tuesday, I expressed my surprise that there was an unwillingness to recognize the bilingual status of Canada's capital. A few days later, in the service of the country, as legislators representing Canadians, we rallied and spoke out with one voice, one heart and one sense of pride. All the teams that support us deserve our congratulations.

Hon. Louis J. Robichaud: Honourable senators, I went from being disappointed and almost insulted, when the Government of Ontario decided that the national capital might not be bilingual, to being delighted at what my colleagues in the Senate were saying about feeling offended because of the refusal to declare Ottawa, our nation's capital, officially bilingual.

Earlier, Senator Frank Mahovlich said that, in 1972, an important event took place in Canada and in Moscow; I was there, too. That was when the Canadians showed their mastery in something dear to them — the sport of hockey. We also hold something else dear, and that is bilingualism. We would so like to see an end to these battles. We would so like not to have to fight to have bilingualism officially recognized.

I did not intend to say anything at all. I was absolutely certain that the motion by Senator Jean-Robert Gauthier would be unanimously adopted. As was pointed out, I am one of the last in this millennium to speak. I am very clearly in favour of bilingualism.

Hon. Aurélien Gill: Honourable senators, I, too, would like to support Senator Gauthier's motion. I would also like to congratulate the two majority groups in the country that would like the nation's capital to keep the name of Ottawa.

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

Hon. Senators: Agreed.

[English]

Senator Kinsella: I would ask for agreement that the record show that this motion passed unanimously.

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

Hon. Senators: Agreed.

Motion agreed to.

CHRISTMAS WISHES

Hon. Mabel M. DeWare: Honourable senators, on behalf of the official opposition, I wish to thank His Honour, the Table

Officers and the pages for their support in this wonderful institution in which we work. I wish you and all honourable senators a joyous holiday season and extend our best wishes as we step into the new millennium.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I join my colleague opposite in wishing everyone a happy holiday season and all of the best in the next millennium, the 21st century. I thank everyone here for their cooperation and assistance and the good service they have done to their country in this institution.

ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 8, 2000, at 2 p.m.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, before I put the motion, I, too, wish to thank all Senate staff for the fine support.

[Translation]

I wish everyone a very Merry Christmas and a very Happy New Year. This is an historic day, the last sitting of 1999, the last sitting of this millennium.

[English]

I wish you all the very best for the coming year. I regret that the Chief Justice had to leave, as we sat a little longer than anticipated, but I hope to see all of you in my chambers.

Motion agreed to.

The Senate adjourned until Tuesday, February 8, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)
Thursday, December 16, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	none	99/12/16		
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Foreign Affairs Legal and Constitutional Affairs	99/12/16	two			

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	none	99/12/14	99/12/16	35/99
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		Subject matter 99/11/24	99/12/06				
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Social Affairs, Science and Technology Legal and Constitutional Affairs	99/12/07	2	99/12/09		
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14							
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15				99/12/16	99/12/16	36/99

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04							
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	—	—	—	99/12/08		

CONTENTS

Thursday, December 16, 1999

	PAGE		PAGE
SENATORS' STATEMENTS			
Richard G. Greene			
Tributes on Retirement. Senator Fairbairn	514		
Senator Carstairs	514		
Senator Prud'homme	515		
Canada-Europe Parliamentary Association			
The Organization for Security and Co-operation in Europe Parliamentary Assembly from October 13 to 15, 1999. Senator Grafstein	515		
Contributions of Prominent Canadian Women			
Senator Pépin	516		
The Senate			
Condition of Senator Willie Adams. Senator Finnerty	516		
<hr/>			
Visitors in the Gallery			
The Hon. the Speaker	516		
<hr/>			
ROUTINE PROCEEDINGS			
Security and Intelligence			
Government Response to Report of Special Committee Tabled. Senator Hays	516		
State of Domestic and International Financial System			
Report of Banking, Trade and Commerce Committee on Study Presented. Senator Kolber	517		
Internal Economy, Budget and Administration			
Third Report of Committee Tabled. Senator Rompkey	517		
Senator Nolin	518		
National Defence Act			
DNA Identification Act			
Criminal Code (Bill S-10)			
Report of Committee. Senator Milne	518		
Statistics Act			
National Archives of Canada Act (Bill S-15)			
Bill to Amend—First Reading. Senator Milne	518		
Inter-Parliamentary Union			
Report of Canadian Group on 102nd Inter-Parliamentary Conference Held in Berlin, Germany Tabled. Senator Finestone	518		
Report of Canadian Group on 54th Session of United Nations General Assembly Held in New York Tabled. Senator Finestone	519		
Canada-Europe Parliamentary Association			
Report of Canadian Delegation to the Organization for Security and Co-operation in Europe Parliamentary Assembly from October 13 to 15, 1999. Senator Grafstein	519		
		Canada-France Inter-Parliamentary Association	
		Report of Canadian Group on 29th Annual Meeting from September 8 to 15, 1999 Tabled. Senator Beaudoin	519
		Inter-Parliamentary Union	
		Report of Canadian Group on 102nd Inter-Parliamentary Conference Held in Berlin, Germany—Notice of Inquiry. Senator Finestone	519
<hr/>			
QUESTION PERIOD			
Agriculture and Agri-Food			
Plight of Western Grain Farmers— Response to Report of House of Commons Committee. Senator Gustafson	519		
Senator Boudreau	519		
Plight of Western Grain Farmers. Senator Tkachuk	520		
Senator Boudreau	520		
Plight of Western Grain Farmers— Request for Response by Prime Minister. Senator Andreychuk	520		
Senator Boudreau	520		
Intergovernmental Affairs			
Ontario—Regional Restructuring Legislation— Legal Process Required to Declare Ottawa Officially Bilingual. Senator Gauthier	521		
Senator Boudreau	521		
Senator Joyal	521		
Senator Comeau	522		
Senator Grafstein	522		
Senator Prud'homme	522		
Senator Beaudoin	523		
Senator Finestone	523		
Transport			
Halifax International Airport Authority Agreement— Obligation by Federal Government to Control Acidity of Slate. Senator Forrestall	523		
Senator Boudreau	523		
Aboriginal Peoples			
Request for Response to Committee Report on Aboriginal Veterans. Senator Andreychuk	524		
Senator Boudreau	524		
<hr/>			
ORDERS OF THE DAY			
Appropriation Bill No. 3, 1999-2000 (Bill C-21)			
Third Reading. Senator Cools	524		
Senator Kinsella	524		
Income Tax Conventions Implementation Bill, 1999 (Bill S-3)			
Third Reading. Senator Lynch-Staunton	525		
Senator Grafstein	526		
Senator Hervieux-Payette	526		

	PAGE		PAGE
Nisga'a Final Agreement Bill (Bill C-9)		Senator Christensen	540
Second Reading—Debate Adjourned. Senator Austin	527	Senator Prud'homme	541
Senator Beaudoin	533		
Senator Comeau	533	Recommendations of Royal Commission on Aboriginal Peoples Respecting Aboriginal Governance	
Senator Kinsella	534	Report of Aboriginal Peoples Committee on Study Adopted. Senator Hays	541
Royal Assent			
Notice	534	Social Affairs, Science and Technology	
Parliament of Canada Act (Bill S-5)		Committee Authorized to Study State of Health Care System. Senator LeBreton	541
Bill to Amend—Second Reading—Debate Continued. Senator Corbin	534	Senator Kirby	541
Immigration Act (Bill S-8)		Foreign Affairs	
Bill to Amend—Second Reading—Order Stands. Senator Hays	536	Committee Authorized to Extend Date of Final Report on Study of Changing Mandate of the North Atlantic Treaty Organization. Senator Stollery	542
Official Languages		Recommendations of Royal Commission on Aboriginal Peoples Respecting Aboriginal Governance	
Second Report of Joint Committee Adopted. Senator Losier-Cool	536	Aboriginal Peoples Committee Authorized to Extend Date of Final Report on Study. Senator Pearson	542
Senator DeWare	536		
Scrutiny of Regulations		The Senate	
First Report of Joint Committee Adopted. Senator Hervieux-Payette	536	Motion in Support of Declaring Ottawa Officially Bilingual Adopted. Senator Gauthier	543
European Monetary Union		Senator Kinsella	543
Report of Foreign Affairs Committee on Study— Order Stands. Senator Stollery	536	Senator Nolin	543
Air Canada		Senator Prud'homme	543
Order in Council Issued Pursuant to Canada Transportation Act to Allow Discussions on Private Sector Proposal to Purchase Airline—Report of Transport and Communications Committee on Study Adopted. Senator Bacon	537	Senator Atkins	544
Ontario		Senator Rompkey	544
Regional Restructuring Legislation— Refusal to Declare Ottawa Officially Bilingual—Inquiry—Debated Suspended. Senator Fraser	537	Senator Hays	544
Royal Assent	538	Senator Fairbairn	545
Ontario		Senator Carstairs	545
Regional Restructuring Legislation— Refusal to Declare Ottawa Officially Bilingual— Inquiry—Debate Continued. Senator Beaudoin	539	Senator Mahovlich	545
Senator Joyal	540	Senator Robichaud	545
		Senator Poulin	545
		Senator Gill	546
		Christmas Wishes	
		Senator DeWare	546
		Senator Hays	546
		Adjournment	
		Senator Hays	546
		Progress of Legislation	i



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9