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OFFICIAL REPORT
(HANSARD)

Thursday, June 22, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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THE SENATE

Thursday, June 22, 2000

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

Prayers.

MS MICHELLE DUST

TRIBUTE ON DEPARTURE

The Hon. the Speaker: Honourable senators, before I call for Senators' Statements, I should like to call forward our chief page, Michelle Dust.

[*Translation*]

Michelle is leaving after three years as a page.

[*English*]

Michelle plans to travel across Europe this summer before returning to Calgary in September to start her career as an accountant with the accounting firm Ernst & Young.

Hon. Senators: Hear, hear!

[*Translation*]

I also have the pleasure, honourable senators, of presenting her with her certificate.

[*English*]

Michelle Dust, Page, 1998-2000, in recognition of her exceptional contribution to the Senate Page Program.

Hon. Senators: Hear, hear!

[*Translation*]

SENATORS' STATEMENTS

NATIONAL MISSING CHILDREN DAY

Hon. Lucie Pépin: Honourable senators, this past May 25 was National Missing Children Day. Were you aware, honourable senators, that more than 160 children go missing every day in Canada? This is one of the unfortunate figures given in a recently released report by the Missing Children's Registry of the RCMP. It also reports that more than 60,300 children were reported missing in 1999, which means, in other words, that close to seven children in Canada are reported missing every hour.

Nearly two-thirds of these 60,000 are runaways. According to the RCMP data, these children, who are mainly girls and mainly around the ages of 14 and 15, come from no particular social class. Most often, these are children from dysfunctional families where a parent or close relative has an alcohol or drug addiction problem or an abusive attitude toward the child, situations associated with physical, psychological or emotional abuse. Running away is one of the ways children respond to this situation; this is preceded by such things as decreased self-esteem, a tendency toward depression, if not suicide, academic or behavioural problems at school and abuse of alcohol, drugs or other illegal substances.

In addition to the runaways, other children wander off, are abducted by a parent or stranger, or are the victims of accidents. Despite all of the efforts expended by the RCMP and the various police forces in Canada, there are still close to 10,000 children whose disappearances remain unexplained. I do not dare to imagine their fate. I do know, as do you all, honourable senators, that sex trafficking involving girls and women still exists in Canada, and that it supplies prostitution rings both in Canada and elsewhere.

Honourable senators, you will agree with me that this situation is intolerable. It is all the more so because Canada is perceived, on the international level, as one of the best countries in which to live.

The fact that so many children are reported missing each year in Canada is cause for concern. How do we explain that such a high number of children — about 47,500 in 1999 — run away from the family home? These children are trying first and foremost to get out of a situation which they perceive as making them unhappy. They run away because they think they will find something better elsewhere. These children are looking for happiness, but it is not sure that they will find it when they run away.

We live in a world where communication between parents and their children is not always easy. Let me give you an example. An article recently published in a Montreal daily reported the results of a study by Judith Maxwell from the Canadian Policy Research Networks. The researcher said that, on average, parents now have to work the equivalent of over one and one half weeks to pay for their families' annual living costs, which include food, clothing, housing, education and recreational activities. According to Ms Maxwell, the work overload and the daily trips between daycare, school and other family activities create a level of stress which could eventually affect children and generate behavioural problems. However, the researcher stressed that this overload does not automatically result in problems with children, but that it was conducive to the emergence of such problems. She concluded by emphasizing the need to create an environment where family and professional responsibilities are in harmony.

In conclusion, honourable senators, we must better understand the phenomenon of missing children — and more particularly of runaways. We still know relatively little about this phenomenon, and it would be very much in our interest to do something about this gap in our knowledge by supporting associated research, for instance. We must listen to these children who run away from home, find out what drives them to do this, and understand how they interpret what they have done. We must also be sensitive to the pain of parents, understand their own perceptions and interpretations of their offspring's actions. In short, we must react to this unhappy situation affecting Canadian youth.

[*English*]

• (1410)

CANADIAN HUMAN RIGHTS ACT REVIEW PANEL REPORT

RECOMMENDATIONS ON SOCIAL CONDITION AS PROHIBITED GROUND OF DISCRIMINATION

Hon. Erminie J. Cohen: Honourable senators, some of you may recall that in December 1997, I introduced Bill S-11, to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination. It was a logical move following the publication of my report, "Sounding the Alarm: Poverty in Canada," when I asked for a recommendation to disallow the discriminatory practice based on economic status. There was a real need in Canada to protect the poorest Canadians against discrimination such as poor-bashing and stereotyping.

The Senate has a long and commendable history in the area of poverty and human rights and you, honourable senators, followed that tradition when you passed Bill S-11 unanimously in June 1998. The bill, however, was defeated in the other place.

At that time, the Minister of Justice said there would be a comprehensive review of the entire Human Rights Act and that the issue of social condition would be addressed. A panel was then established by the minister to examine and analyze the Canadian Human Rights Act. That panel was chaired by the Honourable Gerard La Forest, former justice of the Supreme Court of Canada from New Brunswick. The following is a quote from the report:

> The panel was asked by the Minister to consider the addition of a ground of "social condition" specifically. So we need to determine what this might mean, and, if we decide to recommend adding it to the Act, whether there should be a statutory definition.

The panel tabled their report yesterday, honourable senators. Eight pages of the report are devoted solely to social condition. In reading the report, you will find in its contents answers to some of the concerns you may have had in our earlier discussions. In the meantime, here are their recommendations:

> 124. We recommend that social condition be added to the prohibited grounds for discrimination listed in the Act;
>
> 125. that the ground be defined after the definition developed in Québec by the *Commission des droits de la personne* and the courts, but limit the protection to disadvantaged groups;
>
> 126. that the Minister recommend to her Cabinet colleagues that the government review all programs to reduce the kind of discrimination we have described here and create programs to deal with the inequalities created by poverty;
>
> 127. that the Act provide for exemptions where it is essential to shield certain complex governmental programs from review under the Act:
>
> 128. that the Act provide that both public and private organizations be able to carry out affirmative action or equity programs to improve the conditions of people disadvantaged by their social condition, and the other grounds in the Act; and,
>
> 129. that the Commission study the issues identified by social condition, including interactions between this ground and other prohibited grounds of discrimination and the appropriateness of issuing guidelines to specify the constituent elements of this ground.

Thank you, honourable senators, for your wisdom. You can pat yourselves on the back.

[*Translation*]

THE HONOURABLE JEAN LESAGE
THE RIGHT HONOURABLE BRIAN MULRONEY

Hon. Jean-Claude Rivest: Honourable senators, I wish to draw the attention of the house to two extremely important political events which marked the political life of Quebec and of Canada.

The first event is a particularly fortunate one. Forty years ago, on June 22, 1960, Jean Lesage took over leadership of public affairs in Quebec. Mr. Lesage had spent part of his career in Ottawa and he therefore had a good knowledge of the quality and nature of Canadian public administration. During Quebec's Quiet Revolution, he was thus able to contribute to a public administration reform which helped Quebec come into its own. These years saw the birth of modern Quebec and set the stage for all Quebecers and Canadians to achieve excellence as a society in countless fields.

Tribute must be paid to the eminent contribution of Jean Lesage, this very great Quebecer and very great Canadian. Mention must be made of all those who were part of that contribution, first and foremost of those being my friend Senator Lise Bacon, who supported Mr. Lesage to the very end; Senator Raymond Setlakwe, Senator Roch Bolduc, who was a senior bureaucrat under Mr. Lesage; and Senator Arthur Tremblay.

It is appropriate that this event be commemorated, given its great significance in making Quebec the turbulent society that it is now within Canada, on occasion a troublesome thorn in the side for many Canadians. All Canadians acknowledge, however, that what Quebec has become today, thanks to Jean Lesage, constitutes an essential attribute of the definition and authenticity of the cultural and political personality of Canada.

The contribution of Mr. Lesage was not to Quebec alone but also to Canada.

The second event, honourable senators, is a less fortunate one, but one that does enable me to express all of the gratitude of myself and of the Quebec people to another great Quebecer and great Canadian who had a fair, generous and creative vision of the future of Quebec and of Canada, the Right Honourable Brian Mulroney. Along with the Premier of Quebec of the day, Robert Bourassa, he initiated the process of the Meech Lake Accord, Unfortunately, tomorrow, June 23, 2000, will mark the tenth aniversary of the failure of that process.

This was a unique, historic and absolutely necessary initiative in the reconciliation of Quebec society with Canadian society. Still today, honourable senators, we are measuring the disastrous consequences of that failure on Canadian political life.

As a member of the Liberal Party of Quebec, I attribute the major difficulties the Liberal Party of Quebec has experienced since that time to the failure of the Meech Lake Accord. Anyone consulting recent polls will see that, should there be a federal election tomorrow morning, 40 per cent of Quebecers and therefore 60 per cent of francophone Quebecers would support the separatist parties.

Those who sabotaged the Meech Lake Accord must reflect on that. If that accord had been passed, we would not be having to deal with the Bloc Québécois, we would not have had to go through the rigours of the 1995 referendum, and the excellent Professor Dion would still be teaching at the Université de Montréal. Also, far from the least significant of consequences, we would not have Bill C-20. The Senate caucus would not be divided on such a matter. In short, it would be virtually heaven on earth.

Of course, that was not what Mr. Mulroney, Prime Minister of Canada at the time, had in mind. Prime Minister Mulroney's vision of the relationship between Quebec and Canada was, and remains, the most accurate vision ever to have been held by a Canadian political leader since Lester B. Pearson. That this vision is fully shared by Paul Martin and many other members of the Liberal Party of Canada only reinforces my conviction.

Unfortunately, this vision could not find expression, but a day will come when such expression will become imperative if we are to see the end of these continual, destructive tensions from both Quebec and Canadian society.

It is not, honourable senators, through band-aid solutions such as those before us that we will resolve this fundamental problem. What we need, and need as quickly as possible, are people of vision, people like the Right Honourable Brian Mulroney, Robert Bourassa, and all the other premiers of the day.

[*English*]

• (1420)

UNITED NATIONS

PUBLICATION OF THE MILLENNIUM SUMMIT MULTILATERAL TREATMENT FRAMEWORK— INFLUENCE ON INTERNATIONAL LAW

Hon. A. Raynell Andreychuk: Honourable senators, I wish to bring to your attention two initiatives being undertaken by the United Nations that are worthy of our support.

On May 15, 2000, the Secretary-General of the United Nations sent a letter to all heads of state or government inviting them to take the opportunity presented by the Millennium Summit, to be held in New York September 6 to 8, 2000, to sign and ratify or accede to the multilateral conventions deposited with him.

For the information of senators, there were 514 multilateral treaties deposited with the Secretary-General as of May 15, 2000, which cover the whole spectrum of human interaction. I am pleased to say that the United Nations has published a document entitled "The Millennium Summit Multilateral Treaty Framework." This publication puts in place for the first time a concise guide to these international instruments.

Within the document, for the first time, are listed all of the multilateral treaties in a compendium that is brief and inclusive. It is an easy guide. Perhaps this guide would be useful for the recently constituted all-party Parliamentary Human Rights Group, which has indicated a desire to study treaty ratification and implementation as it affects Canada.

I wish to commend His Excellency Mr. Hans Corell, Legal Counsel and Under-Secretary-General of the United Nations, for the second initiative. Mr. Corell has quoted from a book by Brian Urquhart and Erskin Childers entitled *A World in Need of Leadership: Tomorrow's United Nations*. They state:

> International law, only yesterday a seemingly quiet backwater in human affairs, is reaching into hitherto unimagined fields. The Nations of the world have acceded to an unprecedented number of agreements in virtually all branches of human activity, from the ocean floor to the planet's climate to outer space, in only the last 40 years. There has been a truly astonishing growth of public international law which will accelerate into the coming century. The pressing need for an international system based on law has never been so evident.

With this in mind, Mr. Corell has written to all deans of law schools worldwide, appealing to them to incorporate international law into the curriculum of law schools. In some schools, international law is taught. In others, it is sometimes given marginal attention. In all cases, there is a need to integrate fully international law into the curricula of law schools.

Honourable senators, a committee of the United Nations has been set up to further this end. I am pleased to note that Professor Sharon A. Williams, Professor of International Law at Osgoode Hall Law School, York University, has agreed to assist in this project.

With our increasing attention to post-secondary education in Canada in this chamber, and with the increasing globalization and the growth of international law, it would be of benefit to support this initiative. I urge senators to encourage law schools in their regions to give more support and credibility to international law in their curricula.

The Hon. the Speaker: I regret to inform the Senate that, although I have two senators remaining on my list of speakers, the 15 minutes for Senators' Statements has expired.

[*Translation*]

ROUTINE PROCEEDINGS

AUDITOR GENERAL

ANNUAL REPORT ON PRIVACY ACT, 1999-2000 TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the report from the Office of the Auditor General entitled "Annual Report 1999-2000, Privacy Act," pursuant to section 72 of the Privacy Act.

[*English*]

LAW ENFORCEMENT AND CRIMINAL LIABILITY

WHITE PAPER TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table a white paper of the Government of Canada on Law Enforcement and Criminal Liability, dated June of this year, to which is appended a draft proposal for an amendment to the Criminal Code involving protection from criminal liability of public officers.

[*Translation*]

OFFICIAL LANGUAGES

THIRD REPORT OF JOINT COMMITTEE TABLED

Hon. Rose-Marie Losier-Cool: Honourable senators, I have the honour to table the third report of the Standing Joint Committee on Official Languages concerning a study undertaken on the implementation of Part VII of the Official Languages Act.

[*English*]

EMERGENCY AND DISASTER PREPAREDNESS

REPORT OF NATIONAL FINANCE COMMITTEE ON STUDY TABLED

Hon. Lowell Murray: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on National Finance concerning the study conducted on Canada's Emergency and Disaster Preparedness.

PRIVILEGES, STANDING RULES AND ORDERS

SIXTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Privileges, Standing Rules and Orders has the honour to present its

SIXTH REPORT

1. On Wednesday, May 3, 2000, Senator David Tkachuk gave notice of a question of privilege with respect to a story that had appeared that day in the *National Post*, entitled "Senate report urges capital gains tax cut." The question of privilege was dealt with on Thursday, May 4, 2000, at which time the Speaker *pro tempore* ruled that a *prima facie* breach of privilege existed. Accordingly, Senator Tkachuk moved the following motion, which was agreed to by the Senate:

> That the question of privilege concerning the unauthorized release of the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce be referred to the Standing Committee on Privileges, Standing Rules and Orders.

2. Your Committee held a meeting on this order of reference on Wednesday, May 10, 2000, at which Senator Tkachuk and Senator Leo Kolber, the Chair of the Banking Committee, were in attendance. Your Committee also considered this matter at *in camera* meetings on Wednesday, May 17, 2000 and May 31, 2000.

3. The news story in the *National Post* referred to the report of the Standing Senate Committee on Banking, Trade and Commerce on the taxation of capital gains. It quoted extensively from the final version of the report, which had been approved by the Committee, but not yet presented in the Senate. The article specifically referred to the fact that the Committee's report had not been released. As a result of the premature publicity, Senator Kolber, as the Chair of the Committee, tabled the Fifth Report in the Senate on May 3, 2000, several days earlier than had been planned.

4. There is no doubt that the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce was leaked to the media. The report had been adopted by the Committee at *in camera* meetings, and had not yet been tabled in the Senate. The publication of the news story in the *National Post* on May 3, 2000 was unauthorized and premature. It appears that the reporter had access to a copy of the final version that was to be tabled. This clearly constitutes a breach of the privileges of the Senate, and a contempt of Parliament.

5. The issue of leaked committee reports has preoccupied your Committee for the last several months. Previously, Senate committees had not experienced major problems with the unauthorized release of their reports or other confidential documents. The recent spate of leaks is a disturbing development, and one that is to be deplored.

6. The work of the Senate and of Senators depends upon trust and collegiality. Whenever a leak occurs, it compromises the integrity of the chamber and its work. As Senator Tkachuk told your Committee, the premature release of the Fifth Report hurt the Senate, and was dishonourable to all Senators; it undermined a media plan that had been developed for the report and made the work of the Banking Committee and of the Senate more difficult.

7. Your Committee's Fourth Report, which was tabled in the Senate on April 13, 2000, set out a procedure for dealing with leaked committee reports. Essentially, it proposed that the Committee concerned first investigate the leak, in an attempt to determine the source, and assess the seriousness of the leak. Although this report had not yet been agreed to by the Senate, your Committee decided to use this case to illustrate how such an investigation might be conducted.

8. Senator Kolber advised your Committee that he had convened an informal meeting of the members of the Standing Senate Committee on Banking, Trade and Commerce Committee, but that none of the members present accepted responsibility for the leak. Your Committee, in turn, invited all of the members to its meeting on May 10, 2000, and several of them were able to attend. Subsequently, your Committee sent a letter with a short questionnaire to all members of the Banking Committee asking if they had leaked the report or had any knowledge of the source of the leak. All members responded in the negative to this letter. The Committee also made inquiries of the clerk of the Committee, as well as the assistants to various members of the Committee who had been identified as having had access to or requested copies of the final report. Attempts were made to trace all the copies of the final version of the report.

9. Your Committee has been unable to identify the source of the premature and unauthorized release of the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce. We have not been able to find or establish any clear evidence indicating who leaked the report or how the reporter for the *National Post* received the information or a copy of the report on which he based his story of May 3, 2000.

10. This case further reiterates the need for all Senate committees to review and be vigilant about the procedures for dealing with confidential documents. As your Committee pointed out in our Fourth Report, various procedures could and should be adopted by committees during the drafting and consideration of reports prior to their being tabled in the Senate. The Senate must take steps to ensure that systems and security precautions are in place to prevent leaks, and to ensure the confidentiality of committee documents, including draft reports before they are tabled in the Senate. Similarly, in order to minimize the risk of premature and unauthorized leaks, it is necessary that all persons involved in the process be aware of the requirements of confidentiality and the sanctions for breaching it.

11. It would be extremely unfortunate if the leaking of committee documents became as widespread in the Senate as it has in other legislatures. Most Senators are determined that this should not be allowed to occur. Your Committee believes that it is the collective responsibility of all Senators and the Senate administration to ensure that the confidentiality of draft committee reports and other documents is respected and maintained.

12. Consideration was given to the development of a process whereby a Committee could be authorized to release a report prior to its tabling in the Senate on an embargoed basis to members of the Parliamentary Press Gallery without breaching the privileges of the Senate. The Committee, however, makes no recommendations at this time.

Respectfully submitted,

JACK AUSTIN
Chair

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

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

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Privileges, Standing Rules and Orders has the honour to present its

SEVENTH REPORT

1. Your Committee has concerns regarding the length of time of Senators' Statements. Rule 22(6) limits Statements to "no more than three minutes". A practice has developed, unfortunately, whereby leave is regularly sought to extend this time. As Rule 22(4) states, the purpose of Statements is to raise matters that need to be brought to the urgent attention of the Senate. This is an important and useful opportunity for Senators, but the Statement should be short – it is not intended to be a speech.

2. Your Committee recommends that the three-minute rule for Senators' Statements be rigorously enforced, and that no leave to extend the remarks be permitted to be sought or granted; and therefore, that Rule 22(6) be deleted and replaced as follows:

"(6) Senators making interventions during this time shall be limited to speaking once for no more than three minutes".

3. Your Committee also recommends that Rule 22(7) be deleted and Rules 22(8) to (10) be re-numbered accordingly.

Respectfully submitted,

JACK AUSTIN
Chair

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

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

EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

EIGHTH REPORT

Pursuant to Rule 86(1)(*f*)(*i*) of the *Rules of the Senate*, your Committee has examined the issue of establishing new committees, and now makes the following recommendations.

Your Committee recommends that the Rules of the Senate be amended by adding after Rule 86(1)(*q*), the following new Rules 86(1)(*r*) and (*s*):

"(*r*) The Senate Committee on Defence and Security, composed of seven members, three of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to defence and security generally, including veterans affairs.

(*s*) The Senate Committee on Human Rights, composed of seven members, three of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to human rights generally."

Respectfully submitted,

JACK AUSTIN
Chair

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

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

INCOME TAX ACT
EXCISE TAX ACT
BUDGET IMPLEMENTATION ACT, 1999

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, June 22, 2000

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

SEVENTH REPORT

Your Committee, to which was referred the Bill C-25, An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999, has examined the said Bill in obedience to its Order of Reference dated Wednesday, June 14, 2000, and now reports the same without amendment.

Respectfully submitted,

E. LEO KOLBER
Chairman

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

On motion of Senator Poulin, with leave of the Senate and notwithstanding rule 58(1)(*b*), bill placed on the Orders of the Day for consideration later this day.

• (1430)

CANADA LABOUR CODE

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, June 22, 2000

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

EIGHTH REPORT

Your Committee, to which was referred Bill C-12, An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts, in obedience to the Order of Reference of Thursday, June 15, 2000, has examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

On motion of Senator Kirby, with leave of the Senate and notwithstanding rule 58(1)(*b*), bill placed on the Orders of the Day for third reading later this day.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

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

Thursday, June 22, 2000

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

NINTH REPORT

Your Committee, to which was referred Bill S-5, An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate), in obedience to the Order of Reference of Tuesday, February 22, 2000, has examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

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

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

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

REPORT OF COMMITTEE

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

Thursday, June 22, 2000

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

SEVENTH REPORT

Your Committee, to which was referred Bill C-473, An Act to change the names of certain electoral districts, has, in obedience to the Order of Reference of Tuesday, June 13, 2000, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

LORNA MILNE
Chair

[Senator Kirby]

(*For text of observations, see today's* Journals of the Senate, *p. 781.*)

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

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 58(1)(*b*), bill placed on the Orders of the Day for third reading later this day.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF RIMOUSKI—MITIS

REPORT OF COMMITTEE

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

Thursday, June 22, 2000

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

EIGHTH REPORT

Your Committee, to which was referred Bill C-445, An Act to change the name of the electoral district of Rimouski—Mitis, has, in obedience to the Order of Reference of Tuesday, June 13, 2000, examined the said Bill and now reports the same without amendment.

Your Committee notes that the observations to its Seventh Report, presented to the Senate earlier this day, also apply to this Bill.

Respectfully submitted,

LORNA MILNE
Chair

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

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 58(1)(*b*), bill placed on the Orders of the Day for third reading later this day.

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

REPORT OF COMMITTEE

Hon. Mira Spivak, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill C-11, An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Corporation Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, June 15, 2000, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

MIRA SPIVAK
Chair

(*For text of observations, see today's* Journals of the Senate, *p. 784.*)

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

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

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request leave to revert to Government Notices of Motions later this day for the purposes of dealing with the adjournment motion, as well as for leave to make a comment on the substance of that motion and report on progress in my negotiations with the Deputy Leader of the Opposition on Senate business.

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

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, it is difficult to say no, but the deputy leader already knows what time he will most likely debate this matter. Anyone who wants to ask him questions will have to sit here without moving until, perhaps, midnight. Could we have an approximate time when the deputy leader intends to make this request?

Senator Oliver: Tell us now.

Senator Hays: I gather I have leave. You are not withholding leave?

Senator Prud'homme: No.

The Hon. the Speaker: This is a question before leave is granted, I gather.

Senator Hays: I am not sure I follow. Could I ask Senator Prud'homme if I could have leave to indicate when I will adjourn to report on the progress of negotiations regarding Senate business and to deal with any questions that may arise?

Senator Prud'homme: All right.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Hays: I propose, honourable senators, once we have dealt with the items on the Notice Paper, when we adjourn to the time provided for in the rules, to move a motion for which I will require leave. This leave is simply to revert to notices of motion. Honourable senators, I propose to move a motion at that time, which is at the end of the Notice Paper. In other words, just before we adjourn, I will move a motion to adjourn until 2 p.m. on Tuesday next.

• (1440)

By then, I also hope to have an agreement as to a voting time on Bill C-20. Honourable senators will recall from the exchange between the Deputy Leader of the Opposition and myself yesterday that we were looking to agree on a voting time of 4 p.m. Thursday next.

As to the motion to adjourn until Tuesday, I am not sure what will happen, for example, if we have a standing vote called for today. That is one of the reasons this motion comes at the end of the *Order Paper and Notice Paper*. I am confident that we can reach agreement on the voting time. That is why I am leaving the adjournment motion to the end of our business day.

As I say, I have not quite yet finalized the voting time for Bill C-20. However, I suspect it will be at 4 p.m. next Thursday. I propose to do it at the same time, which is what it will be if matters move along accordinng to the way things look now. Senator Kinsella may wish to comment.

My announcement could come late in the day because, as honourable senators know, we have a great many items on our Order Paper today. For instance, I do not propose to call Bill C-20 first. I will call it after some of the government bills awaiting third reading, which have been sitting on the Order Paper, have been considered.

Also, as honourable senators will note, we have been requesting and receiving leave for consideration later this day of some committee reports. This is all part of our arrangement that we not sit tomorrow.

The Hon. the Speaker: Honourable senators, the request for leave by the Honourable Senator Hays is to revert later this day to Government Notices of Motions for the purpose of the adjournment motion and to report on the discussions regarding the disposition of votes on Bill C-20. Is leave granted, honourable senators?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to confirm that Senator Hays has reflected accurately where we are at.

While I am on my feet, I wish to ask that the Table circulate forthwith those committee reports that have been presented and which we are to consider later this day.

The Hon. the Speaker: Is leave granted, honourable senators, to revert to Government Notices of Motions later this day?

Hon. Senators: Agreed.

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND—FIRST READING

Hon. Sharon Carstairs presented Bill S-28, to amend the Act of incorporation of the Conference of Mennonites in Canada.

Bill read first time.

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

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Tuesday next, June 27, 2000.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—
POSSIBLE PURCHASE FROM COMPANY IN FRANCE

Hon. J. Michael Forrestall: Honourable senators, recently I received from the Leader of the Government in the Senate two delayed answers, one dated May 18 and the other June 1. They are virtually identical responses to questions I have been posing with respect to fair and equitable competition for a seaboard replacement helicopter. I have stated that a fair and equitable competition should be held on the basis of the statement of requirement, if not from the original tender call which was cancelled by this government, then at the very least a statement of requirement similar to the one used for the search and rescue replacement which is now in the process of being built.

The Prime Minister of Canada is in France and rumours persist, rightly or wrongly —

Senator Prud'homme: He is doing well!

Senator Forrestall: Wait until honourable senators hear what he is doing and what he has done today!

Honourable senators, I want to be assured that there is no misunderstanding whatsoever that there will not be a directed contract to Eurocopter for the replacement of the Sea King.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the answers that are now in the possession of the honourable senator reflect the views of the minister, the department and, indeed, the government. I have no information beyond that or any specific information, for example, to address rumours that there is any attempt by the Prime Minister, or anyone else, to make any helicopter arrangements on his trip to France.

REPLACEMENT OF SEA KING HELICOPTERS—PROCUREMENT
PROCESS—REQUEST FOR STATEMENT OF REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, would the Leader of the Government table in this house a copy of the statement of requirement for the shipboard helicopter, bearing in mind that I have at hand the statements of requirement for the Cormorant and the EH-101? If the statement of requirement does not go below that standard and there is no other technical, secret reason why it should not be tabled, could it be tabled or could a copy be made available to those of us who are interested? I wish we had a standing committee on national defence. At this point in time, this is a very proper question for senators to be looking at. However, we do not have such a committee. I should like to have a copy so that I might compare it with the SORs for the Cormorant and the EH-101. I am certain it is not a restricted document. I do not see why it would be, unless there has been a lowering of the standard of the operational requirement so as to permit Eurocopter to bid.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I think I understand the honourable senator's request, what he is looking for and why he is looking for it. I shall pass that request along to the minister and respond in due course.

FOREIGN AFFAIRS

CAMEROON—CURRENT POLITICAL SITUATION—
GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, I have noted that Minister Axworthy will be going to Peru on good governance issues. While that may be worthy, the damage in Peru has already been done. In that light, what is Canada's position with respect to Cameroon? Amnesty International has published their report on Cameroon, indicating that there are widespread and systematic tortures of prisoners and that, in fact, most of these prisoners are of a political nature and that the actions are against a minority. In this case, the minority is anglophone.

In the past, we have done a lot of work to try to bring measures of good governance to Cameroon so that all parties take into account the French and English fact in Cameroon. However, it would appear that the majority party is now targeting the opposition and the minority.

• (1450)

What is Canada's position with respect to Cameroon?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as a preface to my response I wish to say that my immediate predecessor in this office was involved in an international commission that went to that country some time ago. I believe the Honourable Senator Graham has a unique understanding and perspective on the problems that have existed in that country for some time.

Honourable senators, the type of activity that Senator Andreychuk describes certainly does not have the approval of this government. As to the minister's specific response to recent action there, I shall request an update from the minister.

Senator Andreychuk: When the Leader of the Government in the Senate makes his request of the minister, I would ask him to encourage prevention, by moving in earlier, rather than waiting until the situation deteriorates to a point that a large cost in human lives and humanitarian aid is the result. Perhaps we have been too reticent to move in and identify the issues with our colleagues in other countries. I make the appeal that more preventative action be assured by the minister in his reply to my question.

Senator Boudreau: The honourable senator makes a good point. I shall attempt to have that addressed by the minister with some degree of urgency, and I shall encourage a response as soon as possible.

PRIME MINISTER

VISIT TO FRANCE—REQUEST FOR RECALL

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate.

Could the minister advise us as to whether or not the government is giving consideration to summoning the Prime Minister back to Canada from his European trip, to which Senator Forrestall has just alluded? I ask that it be done before the Prime Minister makes another diplomatic blunder such as the blunder today, where Mr. Chrétien embarrassed President Jacques Chirac of France by announcing that he will be seeking re-election.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not believe there is any intention of the Prime Minister to cut short his trip.

Senator Forrestall: I doubt it either, but let's recall him anyway.

Senator Kinsella: Honourable senators, if that is the case, then I am sure every Canadian must be concerned with what appears to be a genetic flaw within the Chrétien family in terms of getting involved in presidential elections, whether in France or in the United States, in reference to the recent comments of his nephew.

As honourable senators would know, in France, the President's office is above partisanship. It is the custom in France for presidents not to be announcing early on whether or not they intend to seek re-election. Today, in Paris, President Chirac and his staff are scrambling because of this embarrassment. Does the government not think that France is important enough as a nation, one with which we do significant trade, that the Prime Minister should be recalled before he does further damage?

Senator Boudreau: Honourable senators, the relations between France and Canada have never been warmer and more productive, in large measure, due to the Prime Minister. I should think the members opposite and, in particular, their party, would be more concerned at the prospect of, perhaps, President Chirac announcing that Prime Minister Chrétien would rerun in our next election.

Senator Kinsella: He already told us that. Were you not at your national convention?

Senator Boudreau: I simply say that against the context of some of the world situations, one of which I have just addressed in my previous answer. This is not the most earth-shattering piece of news we are likely to encounter in the next few weeks.

Senator Lynch-Staunton: It's another blunder, that's all.

[*Translation*]

FOREIGN AFFAIRS

DISSATISFACTION OF EMPLOYEES OF DEPARTMENT

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. For some time, there have been media reports of dissatisfaction among senior staff at the Department of Foreign Affairs. Morale is low, both at the Canadian embassy in Washington and elsewhere — Ottawa included — to such an extent that the Minister of Foreign Affairs, when he is in Ottawa from time to time, receives complaints from ministers and diplomats. Some departmental employees are even picketing at the entrance to the Pearson Building, complaining about their salaries. I can understand that such a thing can happen, but it is unfortunate that it is happening at Foreign Affairs.

There are, of course, unions and discussions. All public servants want to have their chance at a little more. However, seeing the Canadian diplomatic service — the pride of our public service — in such a state leads us to conclude that there is something seriously wrong.

The Minister of Foreign Affairs ought to stay in Canada for a few days to settle this problem. This is not a question, honourable senators, but merely a comment.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I have a supplementary question on that subject. The issue of pay rates for staff of the Foreign Affairs Department is becoming a critical issue, and we have spoken about this before. The most troubling aspect is that those within the service, in what I would call middle and upper management — what would be our rising stars for the ambassadorial positions — are more entrapped than others. Yet the top level has received sizeable increases. There is a disparity within the department.

Why does the government give large increases to the top layer and not to the rest? It is an injustice. How can we live with that?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I appreciate the concern of both senators in raising this issue. Canada has a very able and professional public service and diplomatic corps, which has performed remarkably well in many difficult situations across the world. I know the minister is very sensitive to the problems that the honourable senators have raised. Whenever there are increases, usually some people are not happy. I do not say that by way of minimizing what is a situation that I believe the minister is taking very seriously and is reviewing.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, perhaps a suggestion ought to be made to the Foreign Affairs Committee. A few years ago, when I chaired the External Affairs and National Defence Committee in the House of Commons, there were problems within the department. At that time, the problem was the situation of married couples, particularly the situation of men whose wives were promoted.

[*English*]

I stand to be corrected on the name. We might call them to the Foreign Affairs Committee, where they could have their say and explain exactly what the problems are that they face. I had wanted to ask the question of the chairman, but he is temporarily absent.

Honourable senators, I would suggest that the Foreign Affairs Committee look into the possibility of having a few meetings with this association, which represents the finest of our foreign service officers. I feel that such a review would go a long way to re-establishing good rapport between governments, foreign service officers, and their union.

Senator Boudreau: Honourable senators, I thank the honourable senator for that suggestion. I saw the chairman here just moments ago. He must have stepped out for the moment. I shall pass along that suggestion to him.

• (1500)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on June 19 and 20, by Senator Forrestall regarding a request for a moratorium on heritage lighthouses while the Fisheries Committee reviews Bill S-21; and a response to a question raised in the Senate on May 30 of this year, by Senator Forrestall, regarding the report on restructuring reserves, viability of the militia.

HERITAGE
FISHERIES AND OCEANS

REQUEST FOR MORATORIUM ON HERITAGE LIGHTHOUSES WHILE FISHERIES COMMITTEE REVIEWS BILL S-21

(Response to questions raised by Hon. J. Michael Forrestall on June 19 and 20, 2000)

While the Department of Fisheries and Oceans (DFO) appreciates the intended purpose of Bill S-21, to protect lighthouses, the Department believes that the objectives of protecting and preserving heritage lighthouses can be achieved through existing federal legislation and policies.

DFO is sensitive to the desires of community oriented groups who wish to use, acquire and preserve lighthouses and is doing its best to assist communities and interest groups achieve their goals while working within federal policies and available resources.

NATIONAL DEFENCE

REPORT ON RESTRUCTURING RESERVES— VIABILITY OF MILITIA—RESPONSE OF GOVERNMENT

(Response to question raised by Hon. J. Michael Forrestall on May 30, 2000)

The Government is committed to revitalizing the Reserves to ensure that they are viable, sustainable, relevant to current operational requirements and an essential part of the Canadian Forces' structure. Mr. Fraser's comprehensive and detailed report provides a strong foundation for moving the reform process of the Militia forward.

The Government must ensure that the Reserves remain effective, viable and sustainable and allow our Reserves to make a real contribution to Canada. To this end, incremental funding in the amount of $30 million has been provided to the Army by the Vice-Chief of the Defence Staff to sustain the funding level for militia personnel during the Reserve restructuring process. It was intended that this funding would be available to support change. In the short term, it is helping to fund the introduction of new training and equipment. As, and when, decisions on Reserve restructuring are taken, it will also be used to fund the required implementation action. The $30 million in question does not mean any decisions have been made with respect to Reserve restructuring.

Mr. Fraser's report is one important step in deciding how to proceed with Reserve restructuring. Another important step is the work being done by Lieutenant-General Mike Jeffery, the special assistant to the Chief of the Defence Staff on restructuring. Lieutenant-General Jeffery continues to consult with interested stakeholders in Reserve restructuring. The Minister expects to receive his findings this summer so that timely decisions on restructuring can be taken.

[*Translation*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before proceeding with the Orders of the Day, it is impossible, as you know, for the Speaker to hear points of order until we get to Orders of the Day. The Honourable Senator Gauthier rose earlier, and I invite him to do so now.

[*English*]

Hon. Jean-Robert Gauthier: Your Honour, thank you for seeing me. I will get a flag and wave it when I want to get my point across.

On a point of order, a difficulty arises when we proceed as quickly as we did today. We have a huge deluge of reports being tabled. It is difficult for an ordinary senator who does not have the information that others may have to follow along, especially when someone says "stand" or "dispense" to the reading of a report from a committee. We have no idea what we dispensed with because no one read the information.

Your Honour, I should like a point of information. The chairman of the Standing Committee on Privileges, Standing Rules and Orders presented the eighth report creating two new committees of this house. I want to ensure that when the debate occurs on that report, I am here to discuss it. Knowing how time is compressed right now, I should like some indication as to when the debate on these tabled reports will take place.

The Hon. the Speaker: Honourable Senator Gauthier, I do not believe that is a point of order, but you have a reasonable question. The report was referred for consideration to the next sitting of the Senate. Therefore, depending upon when we meet next, which I believe shall be Tuesday next, the report should be up for consideration at that time.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. I think that Senator Gauthier raised an important point and it is by pure coincidence that he did so, because I had made a note to raise the same point.

When we dispense the Clerk from reading a report, we generally stop him before he has had time to tell us whether the bill was reported with or without amendments. I think it would be helpful not to interrupt him before the house has been informed whether the bill is being reported with or without amendments.

In certain cases, because of the particular interests of senators, honourable senators could later obtain the document in question from the Table officers.

If there are no amendments in the report, there is no problem. However, we wish to be so advised. It would be preferable for the Clerk to read the report at least that far. That is the argument being made by Senator Gauthier and I share his view.

Hon. Marcel Prud'homme: Honourable senators, today, many reports from various committees were presented which consisted of one page only, with the text of the report not attached. We do not know the contents of the report. However, we already know that —

[*English*]

— later today, we shall look into it.

[*Translation*]

Yes. However, we do not have the reports. They are not printed. We have only a one-page document. The honourable senator is requesting permission to proceed to a study —

[*English*]

Later today, thank you, or sit down, and later today, we do not know what that report is.

[*Translation*]

As for the report on the creation of new committees —

[*English*]

I want to bring to the attention of senators that they have been called upon to take an extremely important decision. I am referring to the creation of two new committees. That report could pass so fast that we may only realize what we have done after it has been accepted. As far as I am concerned, the creation of these two new special committees is totally and absolutely related to a decision that some senators refuse to take on the importance of independent senators and their participation on committees, or non-participation.

[*Translation*]

The Hon. the Speaker: Honourable Senator Prud'homme, I am sorry to interrupt. You are addressing the contents of the report and not the point of order.

[*English*]

Whenever anyone says "dispense," if any honourable senator disagrees, all that honourable senator need do is say no, in which case the Table will read the complete report. Do not hesitate to say no.

It is the same procedure when leave is requested. Leave is a request to do something that is not normal. If any senator disagrees, the senator simply says no, and that is the end of it.

In the case of committee reports today, some were reported for consideration later this day and others for consideration at the next setting of the Senate. When a bill is reported without amendment, it automatically moves to third reading at whatever time is required, not to further consideration.

The Table advises me that the bills that are on the Order Paper for third reading later this day are Bill C-25, Bill C-12, Bill C-473 and Bill C-445.

Senator Prud'homme: We will get them sometime soon, then.

Senator Gauthier: Honourable senators, I have trouble hearing and I have to depend on a computer translation of the debate currently taking place.

The Hon. the Speaker: Honourable Senator Gauthier, I am prepared to hear you.

Hon. Anne C. Cools: Honourable senators, Senator Gauthier wishes to say something. I am sorry that he has been frustrated, but we should be listening to him.

[*Translation*]

The Hon. the Speaker: Honourable Senator Gauthier, I am prepared to listen to you.

[*English*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, now that we are on Orders of the Day, Government Business, I should like to call, as the first matter for debate, Order No. 2, the third reading of Bill C-34, the grain handling bill.

It might be useful if I indicate to honourable senators the next three or four items in the order in which I would intend to call them.

Senator Prud'homme: That is fair!

Senator Hays: I should like to call Order No. 2 first, as I indicated; Order No. 3, which is Bill C-22, second; and Order No. 4, Bill C-16, the Citizenship of Canada Act, third. Following that, I shall request leave to bring forward the report of the National Finance Committee on their study of the Estimates. If we have leave to deal with that item, I shall then call Bill C-42.

CANADA TRANSPORTATION ACT

BILL TO AMEND—THIRD READING

Hon. Jack Wiebe moved the third reading of Bill C-34, to amend the Canada Transportation Act.

He said: Honourable senators, I am extremely pleased to rise at third reading debate of Bill C-34, which amends the Canada Transportation Act.

The bill initiates changes to an industry that exports billions of dollars worth of grain each and every year to markets all over the world. Until now, the system that moves the product from country elevators to ports has suffered some periodic breakdown and a lack of accountability. These problems were exacerbated during the winter of 1996-97 when the grain handling transportation system completely broke down on the Prairies.

• (1510)

The bill that we have before us now is a product of a consultative policy process for over three years. During that period of time, the government listened to producers, to the Wheat Board, to grain companies, to railways and to others. This bill is the right piece of legislation to move that system forward today.

The consultative process on this bill started in Winnipeg in July 1997. The Minister of Transport, along with the Minister responsible for the Canadian Wheat Board and the Minister of Agriculture, met with industry stakeholders to discuss the logistics problems of the previous winter. There was a strong consensus at this meeting that the status quo was no longer acceptable and that the grain handling and transportation system in this country needed to be changed.

The government acted quickly on this message and —

The Hon. the Speaker *pro tempore***:** Honourable senators, there is a lot of noise here. Your conversations would be much more interesting over a cup of tea in the Reading Room. That would allow other honourable senators to hear the speech.

Some Hon. Senators: Hear, hear!

Senator Wiebe: Honourable senators, once I have completed my remarks, I shall join you for a cup of tea.

Let me repeat.

The government acted quickly on this message and appointed former Supreme Court justice Willard Estey to conduct a comprehensive review of the entire system.

Through the course of one year, former justice Estey convened 147 meetings with over 1,000 stakeholders. He listened to their ideas and concerns about possible new directions for grain transportation. In December 1998, Mr. Estey submitted 15 recommendations on the commercialization of the grain handling and transportation system. The government endorsed Mr. Estey's vision of a more commercial system and appointed Mr. Arthur Kroeger to turn Mr. Estey's ideas into concrete proposals for implementation.

During the summer of 1999, Mr. Kroeger consulted with the industry stakeholders through a steering committee and three technical working groups. Mr. Kroeger was able to reach a consensus on a number of issues. However, no agreement could be found on some key issues. These included: the starting level for the annual cap on railway revenues, the transportation role of the Canadian Wheat Board, and the question of how to achieve enhanced railway competition.

In the end, Mr. Kroeger completed his terms of reference by providing his recommendations for those unresolved issues. This bill contains four main provisions dealt with by Mr. Kroeger, and they amend the Canada Transportation Act. I described all four of those to you during the debate on second reading of this bill.

Honourable senators, the grain handling and transportation system is very complex. Throughout the government's consultations, no two stakeholders in the entire industry agreed on how the system works, not to mention how it could be fixed. In this type of environment, it is important that the benefits of reforms are seen by all system participants. The government has therefore introduced a key element to the grain transportation industry — you have heard me say it before and I will say it again — and that is an independent monitoring mechanism. This continuous monitoring program will be designed and implemented by an independent, private-sector third party to measure and assess the impact of these reforms on the farmers, the impact of these reforms on the Wheat Board, the impact of these reforms on the efficiency of the system, including railways, grain companies and the ports, and the overall performance of the grand handling and transportation system.

The grain industry is too important to Canada's economy and to its way of life for us not to monitor these changes. To facilitate an effective monitoring system, Bill C-34 ensures that all the right information can be acquired and shared with the third-party monitor while maintaining measures to protect the confidentiality of commercial information.

Honourable senators, I am just as anxious as you are to get to that cup of tea, but I ask for your help today. The Canadian producers, our grain companies and our railways need a world-class grain handling and transportation system in this country. Bill C-34 begins that process. I urge all honourable senators to support this very important legislation.

Hon. Lowell Murray: Honourable senators, would the honourable senator permit a question or two?

Senator Wiebe: Certainly.

Senator Murray: Did the committee hear from Mr. Estey with regard to this bill? Is it his view that this bill is consistent with his report?

Senator Wiebe: Honourable senators, I am pleased to advise that Mr. Estey was invited to appear before the committee, and a time had been arranged, but, unfortunately, he declined the opportunity to appear before us. We did, however, invite Mr. Kroeger to attend the committee, which he did, and it was a valuable exchange of concerns and ideas.

Senator Murray: I am sure it was. Can the honourable senator say whether Mr. Kroeger is of the view that the bill is consistent with the recommendations he made?

Senator Wiebe: I am sure honourable senators will appreciate that Mr. Kroeger had made some specific recommendations. Mr. Kroeger also said that there were some issues on which he was unable to make a recommendation because they were of a political nature and would have to be decided upon by government. These are issues where there was no consensus reached.

Senator Murray: I appreciate that. I have not had an opportunity to review the transcript of the committee hearings, and I will do so at a later date, but was it Mr. Kroeger's view that the areas where he did make recommendations are reflected in the legislation that we have before us?

Senator Wiebe: I stand corrected by the other members of the committee, but the best way I can answer that is to say that, in general, Mr. Kroeger felt that this was a proper direction in which to go.

Senator Murray: Who were the other industry stakeholders that were heard by the committee? I presume they would include the railways, the Wheat Board, the farmers' organizations. Could the honourable senator indicate what other witnesses were heard by the committee?

Senator Wiebe: Honourable senators, we invited the railways to attend but they agreed instead to send us a brief. We received a combined brief from the major elevator companies in Canada. We also invited the two ministers, Minister Collenette and Minister Goodale, to appear before the committee.

Senator Murray: Apart from the two ministers, can the honourable senator say whether the other briefs were generally supportive of the legislation?

Senator Wiebe: No, they certainly were not. It goes back to my comments on the bill, that when it came to some of these very key issues, there were not even two stakeholders who were able to agree on them. It was for this very reason that the government of the day had to make a decision as to what was best for the grain transportation industry. It is for that same reason that the government of the day decided to implement the monitoring system, to ensure that the proper figures and the proper statistics were used, so that if any of the stakeholders were negatively affected by the implementation of this legislation the government of the day could deal correctly with it.

Hon. Leonard J. Gustafson: Honourable senators, I want to make a few comments on this bill, but I shall be brief, as I spoke earlier on this at some length.

Perhaps I could begin by trying to answer, if I may, some of Senator Murray's questions. The grain business and farming in Saskatchewan are quite political.

Senator Grafstein: Come over here on this side! You are on the wrong side!

Senator Gustafson: As Senator Wiebe has said, there are some positive things in this bill. That was the general feeling among the members of the committee.

• (1520)

All winter, we have heard about the crisis and the difficulties that farmers are facing and the fact that much of that was due to transportation problems. This bill provides $178 million of savings to farmers in the movement of grain and $175 million over five years to rebuild roads. There was a general consensus in committee that this is a good bill.

There is no question that the minister has come down on the side of the farmers with this bill. Although the railroads, and possibly the grain companies, may be a bit disappointed, given the seriousness of the situation in agriculture, this is a good bill. The Minister of Transport and Minister Goodale, in particular, hung in for the farmers in a positive way. I commend Minister Goodale, although I defeated him twice in my career. Minister Goodale is a tough one.

Senator Tkachuk: He keeps coming back.

Senator Gustafson: He did a good job on this bill and I congratulate him for that. I am pleased to have been part of the process. I believe that it will work to the benefit of farmers.

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

Motion agreed to and bill read third time and passed.

PROCEEDS OF CRIME (MONEY LAUNDERING) BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Wiebe, for the third reading of Bill C-22, to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence.

Hon. James F. Kelleher: Honourable senators, I should like to speak briefly to Bill C-22. As my honourable colleagues have mentioned, we on this side of the chamber support the intent of this bill. Money laundering is a serious problem, both here and around the world. Canada must take all reasonable steps to address this issue.

However, while we support the intent of this legislation, we are not as supportive of some of its provisions. My colleagues have already spoken about some of the issues that concern those of us on this side of the chamber and that concerned all members of the committee that studied the bill.

As my colleagues have already mentioned, we have received a written commitment by the minister to introduce amending legislation at the first available opportunity in the fall of this year. Rest assured that we have every intention of holding him to this commitment.

We trust that he and his officials at the Department of Finance will also give very serious consideration to the unanimous recommendations made by the committee. It is to these recommendations that I should now like to turn my attention.

Honourable senators, we on the committee are very concerned by the powers given in this bill to allow representatives of the new money laundering centre to enter into and search the files in a lawyer's office without first obtaining a warrant. I believe that all of us here in this chamber, lawyers and non-lawyers alike, recognize and appreciate the sanctity of the relationship between a lawyer and his client.

When clients retains a lawyer, they have an expectation that they can share all manner of personal and private information with their lawyer, without fear that strangers will have access to this information. We are not aware of any similar legislation in other countries, legislation that allows this type of intrusion, nor are we aware of other legislation in this country that permits access to the files of lawyers without a warrant. We can think of no good reason, nor were we provided with one, why an exception should be made in this case.

The second issue that I should like to address is the inadequacy of the review provisions in the bill. Senator Tkachuk will touch upon that issue in his remarks. Senator Meighen discussed it at length in the committee.

As written, the bill provides for a one-time review after five years. The committee has recommended to the minister that it would be much more appropriate to have an initial review after three years and subsequent reviews every five years thereafter. For example, this bill will create a new money laundering centre that will have sweeping powers to collect vast amounts of personal and private information about mostly innocent Canadians. In order to ensure that the new centre is operating efficiently and that the private information of Canadians is being managed effectively, it was the unanimous view of the committee that the legislation be subjected to a more rigorous review schedule than that which is required of less intrusive pieces of legislation.

This, by the government's own admission, is an imperfect piece of legislation. Rather than amend the bill now and wait a few short months to have it sent back to the other place, the government has made it clear that it will pass the bill now without amendment. We do not support this approach. We believe we should get this bill right the first time, especially since there is agreement on both sides of this chamber that the bill needs to be amended. We should not be leaving to chance and the vagaries of the fall schedule that which should be fixed now.

Therefore, on behalf of most of the senators on this side of the chamber, I repeat my earlier assertion: We will be vigilant in ensuring that the government keep its word and introduce legislation to amend the proposed legislation as soon as possible after the House of Commons and Senate resume sitting in the fall.

Hon. David Tkachuk: Honourable senators, it was a pleasure having Senator Kelleher on the committee during our study of Bill C-22. He was, of course, the minister in the government of Brian Mulroney responsible for introducing legislation to counter money laundering in this country.

As honourable senators may be aware, Bill C-22 received little attention in the other place. In fact, a mere two committee meetings were held, a number of minor amendments were raised and defeated, and the bill was speedily sent to our chamber. We gave it serious scrutiny. We held four quite lengthy meetings, hearing a number of witnesses, culminating with the testimony of Mr. Roy Cullen, the Parliamentary Secretary to the Minister of Finance.

Honourable senators, we on the Conservative side support the public intent of this legislation and have gone on record at second reading saying so. We do, however, have some concerns that could have been rectified with amendments to improve this legislation.

Immediately before our last committee meeting on June 14, we received a letter from Minister Peterson, Secretary of State for International Financial Institutions, that outlined the amendments he intended to bring to Bill C-22 this fall.

I reiterate that this bill passed the House in two committee meetings, with no amendments. The letter that we received is quite unprecedented. It actually outlines how specific clauses would be amended, and was in direct response to concerns expressed during our committee meetings. I might add that the amendments spoken of in the minister's letter were ones wanted by members on both sides. We were quite surprised that the minister sent this letter.

• (1530)

I understand my colleague across the way, Senator Kroft, had a response to why these amendments could not be passed now — he mentioned that in his speech — rather than waiting for the government to table an entirely new bill that would amend this bill.

We also had other concerns that we wished to bring forth to the minister. We figured that while he is making these amendments in the fall — which he has promised to do — that he might as well include a number of amendments that we wish to have included in the bill as well.

Our problem was initially, when we were asked about the letter, a general mistrust. We have received from ministers a number of letters attached to reports and, frankly, nothing happens. I remember a letter from Minister Massé on Bill C-78 last June where he promised to take whatever measures were necessary to ensure that discussions with employee and pensioner representatives were re-established. We remember that letter. Of course, the government shuffled ministers. Minister Robillard is there now and she says, "We shall not meet with anyone."

We do not have a lot of faith in these letters, but this was an interesting one because it outlined in specific terms the actual amendments that they wished to place in the bill. This is strange considering they have a new bill and they have amendments, but they do not want to make them right now.

We had tried to have amendments made during the committee. We asked and were told in explicit terms that there would be no amendments considered. Mr. Cullen told us that there would be no changes to the letter. We agreed to disagree, but we did, at least, unanimously agree to place three of our concerns into the report and recommend that they be placed together with the other amendments that the minister was promising in the fall. We expect to follow the minister's intent.

I will not read the letter of June 14, 2000, but I will place on the record that the minister wished to bring forth amendments. One would add a new subparagraph to subclause 64(9) in regard to some of the concerns we had and Senator Kelleher had, but it did not adequately address them. As well, there were a number of amendments to clause 61 and subclause 54(*d*). Senators should refer to the letter attached to the report so that we ensure that we keep the minister in place in the fall session.

We had a number of opportunities to do something important for the Senate. We had the minister of the Crown saying that we needed to make amendments to his bill. Concerns were expressed by both sides of the chamber with which the minister agreed. Concerns were expressed by us with which government members agreed.

What is the rush, honourable senators? Senator Kroft mentioned in his speech that this bill is necessary. How many times have we heard that comment about a bill?

I remember a bill in which I was involved, the CPP bill. It had to be passed by Christmas because the administration and the board of directors had to be set up. The people of Canada were waiting. As it happened, the board of directors was not appointed for two years.

I know what will happen with this particular bill. Nothing will be done in the summer. There will not be a bureaucrat working in Ottawa this summer. We all know that.

Senator Fairbairn: Nonsense!

Senator Robichaud (*Saint-Louis-de-Kent*)**:** Senators will not be here either.

Senator Tkachuk: Senators will not be here; that is correct.

[Senator Tkachuk]

Senator Cools: That is not so. Some of us will be here.

Senator Finestone: Have a little respect for the people who work around here.

Senator Tkachuk: I do have respect for the people who work here. I am telling honourable senators that nothing will happen with this bill until September or October of this year. We all know that. There is no reason we could not have had these amendments made now, sent back to the House, reported back to Parliament in the fall, and dealt with in an appropriate manner.

We did work well together, despite the criticisms that I am making here today. We do have some frustration due to our numbers. I am expressing that frustration and I will continue to express that frustration until we believe that we have full agreement. The executive branch of government is telling us that we do not have the right to do this. This is something that we all wanted to do as a chamber and we all wanted to do as a Parliament.

Here we are complaining about the fact that in the financial services legislation, and in Bill C-20, the Senate is excluded. I wonder why. When we have an opportunity to make a difference, we do not.

Senator Oliver: Just like the clarity bill!

Senator Tkachuk: Why should we not be excluded? The clarity bill is here. We all want to make amendments to it. We will see how many senators on the other side get up to make them and then complain that they are excluded. We are either a chamber of Parliament or not a chamber of Parliament. If we continue to behave in a way unlike a full chamber of Parliament, then we have no one to blame but ourselves for what the other place is doing to us.

Honourable senators, Bill C-22 is a good example of a situation where we could have made a difference. We could have moved amendments. We could have sent it back to the House, but we did not make any amendments. We only got promises from the minister. We know what shall happen in the fall.

Senator Robichaud (*Saint-Louis-de-Kent*)**:** You have a commitment from the minister that there will be amendments.

Senator Tkachuk: I have a letter here and others in my office indicating that nothing has happened. Honourable senators know that we will have to hold their feet to the fire. We had the opportunity and we did not act upon it.

Honourable senators, even though we have unanimous consent to some amendments, we shall probably report this bill on division.

Hon. Donald H. Oliver: Honourable senators, I wish to add a few remarks to those already made by Senators Kelleher and Tkachuk on Bill C-22.

I am concerned about the process that we have been forced to follow in relation to the exercise of our duties as a body of sober second thought. We studied a bill and it was found to be wanting. It urgently needed amendments, but we have been urged not to use our powers to do what is right.

I am reminded that when amendments to the Canada Elections Act were before us, on two occasions I rose in this chamber to express concern about the constitutionality of the third-party provisions of that bill. I stated it was my opinion that the provisions as listed would not withstand the constitutional challenge.

Less than two weeks after the Canada Elections Act received Royal Assent and was proclaimed, I read in the newspapers that a constitutional challenge had been launched in the courts. It is, regretfully, my opinion that the challenge will likely succeed.

Honourable senators, we rushed through a bill and we did not get it right. If the Chief Electoral Officer has to suspend provisions relating to third parties for the next election, as he has in the past, this will mean havoc for candidates and parties.

Honourable senators, I have exactly the same concerns with Bill C-22. As you have heard from Senators Tkachuk, Kroft and others, the Standing Senate Committee on Banking, Trade and Commerce conducted a detailed examination of this bill, heard several witnesses and, as a result of what they said and what we heard, we were moved to make several amendments. The government did not want any amendments but said in a letter that it will bring in amendments in the fall if we agree to pass the bill now.

Honourable senators, why do we not get it right now?

Throughout the hearings on Bill C-22, I raised several concerns with many of the witnesses, the chief of which was whether the money laundering bill as drafted was constitutional. I had substantial support for my concerns from the Canadian Bar submission, in which they said:

> Bill C-22 imposes significantly intrusive regulations upon businesses, financial institutions and professionals, including the legal profession, to the extent that we believe it may be *ultra vires* of Parliament.

• (1540)

The Canadian Bar Association recognized that the federal government may rely on the criminal law power for constitutional jurisdiction for Bill C-22. However, they believe, and I concur, that the bill could be interpreted as intruding upon the legislative jurisdiction of the provinces as property and civil rights and administration of justice within the provisions of section 92 of the Constitution Act, 1867.

As Senator Kelleher has aptly pointed out, there may also be major faults that could give rise to a successful Charter challenge. For instance, the provisions in the bill would mandate record keeping by lawyers and other professionals, and then authorize what can easily be construed as unreasonable search and seizure, offending clients under section 8 of the Charter of Rights and Freedoms.

The final concern that I canvassed with the Canadian Bar Association and other witnesses, including senior bureaucrats, was that the bill eroded the basic rights of Canadian citizens not to provide private information to the state and the right to independent and confidential legal representation under the Canadian Bill of Rights and under sections 7 and 11(*d*) of the Charter of Rights and Freedoms.

As a practising lawyer, the entire issue about confidentiality of clients' information is, of course, a major concern. The requirement of Bill C-22 would fundamentally alter the foundation of the solicitor-client relationship, which is premised upon the protection of both privilege and confidentiality. Confidentiality is an ethical concern that lawyers must address. As the Canadian Bar Association said, the importance of privilege and confidentiality has long been recognized in law and is central to the rules of professional conduct governing lawyers. Clients must be able to seek the assistance of a lawyer knowing that the information they communicate will remain with the lawyer and go no further. Uncertainty in the integrity of the privilege or confidentiality will create uncertainty in and undermine the solicitor-client relationship.

Honourable senators, these principles are so fundamental that they should be corrected now before the bill receives Royal Assent and certainly before the bill is proclaimed. I am concerned that there should be no proclamation of the offending clauses of this bill until such time as the government can bring forward the amendments it has promised us in writing.

I raised this matter with Mr. Cullen, the Parliamentary Secretary to the minister, when I said:

> ...if this bill were passed, is the minister prepared to hold up proclamation until such time as these amendments can be made?

Mr. Cullen responded as follows:

> Honourable senators, I can say that we certainly could discuss delaying proclamation of certain clauses over the next little while.

Honourable senators, I call upon the Leader of the Government in the Senate, the Honourable Bernard Boudreau, to ensure that Mr. Cullen's undertaking is met and that these offending sections be delayed until the amendments recommended in the Banking Committee report to this chamber have passed both Houses and receive Royal Assent.

A final comment I should like to make about Bill C-22 that causes me grave personal concern is the fact of the low threshold of $10,000 and the discretion given to bureaucrats in determining what is a suspicious circumstance. I raised with the departmental lawyer, Mr. Cohen, who appeared before the committee, the issue of whether this could be yet another way of perpetuating ethnic stereotyping. If, for instance, a person were to walk into a financial institution covered by Bill C-22 with, say, $9,000 in cash, having just come back from Nigeria, Jamaica or a place in India, being a person of a visible minority, certainly that to many bureaucrats would be a "suspicious circumstance." Mr. Cohen said in response to my question, *inter alia*:

> I do not know how to answer the question about whether bank tellers or others will participate in a way that is fostering a system based on systemic racism. There are two levels of intake for the information before it gets anywhere where any significant damage can be caused...It goes...to the Financial Transactions and Reports Analysis Centre. Thus, there is a second, professional vetting of the information before it can make its way over to law enforcement.

I raise this issue, honourable senators, as something that we should all be watching for to ensure that there is no further denigration in the principle of diversity that is so important to us in Canada as a nation. This legislation as presently drafted opens the door to all kinds of potential abuse and damage to individuals. I make these remarks as a caution to all senators to be on the look out.

With these brief remarks, honourable senators, it is my hope that, at an appropriate time, we will have another look at our role as a body of sober second thought. If legislation is wanting and in need of amendments, why do we not have the courage to amend it and do the right thing? Is this not what is meant by the oath we took when we arrived here?

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

[Senator Oliver]

Hon. Anne C. Cools: Honourable senators, I rise to speak to Bill C-16, which, as we know, is roughly termed the citizenship bill, or the citizenship of Canada bill. I should like to raise a couple of concerns about this bill in respect of what I perceive to be problems with the bill. I should also like to ask that when the bill is referred to committee, that the committee study the issues that I raise with some diligence and some attention.

Honourable senators, I do not wish to repeat the concerns raised by Senators Kinsella, Andreychuk and others. I hope that those matters will be given serious consideration.

I should like to share with honourable senators the reasons that this particular bill has captivated my attention. It relates to the oath of citizenship, which is recorded in a schedule to the bill, and the oath of citizenship as commanded by clause 34 of the bill.

Before I go into that, honourable senators, I wish to say that Canada has a long and noble tradition and history of immigration and adoption of Canada as a nation from people from other shores. For example, if I were to quote even the name of the first prime minister of Canada, Sir John A. Macdonald, it would very quickly spring to mind that Sir John A. Macdonald was not born in Canada. He was actually born outside the country. In addition, Sir John A. Macdonald's second wife, a woman named Agnes Bernard, was a West Indian, for those of you who do not know. She was a British West Indian, as am I. She was from Jamaica. I do not think there are many people in this chamber who know that. As a consequence, I have a historical connection to some of those persons who came here from other shores to join the institutions of governments and to play what I would consider to be a meaningful role in Canadian life.

The question of citizenship for those of us who were born elsewhere and who have come to join Canada is a matter of some importance and some critical consideration. I would admit, though, that the concept of citizenship as described in this bill, and as was described at the time of Sir John A. Macdonald's citizenship, was a totally different sense of citizenship. The definitions of citizenship as they are put forth in this bill definitely command some attention.

• (1550)

Honourable senators, I should like to share with you one of the reasons that I have chosen to raise this concern. I should like to place on the record the exact words of the new proposed oath of citizenship. The new proposed oath of citizenship, as per the schedule of Bill C-16, is as follows:

> From this day forward, I pledge my loyalty and allegiance to Canada and Her Majesty Elizabeth the Second, Queen of Canada. I promise to respect our country's rights and freedoms, to uphold our democratic values, to faithfully observe our laws and fulfil my duties and obligations as a Canadian citizen.

Now, honourable senators, the first thing I want to note is that the phrase "so help me God" is not in the oath. The oath has now become a pledge or an affirmation. That is an interesting point.

My real question is: What happens to the concept of "allegiance" within this new proposed pledge? I invite honourable senators to review this oath with some seriousness. Inserted is the phrase "allegiance to Canada." Interestingly, "allegiance" is usually a loyalty or a human characteristic. It usually is pledged to a person or a human being, usually the Sovereign, Her Majesty, the Queen of Canada. The oath of allegiance is about faithfulness, loyalty and commitment. Allegiance is pledged to something and someone beyond the reach of human manipulation. That is what allegiance to the Queen means, because the Queen is perpetual. Allegiance is supposed to be pledged to something that is permanent, stable, and lasting. In other words, you pledge allegiance to something that is perpetual and, most important, beyond the reach of human beings to manipulate and to alter on a daily basis. When this bill gets to committee, I should like to ask senators to carefully consider what are the functions of an oath and what are the objects that any oath is intended to attain.

Honourable senators, this oath says "...I pledge my loyalty...to Canada." Well, let us talk about Canada for a moment. In the last several days, we have discovered some extraordinary things about Canada. One of the issues I shall ask this committee to consider in its study of Bill C-16 is what is Canada as reflected by this oath. In the last several days, even on the floor of this chamber, we have been told by many senators that Canada is divisible. I want the committee to tell us to which Canada this oath of citizenship will be sworn. Is it the new Canada or the old Canada? Is it the divided Canada or is it the undivided Canada? I think this is a very important question, because we have before us two bills that are proceeding separately, but are on a collision course with each other. To my mind, that violates an important principle, namely, the unity of policy and the fact that cabinet is supposed to speak with one voice.

Let us now look to Canada and to any new Canadian who is about to swear allegiance to Canada. Let us hear what Senator Richard Kroft had to say about Canada a few days ago, on June 20, 2000, as reported in the *Debates of the Senate* at page 1675:

> ...The Supreme Court has said that Canada, in very carefully defined circumstances and following carefully defined processes, is divisible. That is the law of Canada.

In two paragraphs before that, Senator Kroft also said:

> ...To assert that Canada is indivisible requires saying that the Supreme Court was wrong in its decision. While anyone, of course, is entitled to express such a view, it is not easy to see where one goes with it, especially since the court has spoken to both domestic and international rights.

This is astounding. We have a bill proceeding before us, Bill C-16, which says that new Canadians shall pledge allegiance to Canada, but Senator Kroft tells us that the court has spoken to domestic and international rights and that the law of Canada says that Canada may be divided. Thus, what do we have here: divided loyalty, divided oath or a divided citizen? That is one point.

On June 21, 2000, again in this chamber, at page 1704 of the Debates, Senator Fraser said, "Even if we believed that morally..." Allegiance is now a question of belief. Some people believe one thing and some people believe another, which is contrary to what the oath of allegiance is supposed to be about. An oath of allegiance is supposed to be something definite and certain. However, Senator Fraser is reported to have said:

> Even if we believed that morally Canada should be indivisible, we would be left with the plain fact that the Supreme Court of Canada has ruled that we are divisible, if rigorous conditions of legality and democracy are met. Every single witness to the committee, even those who disliked the court's opinion in the Quebec secession reference, agreed that that opinion is binding. It is now part of the law of Canada. We cannot evade it or wish it away.

That is very interesting, indeed. Senator Fraser said that it is the law. We are asking citizens to swear to something, but we cannot tell them what the law is to which they are swearing. That is very interesting, indeed. To add greater mystery to an already bewildering profundity, former Justice Willard Estey says that both Senator Kroft and Senator Fraser are wrong. Mr. Estey, in the proceedings before the Special Senate Committee on Bill C-20, on June 15, 2000, says the opposite of what Senator Kroft and Senator Fraser had to say. He said:

> I turn now to the question of the 1998 court reference in the Supreme Court of Canada from the Governor in Council. The court found that Canada, as a nation, is indivisible.

He continues a paragraph later to say:

> There is no question when the 59-page reference is read, it is clear that the court has determined that Canada is an indivisible, constitutionally governed country.

• (1600)

Honourable senators, maybe we should attempt either to settle or understand this mystery, perhaps by attempting to determine what is an oath. Maybe that would settle the confusion. Thus, let us try to understand what is an oath. A baby could tell you that an oath is a solemn declaration, a solemn commitment, a solemn promise, an affirmation and that the person making the affirmation or declaration makes it solidly upon his or her conscience and upon the invocation of that individual's dignity. "So help me God," is the phrase or, again, on my conscience.

Let us look, for example, to Mr. Jowitt, one of the great masters of the English law. At page 1268 of *Jowitt's Dictionary of English Law*, 2nd Edition, 1977, it says:

> **Oath**, an appeal to God to witness the truth of a statement.

Honourable senators, we could move along from Jowitt to any of the great masterful definitions. For example, *Black's Law Dictionary*, 7th Edition, tells us, as follows:

> **Oath.** 1. A solemn declaration, accompanied by a swearing to God or a revered person or thing, that one's statement is true or that one will be bound to a promise.

Then in Black's it continues, a couple of paragraphs down:

> The word 'oath' (apart from its use to indicate a profane expression) has two very different meanings: (1) a solemn appeal to God in attestation of the truth of a statement or the binding character of such a promise;

Later on, it continues again with the definitions.

The Hon. the Speaker *pro tempore***:** Senator Cools, I must inform you that your speaking time has expired.

Senator Cools: I would seek leave for an extension of time.

Hon. Dan Hays (Deputy Leader of the Government) : May I ask how long Senator Cools will be?

Senator Cools: I think a few minutes could do it, honourable senators.

Senator Hays: Shall we give leave for five minutes?

Senator Cools: Let us say 15, and I may only take 5 or 10.

Senator Hays: Leave for 10 minutes, then.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted to extend Senator Cools' speaking time by 10 minutes?

Hon. Senators: Agreed.

Senator Kinsella: Subject to reconsideration.

Senator Cools: What I should like to know at some point in time, Your Honour, is what authority is rested upon here where I can ask for a certain amount of time and someone else can ask that it be for a different amount of time? We cannot solve that question now, but it is a question that needs to be addressed.

Black's Law Dictionary also tells us that the oath of allegiance is an oath by which one promises to maintain fidelity to a particular sovereign or government, or whatever.

Having said all that, honourable senators, I should like to move to the issue of oaths and the assertions that they contain, because I belong to that group of people who took an oath of allegiance when they came to the Senate. To me, taking an oath is a very important issue. After all, an oath is an appeal, as I said before, to a supreme being, and it is extremely important.

Honourable senators, bearing in mind that the Canadian Charter of Rights and Freedoms says in its preamble that Canada is founded upon principles that recognize the supremacy of God and the rule of law, when we set out to create an oath it should honour the law. An oath should honour the deity, and it should honour the important question of the loyalty that the citizen is being asked to commit to and adhere to.

I would submit to honourable senators that in this day and age, when we are being told by the government that Canada is divisible and that Canada potentially may be partitioned, I fail to comprehend how the same government simultaneously can propose an oath that reads as this particular oath reads. I would also add that this particular oath is a dramatic departure from the old oath of 1977 and, in addition, is an even more dramatic change from the oath of allegiance, as it was labelled, in 1946, which is still extremely close to the one that we take here.

It is my pleasure and honour to ask the committee if it could deliberate upon that essential question. Perhaps with that question answered, we can all know whether or not we are asking new Canadians to come to this country and take an oath to a Canada that may cease to exist at some particular point in time. In other words, we are asking Canadians to place their hand on a holy book and to invoke their deities, to swear loyalty to something that this chamber has said does not exist, and that this chamber has said, and many members of this chamber have said, may not exist at law. I would submit to honourable senators that such a proposition is alien and hostile to the rule of law, to British common law, and to the sense of allegiance that every single one of us as senators owes to Her Majesty the Queen, and that the citizens of Canada owe to Her Majesty the Queen.

When I say that, honourable senators, I want to be crystal clear that this is no arcane or mystical concept. This is a question of whether or not we ask Canadians to be bound together and joined together by some connection, by some belief in something that is greater than all of us because, after all, honourable senators, it is a belief central to the exercise of politics. We all know how politics can descend into self-interests, self-gratification and self-promotion. All honourable senators know that if we do not have ideals that are higher than human beings and human ability to adhere to, then human interests and selfish interests become the order of the day.

I shall leave those few remarks with you. If honourable senators underestimate the importance of an oath, then I would ask them to look at all those noble soldiers who went to war to fight because they believed in God, in King and in country. I would ask the honourable committee to take serious the matter of the impact of Bill C-20 on Bill C-16, and to answer the question as to which Canada new Canadians will be asked to swear loyalty to, and to also answer the important question as to how one can swear loyalty to something if we no longer know what it is.

Hon. Joan Fraser: Honourable senators, the Honourable Senator Cools recalled Mr. Estey's appearance before the committee studying Bill C-20 in connection with the indivisibility of the country. I wonder if the honourable senator can tell us whether she recalls the portion of his testimony where he noted that nothing in the world is indivisible, including Canada? I should also like to know whether the honourable senator recalls the general thrust of Mr. Estey's argument, which was the thrust of the argument of many of our witnesses, that the country is indivisible unless we have a constitutional amendment to divide it, in which case it becomes divisible?

Senator Cools: I thank the honourable senator for her question. I recall former justice Estey's testimony with some vigour, and the memory is quite vibrant in my mind. I am pleased to say that I would have been happier if yesterday, soon after Senator Fraser had spoken, she had been prepared to take some questions about this matter. That was one of the very questions I wanted to put to the honourable senator. It seems to me that this particular exchange would have better taken place yesterday because it would have given honourable senators an opportunity to be able to have a dialogue with you, the person who chaired the committee.

I sincerely believe that as chairman of the committee, Senator Fraser held and heard and possessed and seized the evidence that was put before us. Mr. Estey was crystal clear because he has a sharp, chiselled, scalpel-like mind, and he made it very clear that Canada, under the current constitutional framework, is indivisible in the present tense. That is why Bill C-20 is so flawed, because Bill C-20 is in the present tense, and Canada in the present tense is indivisible.

• (1610)

In the future, that is a different kettle of fish. No constitutional amendment of the future can make Canada divisible now, just like no constitutional amendment of the future can make Bill C-20 legal now.

That is where Senator Fraser's thinking is very flawed and very imperfect. Yes, I shall tell her that, because she did not give me a chance yesterday, so we can talk today.

I shall say to all, again, as you have given me the opportunity, that there is no single provision of the BNA Act or any of the related acts that are the Constitution of Canada that permit or enable Bill C-20 to be before us. Within the current — today, present tense — provisions of the Constitution Act, there is no section and no provision that gives lawful authority for this Parliament to be considering the partition of this country.

The former Mr. Justice Estey made quite clear that if certain individuals wanted Canada to be divisible they would have had to complete the process of a constitutional amendment first, which would have allowed it, before they could then bring a bill. For Senator Fraser's information —

The Hon. the Speaker *pro tempore***:** Senator Cools, your time has expired.

Senator Cools: May I finish the sentence?

Senator Hays: Agreed.

Senator Cools: For Senator Fraser's information, and for many others who insist that Canada is divisible, I remind honourable senators that Louis Riel was hanged for less. Furthermore, Sir John A. Macdonald and those individuals who crafted the BNA Act crafted an act that dealt with partition. The word would not have been "divisible" or "indivisible" in those days, but they crafted a Constitution that treated any deviation from the union with very harsh measures.

Hon. Marcel Prud'homme: Honourable senators do not admit whether or not they are prepared, but I said yesterday that I wanted to speak to this bill. The answer is that I shall speak. I am not ready to speak, but I do not want to delay unduly. If I could adjourn this in my name until Tuesday, I shall be ready Tuesday. I shall say further that I shall not speak for longer than 15 minutes. I shall put forward all my views in 15 minutes. Therefore, I ask consent to adjourn this item in my name.

Senator Kinsella: Agreed.

Senator Hays: Honourable senators, I indicated yesterday that I would not agree to an adjournment. We should, in my opinion, deal with the question and have this matter go to committee for study following second reading debate. In order to do that, I would ask Senator Prud'homme, if possibly, to give his remarks today. We are nearing the end of a session. This is a bill that deserves some committee study before a decision is made as to whether or not it will be dealt with prior to our summer recess. To do that, it seems to me imperative that we move the matter along.

Senator Prud'homme: I shall read in French what you said yesterday. I appreciate what you just said. You said:

[*Translation*]

> Honourable senators, I think this bill is ready to go to committee. Senator Finestone is ready to refer the bill. Does Senator Cools have a short speech?

Senator Cools replied as follows:

> The comments I have to make simply cannot be completed in five minutes.

I then said:

> ...I intend to speak to this bill as well. I have worked for 35 years on citizenship issues.

The honourable senator did not say that there had been an agreement to refer the bill to committee.

[*English*]

We do not sit tomorrow; we do not sit Saturday; we do not sit Sunday; we do not sit Monday. I do not see what difference it will make. There are not many others who will participate. As I have said in the past, if I ask to speak to an issue and then fail to appear, well, too bad for me. I did not say that yesterday. Therefore, I shall ask again for consent. I shall not speak for more than 15 minutes.

Honourable senators, the more I indicate that I intend to speak, the more notes I receive. For the first time in my life, I find myself head-to-head with the B'nai Brith of Canada, which agrees with all my views, or I agree with all their views, and therefore there is something that I must look into over the weekend. I see Senator Finestone smiling because she agrees with me.

Once again, honourable senators, I ask to adjourn this matter in my name until Tuesday. I shall be at your disposal at that time, unless I am ill, and I shall not speak for more than 15 minutes. Everything that you want to do today, things that you cannot do on the weekend anyway, will be able to be done beginning on Tuesday.

Senator Hays: I regret this very much, because I would like to accommodate Senator Prud'homme, but this bill has stood on the Order Paper for approximately two weeks longer than I would have thought. I feel obliged to move the bill along. We could sit tomorrow. I shall be asking for leave not to sit tomorrow. The honourable senator is in a position to bring us back tomorrow. I hope he would not do that, particularly having regard to his earlier comments that he would support that.

I must, unfortunately, ask that the question be put or that we hear from you now.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, let us see whether we can find a compromise through the usual channels here. My friend the Deputy Leader of the Government has the responsibility of seeing that government legislation moves along as expeditiously as possible, and I can fully understand his responsibilities.

I think part of the problem around this bill, if we can call it a problem, has been engendered by the fact that we have taken a serious look at it. What did we discover? We discovered that it is a naturalization bill, and some serious issues have been raised by honourable senators during the debate. The bill does not speak to the larger issue of citizenship. In debate in this house, suggestions were made along the line that perhaps we could fix that.

Then, a document was circulated earlier this week indicating that the Standing Senate Committee on Legal and Constitutional Affairs, doing as committees ought to do, was making contingency plans so that their work could be done expeditiously, calling witnesses and hearing them. In fact, one document I looked at had witnesses coming and the committee sitting until midnight last night. Therefore, it became evident to some that they were trying to ram this thing through the committee.

Senators who have serious concerns with the bill looked at what happened in the other place. They had months and months of hearings, when the bill was under its incarnation as Bill C-63. Then they had another long period of time to look at it under this form. Our committee would not even have one or two days at it. That caused many senators to be concerned. Thus, the debate has gone the way it has at second reading.

We all recognize how difficult it is to give an instruction to a committee, but it could be the understanding in this house that the committee is expected to very carefully study this bill, to take into consideration the issues that have been raised here at second reading, and that there is no expectation for us to have this thing rammed through. Indeed, it will not get through, anyway, by next week, if we are expecting to rise by the end of next week. The next time that the Standing Senate Committee on Legal and Constitutional Affairs meets, I believe, and the chair is here, is Tuesday or Wednesday.

Hon. Lorna Milne: Wednesday.

Senator Kinsella: I think Senator Prud'homme is saying that he will speak on Tuesday. I shall say for this side that we have no more speakers and that it could go to committee on Tuesday. In order for Senator Hays to meet the objectives that he must meet, if this is the understanding, then perhaps this is the compromise that can be accepted through the usual channels.

• (1620)

Senator Hays: Honourable senators, this seems to be a good way to deal with a difficult matter. Perhaps I could ask the chairman of the committee to which I believe we will refer this bill what her work plan would be if she were to receive it today.

Senator Milne: If we were to receive the bill today, we would not, of course, have any witnesses lined up for this evening. We would attempt to call witnesses for Tuesday morning of next week, Tuesday night, Wednesday night and Thursday. I must tell the honourable senator, however, that had we received the bill last week we would have been able to get through it. We now have 24 groups who wish to appear before the committee to be heard on this matter, so receiving it either late this week or next week produces a big scheduling problem.

Senator Hays: Having heard that, I am somewhat persuaded by the submission of Senator Kinsella, particularly in light of his indication that he did not expect that there would be any further speakers for the opposition. I am not aware of any speakers on our side.

One issue bothers me a bit, and that is the work schedule. What I am thinking of is that the minister is entitled to be heard by the committee, and is entitled to be heard in a timely way, in terms of her desire and her government's desire to have this bill dealt with expeditiously. It may be that the committee's disposition will be not to do that. It may be that this chamber's disposition will be not to do that. I do not know. However, at the very least, we should have this before a committee so that the minister can appear, and I understand she can appear next week.

Senator Milne: I have some information about that. The minister is in Europe at present. She was prepared to cancel her trip to appear before the committee this week. We did not receive the bill in time. She will not be back until next Thursday.

Senator Prud'homme: Honourable senators, I shall help you out. I was aware of almost everything that is being said now. I am not known to be a very difficult man. It may be hard to believe, but this is the first time that I have received so many protests from people who want to be heard and who feel they were not given fair treatment in the House of Commons. Citizenship, like immigration, is a subject that is close to the hearts of many, including me. Some people feel this matter is being rushed. The minister cannot be there. Everyone knows she is away.

I do not want to be difficult, but I can tell you that, on Tuesday, if I am not in the house — I say it openly — proceed. However, many, many people are sending me notes on this, and I do not have the staff of all the research bureaus. I have only a summer staff. It is my fault, but some went to better pastures. I do not think it is fair that if I say Tuesday, you say no. If you say no, what can I do? You can do what you want. You are the boss of the house.

Senator Hays: I think I have enough information now to know that we shall not gain anything by not giving you this important opportunity. I shall call it first on Tuesday, and that is a signal to the committee, which I expect will receive it, as to what they will be able to do.

The Hon. the Speaker: Honourable senators, before I put the question for the adjournment, I should just like to point out that everything that has gone on for the last few minutes is completely, totally out of order.

Senator Lynch-Staunton: Why did you not say that before?

Senator Kinsella: But quite creative and problem-solving.

The Hon. the Speaker: Let us not consider this as a precedent for the future.

On motion of Senator Prud'homme, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should like to call Item No. 1 under "Reports of Committees," the report of the Standing Senate Committee on National Finance on the Main Estimates 2000-01.

THE ESTIMATES, 2000-01

SECOND INTERIM REPORT OF
NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on National Finance (Main Estimates 2000-2001), presented in the Senate on June 20, 2000.

Hon. Anne C. Cools moved the adoption of the report.

She said: Honourable senators, I shall be quite brief. You have before you the eighth report of the Standing Senate Committee on National Finance, which, as honourable senators know, was introduced here a few days ago by our honourable chairman, Senator Murray. The report itself is quite exhaustive and needs very little expansion from me other than to note that the committee, with due diligence and, I would say, some vigilance and attention, was able to put in some relatively comprehensive studies on the Estimates themselves.

Honourable senators should know that this is an interim report, the adoption of which allows the supply bill to move along in the proceedings in this chamber.

I should just like to give a brief summary of the report. I hope honourable senators have it in front of them and that they will study it and read it. Honourable senators will see that we heard from the President of the Treasury Board, the Honourable Lucienne Robillard, and I would say that the exchange that we had with the minister was not only a good and candid exchange but also it was a very cordial discussion. Madam Robillard, as honourable senators know, is extremely pleasant, which made having a discussion with her quite easy.

We also heard from other witnesses, including officials from Treasury Board; Mr. Len Good, President of the Canadian International Development Agency; and Mr. Morris Rosenberg, Deputy Minister of the Department of Justice, who appeared before us on June 6, 2000.

In any event, because I know that our load is heavy today, what I will do is invite honourable senators to review and to study the report on their own, and to adopt the report so that the business of supply can proceed, thus allowing the government to get its money to pay its various and sundry bills.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators I would now call Item No. 8, consideration of Bill C-42.

APPROPRIATION BILL NO. 2, 2000-01

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-42, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

• (1630)

She said: Honourable senators, by passage of this appropriation bill, Bill C-42, both Houses of Parliament will have approved the government's Estimates and thereby will grant final supply for the current fiscal year April 1, 2000 to March 31, 2001. Should the government require additional supply later this year, it will submit Supplementary Estimates to both Houses. The Main Estimates 2000-2001 were presented here in the Senate by our Deputy Leader Senator Daniel Hays on March 2, 2000. That same day, the Senate referred them for study and consideration to the Standing Senate Committee on National Finance.

The Senate Committee has been studying these Main Estimates and has heard from various witnesses, particularly Treasury Board officials who testified on March 22, 2000; and also the President of the Treasury Board, who appeared before our Committee on May 30, 2000. The Treasury Board Secretariat officials were Keith Coulter, Assistant Secretary, Planning, Performance and Reporting Sector; Andrew Lieff, Senior Director, Expenditure Operations; and Kevin Lindsey, Director, Expenditure Operations.

When Minister Lucienne Robillard, President of the Treasury Board, met with the committee, she had a frank discussion about the 2000-2001 Estimates. Minister Robillard noted Canada's relatively strong economic performance among the G-7 countries and Canada's achievement of a $1-trillion economy. The minister also outlined some of the significant changes in the Main Estimates 2000-2001 and highlighted several government initiatives.

Honourable senators, the committee also heard from Mr. Len Good, President of the Canadian International Development Agency who testified before the committee on May 31, 2000, as did Mr. Morris Rosenberg, Deputy Minister of Justice, on June 6, 2000.

In this chamber on Tuesday, June 20, committee chairman Senator Lowell Murray introduced the committee's eighth report, the second interim report on the Main Estimates 2000-2001. This report was adopted a few minutes ago. It is very thorough and I invite honourable senators to review it. This committee has taken its work very seriously and has brought to the Senate a very thorough and comprehensive report.

Honourable senators, I shall now describe in some detail some of the items in the Main Estimates. The Main Estimates for the current fiscal year, 2000-2001, total some $156.2 billion in planned expenditures. This total comprises approximately $106 billion stemming from existing legislation and another $50.1 billion in expenditures for which parliamentary authority is now sought.

Honourable senators will recall that the interim supply bill, Bill C-30, in the amount of $15.6 billion, was passed on March 29, 2000, and was given Royal Assent on March 30, 2000. Bill C-42, which is before the Senate now, seeks parliamentary authority for the remaining $34.5 billion of that $50.1 billion.

Honourable senators, I shall list briefly some of the major changes in the Main Estimates affecting departments and agencies. These changes are presented in the Estimates as increases or decreases relative to the Main Estimates for 1999-2000. The major increases in the budgetary Main Estimates include: a $1-billion increase in the Department of Finance for the Canada Health and Social Transfer payments; an $895-million increase in the Department of National Defence, which includes $307million for additional programming; $120 million for pay increases; $236 million for the continued participation of the Canadian forces involved in peacekeeping operations; $41 million for partial compensation for price increases related to the growth of the GDP; $126 million for quality of life initiatives for military personnel; $65 million for anticipated increases in payments to the provinces under the Disaster Financial Assistance Arrangements; a $700-million increase in the Department of Human Resources Development for Old Age Security, Guaranteed Income Supplement and Spouses Allowances caused by an increase in the number of recipients and an increase in the average benefit rate; $500 million to the Department of Agriculture and Agri-Food Canada for farm income assistance**;** $359 million to the Department of Human Resources Development for grants to the trustees of Registered Education Savings Plans, reflecting the success of the Canada Education Savings Grant program; $235 million to Canada Post Corporation for transitional financial support to implement the Canada Post Corporation's Pension Plan; $234 million to the Department of Finance for Fiscal Equalization payments; $200 million to the Department of Indian Affairs and Northern Development for programs, including $101 million for "Gathering Strength,"

the government's response to the Royal Commission on Aboriginal Peoples; $77 million for basic services such as housing, education and community development; $24 million for the Department's Youth Employment Strategy; $180 million to the Department of Finance for transfer payments to the territorial governments, including funding for the government of Nunavut; $166 million to the RCMP for additional constables in local communities, and for more staff and better resources to fight organized crime, high-tech crime, telemarketing fraud, immigration enforcement and drug crimes and also for improvements to the force's management practices and for the rehabilitation of police stations; $145 million to the Department of Agriculture and Agri-Food Canada for Safety Net Companion Programs to assist the agriculture community; $142 million to the Department of Human Resources for the Homelessness Initiative announced last December 1999 to help alleviate and prevent homelessness in Canada; $119 million to the Department of Health for First Nations and Inuit Health Care to strengthen home and community care in First Nations and Inuit communities, as announced in the 1999 Budget, and also to meet increased demands for health programs and services by a growing aboriginal population; $110 million to the Department of Human Resources Development for the Canada Jobs Fund, as set out in the 1999 Budget; and $102 million to the Department of Fisheries and Oceans for the Fisheries Access Program and co-management activities under the Aboriginal Fisheries Program.

Honourable senators, the increases in the Main Estimates also include a $98-million increase to the Department of Public Works and Government Services for urgent health and safety needs relating to various government buildings and bridges, including asbestos removal, fire safety and needed structural repairs. This also includes various sums for additional costs for leased accommodation and enhancements to government information services, provision of Parliamentary translation services and for the rationalization of federal office space; a $96-million increase to the Canadian International Development Agency for aid to Kosovo; $93 million to the Department of Health for health initiatives announced in the 1999 budget, including $39 million to improve the quality and availability of health information and for additional development of health information systems, of which $30 million is to go to the Department of Health for the Canada Prenatal Nutrition Program; $20 million for innovative approaches in rural and community health, including joint initiatives with the provinces, and also $5 million for biotechnology initiatives; $90 million to the Department of Justice to respond to increased levels of litigation and increased activity in federal prosecution; $87 million to the Department of Indian Affairs and Northern Development for settling and implementing comprehensive and specific claims; $86 million to the Cape Breton Development Corporation, in particular $54 million for workforce adjustment costs related to the closure of the Phalen mine, and also $32 million for operating losses arising from geological problems at the Prince mine and the accelerated closure of the Phalen mine; $85 million to the Department of Finance for payments to International Financial Institutions; $79 million to the Department of Citizenship and Immigration for resettlement assistance for refugees from Kosovo, including income support, health care and refugee sustainment sites and settlement services; $78 million to the three granting councils, which includes $50 million to restore funding to 1994-95 levels as set out in the February 1998 budget, of which $32 million is to the Natural Sciences and Engineering Council, $12 million to the Social Sciences and Humanities Council, $6 million to the Medical Research Council and, in addition, $28 million to assist the Medical Research Council with its transition to the Canadian Institutes of Health Research; $76 million to the Department of Fisheries and Oceans to ensure the sustainability of its departmental programming, including search and rescue in Canadian waters, fisheries monitoring and enforcement and access to scientific advice to conserve and protect fisheries resources; $75 million to the Department of Human Resources Development for the Youth Employment Strategy, a government-wide initiative to create employment opportunities for Canada's youth, as announced in the 1999 budget; $75 million to the Canadian International Development Agency for the International Assistance Envelope; $70 million to the Department of Canadian Heritage for official languages programming; $67 million to Statistics Canada to prepare for the 2001 Census of Population; $63 million to the Department of Industry for the Technology Partnerships Canada Program; $58 million to the Department of Agriculture and Agri-Food for the Canadian Adaptation and Rural Development program; $52 million to the Department of Citizenship and Immigration for immigration programming, including interdiction and intelligence to prevent illegal entry into Canada, enforcement of immigration laws and improved management of access to Canada and timely deportation; and, finally, $247 million to various departments and agencies for the salary increases and related employee benefits, including additional funds for the salaries of judges and RCMP members.

• (1640)

Honourable senators, having listed the major increases, I shall now list the major decreases as reflected in the budgetary Main Estimates. They include a $1.6-billion reduction in the Department of Human Resources Development estimates due to a forecast decrease in Employment Insurance Benefit payments; a $500-million reduction in the Department of Finance's estimates due to a forecast decrease in public debt costs; $260 million in increased recoveries from the Province of Quebec associated with tax abatements provided to Quebec for the Youth Allowances Program, which ended in 1974, and from alternative payments arrangements, concerning the cost of certain federal-provincial programs administered by Quebec. The value of the abatement is subtracted from payments otherwise payable under the Fiscal Arrangements Act.

Other major decreases include a $287-million reduction in the one-time funding granted by Parliament to assist departments and agencies in Y2K compliance requirements. Interestingly enough, honourable senators, Y2K has receded from our memories, but for the past year it seemed to be such a pressing problem. This is something that strikes me, because it shows us how quickly so many matters recede into our memories.

There is a $225-million reduction in the Department of Fisheries and Ocean's estimates due to the winding down of the Canadian Fisheries Adjustment and Restructuring Program**;** a $112-million reduction in the estimates of the Department of Human Resources Development for the Canada Student Loans Program caused by a decrease in the estimated liabilities of the program, as no guaranteed loans were granted after August 1995; and, lastly, a $110-million reduction in the estimates for the Department of Agriculture and Agri-Food caused by reduced cash requirements for the Agriculture Income Disaster Assistance program**,** which is in year two of its two-year program.

Honourable senators, that completes my summary of the reductions. Having listed both the increases and reductions to the Main Estimates, I now turn to the major changes in non-budgetary Estimates, being a $190-million increase to the Department of Finance for payments to various international financial institutions.

In conclusion, I would like to take this opportunity to thank the Chairman of the National Finance Committee, Senator Lowell Murray, for what I thought was an efficient handling of the questions and references before our committee. I should also like to take the opportunity to thank the other senators on our committee who cooperated fully and ensured that the government would receive its supply in adequate and proper time by reviewing the Main Estimates 2000-01 and by providing the committee's interim report to the Senate in a timely and orderly fashion.

At the same time, honourable senators, I should like to thank the staff of the committee upon whom enormous burdens are placed, in particular at this time of the year, when we are trying to bring all the variables together so that we can adjourn for the summer. I hope that the staff of the committee is listening because, often, we do not express our appreciation to them.

Honourable senators, having said that, the Main Estimates 2000-2001 have described Her Majesty's government's need and plan for supply. Having given honourable senators quite a comprehensive review of the government's Estimates and expenditure plans, I urge all honourable senators to support Bill C-42, which is the actualization of the Estimates in statutory form.

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

[Senator Cools]

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

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

Senator Cools: Honourable senators, I am assured that we have unanimous consent to proceed to third reading later this day.

Senator Hays: Now.

Senator Cools: Honourable senators, I am just checking that the consent is there, because the last time my honourable leader told me it was there and I rose to say that we have it, someone said "No."

The Hon. the Speaker: Honourable senators, is it agreed that we proceed now to third reading?

Hon. Senators: Agreed.

THIRD READING

Hon. Anne C. Cools moved the third reading of Bill C-42, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

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

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, under Government Business, I should like to call the report that we deferred for consideration later this day concerning Bill C-25. That is the report of the Standing Senate Committee on Banking, Trade and Commerce. I believe the report has been distributed to all honourable senators.

[*Translation*]

INCOME TAX ACT
EXCISE TAX ACT
BUDGET IMPLEMENTATION ACT, 1999

BILL TO AMEND—THIRD READING

Hon. Marie-P. Poulin moved the third reading of Bill C-25, to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999.

She said: Honourable senators, on behalf of all the members of the Standing Senate Committee on Banking, Trade and Commerce, I invite all of you to support this bill to implement the 1999 budget.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

[*English*]

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should now like to call, under Government Business, the report from the Standing Senate Committee on Social Affairs, Science and Technology concerning Bill C-12.

• (1650)

CANADA LABOUR CODE

BILL TO AMEND—THIRD READING

Hon. Dan Hays (Deputy Leader of the Government) moved the third reading of Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts.

He said: Honourable senators, I defer to Senator Kinsella.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as you recall, at second reading debate we raised in the chamber that the Senate had worked on an amendment to Part I of the Canada Labour Code and at that time had focused on the full text of the code, which, at that time, was quite gender specific. The minister gave an undertaking that work would be done to make it gender neutral in language. We had taken the code off the Department of Justice's Internet site. That version continues to be — in fact, it is still up today — quite gender specific. However, we did pass a Miscellaneous Statutes Act about one year ago. It was in that hidden Miscellaneous Statutes Act that, where the labour code had gender specific language, it was changed.

The minister gave an undertaking that the office consolidation of the labour code that they do would be inclusive of what was changed in the Miscellaneous Statutes Act, so that now Canadian workers will have available, through the Ministry of Labour, a code in the language that we want it to be in. This was the work of the Senate, and we were delighted to discover that, indeed, they had followed the advice of the Senate.

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

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would now call Item No. 1 under Government Business, resuming debate on Bill C-20.

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SECESSION REFERENCE

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Graham, P.C., for the third reading of Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

Hon. Lorna Milne: Honourable senators, I wish to confine my remarks on Bill C-20 to the two main questions that seem to be of most concern to the members of this place: Is Canada divisible, and is the bill constitutional?

Your committee heard from one very persuasive young man, Professor Robert Howse, from the University of Michigan, who has written extensively on Canadian constitutional law, even though his main area of expertise is in international trade. I hasten to add that, although he lives in the United States, he is, or perhaps originally was, a Canadian. He argued that Canada is indivisible, basing his argument on much the same legalistic reasoning that we have heard several times in this chamber, so I will not repeat it.

I look at it from a pragmatic and practical point of view. The simple fact of the matter is that every country in the world is divisible and has been divided and reformed many times since the dawn of history. Compare a map of the world just 50 or 60 years ago, or even 10 years ago, to a map of the world today. The end of the Cold War brought about the dissolution and re-amalgamation of several states across Europe. Countries that grandly declare themselves indivisible have quietly and pragmatically divided — for example, France and Great Britain. Even island nations are clearly divisible. Look at Ireland and Haiti. Canada is not unique. It is not indivisible and the Supreme Court of Canada has clearly stated so in paragraph 2 of its opinion, which states:

> ...a clear majority vote in Quebec on a clear question in favour of secession would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize.

Remember that an opinion from the Supreme Court has, in practice, the same effect as a decision, as Justice Estey reminded us. It establishes the parameters of the law of the land. Canada, being a country that abides by the rule of the law, has traditionally abided by Supreme Court opinions by reinforcing them in law. That is exactly what Bill C-20 achieves.

Honourable senators, not only must we acknowledge that Canada is divisible, we must apply the logic of the Supreme Court and acknowledge that an independent Quebec would also be divisible. This fact was emphasized by a group of aboriginal peoples from Quebec, who clearly stated that they agreed that Quebec would be divisible.

Canada, unfortunately, is divisible, both from my own pragmatic point of view and legally, because the Supreme Court has said so. Professor Howse also argued, as did Justice Willard Estey, that this law is not constitutionally valid. The arguments were based on the fact that Bill C-20 does not treat the Senate on the same basis as the other place and is, therefore, a disguised attempt to change our Constitution and the role of the Senate within Parliament, without having to follow any of the amending formulae.

These opinions were countered by three of the most noted experts on Canadian constitutional law, namely, Dean Peter Hogg, Professor Patrick Monahan and Professor Joe Magnet, who all said, in essence, that Bill C-20 is entirely and completely constitutional. They all contended, as did most of the witnesses, the fact that this is an ordinary bill upon which the Senate must and indeed is playing its traditional role of debate and deliberation and that the Senate is free to pass, amend or defeat.

I should like to quote Professor Monahan, who stated:

> Certain senators would say — and I know they have said it, and I understand the concern — "But this devalues the role of the Senate because it does not treat the Senate as equal to the Commons." I simply say to you, senators, that neither the Senate nor the Commons has ever played the role envisaged by Bill C-20 in the supervision and limitation of the prerogative powers of the Crown. Therefore, in my view, it does not infringe on the historic prerogatives, privileges or powers of this institution of which honourable senators are a part. Thus, you do not bring any dishonour to the institution and to the traditions of the body of the Senate by agreeing to Bill C-20.

If, sometime in the unforeseeable future it becomes necessary to act upon this bill, any constitutional change that might have to be negotiated because of a clear result, by referendum in some province, upon a clear question of separation, would have to be done as required by law, following the correct amending formula and with the agreement of the Senate or, perhaps, after a suspensory six-month veto. It is quite clear to me that we are not being set aside and that we are not being excluded from the constitutional process because we cannot be excluded from it. The place of the Senate within our bicameral system of government is enshrined in our Constitution and its authority cannot be delegated away. Justice Estey himself stated this principle in his 1980 reference, "Authority of Parliament in Relation to the Upper House," wherein he stated:

> This court, in *Attorney General of Nova Scotia v. Attorney General of Canada and Lord Nelson Hotel Company Limited*, determined that neither the Parliament of Canada, nor a Provincial Legislature could delegate to the other the legislative powers with which it has been vested, nor receive from the other the powers with which the other has been vested.

Not only is the place of the Senate constitutionally guaranteed and cannot be diminished by a simple bill such as this one but also the protections offered to the First Nations people are guaranteed. Canada must retain its fiduciary and legal responsibilities, as set out in treaties under clauses 35 and 35(1) of the Constitution. This is an undisputed fact, and it is completely unnecessary to reiterate the relevant portions of the Constitution within this act.

Honourable senators, we are all agonizing over this bill. It has not been easy.

• (1700)

Some senators have come to me and said, "But I swore an oath to defend the Senate, not to diminish the place." Well, I swore that oath of allegiance, too. It was an oath stating that I would bear faithful and true allegiance to Her Majesty the Queen. It does not say "to defend the Senate."

Furthermore, just this morning I read the proclamation on the wall of my office of my calling to the Senate. This proclamation calls upon honourable senators for the "purposes of obtaining your advice and assistance in all weighty and arduous affairs which may the State and the Defense of Canada concern." I interpret that proclamation to mean that I have a duty to defend Canada. That includes doing my best to prevent our beloved country from splitting apart. This clearly constitutional bill does just that. It gives the government a tool, reinforced and strengthened by a decision of the members of Parliament, to counter those who want to divide the country. This bill is the right thing to do for the future of Canada.

Honourable senators, this probably is not the appropriate time to say it, for this is a very sensitive subject with some of our colleagues, but we should occasionally remind ourselves that this chamber is equal in many ways to the other place under our Constitution, but it is not the same. We are appointed to this place to deliberate upon legislation, to give it that famous sober second look; also to legislate and investigate, all the while keeping in mind our own regions and adding a sense of regional concerns to the debate. We do not, however, represent ridings in the electoral sense of the word. We are appointed, not elected. Therefore, we are not responsible to the electorate, nor are we representative of the electorate.

This bicameral system of ours works so well that sometimes we lose sight of the fact that, while we talk about being the upper house and being in many ways constitutionally equal to the House of Commons, if all the legal and constitutional requirements were met, the Senate could be legislated out of existence and Canada would still be a democratic country. Senators are really not that important in the larger scheme of things, but Canada is.

Honourable senators, this legislation does not prevent us from defeating or amending legislation that is sent to us from the other place, nor does it prevent us from initiating legislation, nor does it prevent us from investigating the great issues of the day. Once this legislation has become law, we will continue to exercise our responsibilities as before. I therefore agree totally with Professor Derriennic when he appeared before the committee and said:

> Much of the heated debate over this bill stems from an overestimation of the scope of the legislation and of the effects of the bill.

He went on to say:

> There will be much more important decisions to be made later on, when the Senate will play its usual and constitutional role.

In denial of the Supreme Court's exhortation that the government must negotiate in good faith — that is, subclauses 4(*a*) and (*b*) — Professor Howse had suggested that the necessity to negotiate as legislated in this bill would not necessarily mean that the government would actually need to negotiate upon the question of separation. This, it seems to me, is just another legalistic way of intimating that the government of the day could negotiate with Quebec or any other province in bad faith. When I suggested just that to the witness, some senators around me muttered "no, no, no," but I contend that is precisely what was being suggested. We all know that if a province really and truly wants to separate from Canada — and I hope it never happens — our government must negotiate terms and conditions starting with the government's position, which is the status quo, and running the complete combination and permutation of possibilities up to and including the province's position, which would be a completely separate country.

Honourable senators, we do live under the rule of law, and I do not believe that Canadians would attempt to prevent such a separation by force of arms, which could be the next step after failure of negotiation. I hope fervently that this piece of legislation will never be used, for I cannot conceive that the people of Quebec would ever willingly cut themselves off from their own Canadian heritage, their own patrimony. It would be like voluntarily chopping off one's arms and legs to be free of the nuisance of caring for them. Quebecers would be hived off within inevitably shrinking boundaries to attempt to interact with a larger North American culture all alone.

I believe Canada is the buttress and the barrier that presently keeps Quebec from drowning in an overwhelming sea of anglophones and Hispanics. If that sad day ever does arrive, I, for one, want clear rules in place so that law and order will continue to prevail. I have become convinced that this legislation is not only constitutionally correct but that it is absolutely necessary. It could one day be a key element in defending Canada — defending Canada from the threat of dissolution. It is for that reason that I shall not support any amendments to this bill. I shall support the bill fully.

Hon. Willie Adams: I should like to ask Senator Milne a question.

The Hon. the Speaker: Senator Adams, I regret to say that Senator Milne has used her 15-minute period; therefore, there is no time available for further questions, unless leave is granted.

Hon. Dan Hays (Deputy Leader of the Government): I would ask leave to extend the time for a further 10 minutes.

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

Hon. Senators: Agreed.

Senator Adams: Honourable senators, I want to discuss an aboriginal amendment to Bill C-20. I have heard from some witnesses who said that our original guarantee would apply in the future. I am not speaking of only the Cree and Inuit in Quebec. I believe I heard Senator Carney ask Senator Fraser, the chairman of the committee, whether that would apply across Canada. Senator Fraser said that it would apply across Canada.

Is Senator Milne saying that aboriginals are guaranteed a right in the future and that we need not propose an amendment to Bill C-20?

• (1710)

We have many land claims at present across Canada, and these claims often include rights to fishing, as well as to land. It seems to me that there is a possibility that after Bill C-20 is passed, it could be said that since Bill C-20 was not amended that it does not include aboriginals. It only says the ones to be included are the Government of Canada and the provinces. It does not say anything about the aboriginals. I should like the honourable senator to clarify that point.

Senator Milne: I thank Senator Adams. The bill does not speak to the Constitution. This is an ordinary bill, and it speaks to the clarity of a question that may be put some day to the people of Quebec. It does not speak to the Constitution. It has no effect whatsoever on clauses 35 and 35(1) of the Constitution. It has no effect whatsoever on the treaties. Those still stand, and those will still guarantee that the aboriginal people of this country will have a place at the table.

Senator Adams: As a supplementary question, Senator Milne says this is not a constitutional bill. However, some people say that Bill C-20 could not have effect because Quebec never signed the Constitution.

Senator Milne: I contend that Bill C-20 is just a bill. It does not amend the Constitution of Canada. Thus, the Constitution as it presently is would stand.

Hon. Serge Joyal: Honourable senators, I should like to bring some facts to the attention of Senator Milne in relation to Professor Howse.

The honourable senator mentioned that Professor Howse is young. According to the biographical note that was circulated at the committee hearing, where the honourable senator was a full government member, Professor Howse was born in Toronto in 1958, so he is 42 years old.

If I look into the biography of Professor Monahan that was circulated, he is 46. I bet he is also a young professor.

I raise this, honourable senators, because when one qualifies a witness by referring to his age, there is an innuendo that he is less credible than someone older. I think, since the biographical notes were circulated, we should reflect that.

Second, he has been an associate Professor of Law at the University of Toronto, where his tenure was granted in 1995. He was teaching at the University of Toronto School of Law until 1999. According to the same CV, which was circulated, he has been a frequent advisor and consultant to the Canadian government, including to the Law Commission of Canada.

If he is teaching presently under invitation at a Michigan law school, that does not make him an American. It simply makes him a noted Canadian whose competence is recognized based on all the books that he has published on federalism, and he has been published in *The Canadian Bar Review.*

According to the documents that were circulated to us, the four fundamental principles that the Supreme Court recognized as being entrenched in our Constitution — federalism, democracy, protection of minority rights, and constitutionalism — are essentially taken from his contribution to the Supreme Court of Canada.

I would say to the honourable senator that even though he is a young professor, he is rather gifted.

That being said, I had some difficulty following the honourable senator when she said that we are not representing the electorate. I am sorry, but I was sworn in as a senator for Kennebec. Like my 23 colleagues from Quebec on both sides, we all represent a senatorial district. That was put in the Constitution in 1867, on the map of 1864, and it has not been changed since then.

I drew this fact to the attention of the honourable senator this morning at the Standing Senate Committee on Legal and Constitutional Affairs, for very specific reasons. We have to protect and represent the minorities in Quebec, and that is a special embodied structure in the Senate, for at least the Quebec senators. When I am told that I do not represent an electorate, I am sorry, but I represent the electorate of a constituency in Quebec, as does my colleague Senator Setlakwe. Because of that, we have the responsibility to represent the interests and specific minority consideration of Canadians living within those special boundaries.

I take exception to the honourable senator when she says that we do not represent an electorate. I am sorry, I represent an electorate. In the rules of our Parliament, we are entitled, four times a year, to send out a householder informing the people for whom we speak, although it may not be designated specifically as an electorate, what we do in the Senate. They judge me as to whether I am a good senator or a bad senator. I have a link with the people because I am entitled to inform them four times a year, directly sent through Canada Post, what I am doing. How do we reconcile that with the fact that we are not supposed to represent an electorate?

We are not mandated directly, but constitutionally, as a Quebec senator, I have a direct link with a very specific constituency. If I fail to do that, they can democratically express their views. I feel that, even though we are not elected, we have a legitimacy with the Canadian people. It may not be that way in the province of Ontario and the other provinces, but in terms of Quebec we definitely have a very specific mandate. Each one of us interprets his mandate the way he or she wishes to interpret it. I definitely represent some people, or at least their interests.

Senator Milne: In response to Senator Joyal, I must admit to a certain generational bias. I have a 43-year-old son now. To me, anyone under age 43 is young and will continue to be young.

As to the electorate that the honourable senator claims to represent in Quebec, certainly he does represent a district in Quebec. However, he represents more than just the electorate in that district; he represents everyone within that district. I was referring strictly to people who were elected.

I have listened in the committee with great interest and with attention to the honourable senators' very penetrating and intelligent questions to the witnesses. I must say to the honourable senator, however, that, other than beyond these questions that I have answered here today, I would prefer if he made his points, as he is entitled to do, within his own speech.

For me, this is a very emotional issue. If I can have the attention of the Senate, this is an emotional issue all around. I feel that if Quebec were ever to leave Canada, it would rip the living, breathing heart out of this country. To me, that is a very important thing, and I want to do everything I possibly can to prevent it. Not only would I be a victim, all Canadians would be victims. I get emotional over that, so I am sorry, but I shall not accept any further questions.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: The matter is settled. The honourable senator says she will not accept any further questions.

Hon. Marcel Prud'homme: Will she accept comments?

The Hon. the Speaker: In any case, the 10-minute period has expired.

Hon. Thelma J. Chalifoux: Honourable senators, I wish to speak today to Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

As you all know, I do not have a formal legal background. Therefore, I shall leave all legal arguments to my colleagues who have this expertise. I have, however, listened and read intently all the evidence as presented, and I have concluded that this bill addresses two issues as laid out in clause 2 (1) of the bill, which reads in part:

> ...the House of Commons shall, except where it has determined pursuant to section 1 that a referendum question is not clear, consider and, by resolution, set out its determination on whether, in the circumstances, there has been a clear expression of a will by a clear majority of the population of that province that the province cease to be a part of Canada.

In determining the clarity of the question, or what constitutes a clear majority, the aboriginal people of the province will be consulted.

• (1720)

Grand Chief Phil Fontaine stated, in his brief to the Special Senate Committee on Bill C-20, that section 35 of the Constitution Act of 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada. It is now generally accepted that section 35 includes First Nations rights of self-government. That is certainly a cornerstone of the policy of the federal government. The historic treaties entered into, nation to nation, would have borne no other interpretation in any event.

Under Canada's Constitution, no proceeding, procedure or institution can affect those rights, positively or negatively, without the full, equal and meaningful participation of the First Nations.

Section 25 of the Constitution Act, 1982, guarantees that the Charter of Rights and Freedoms shall not be construed as to abrogate or derogate from any aboriginal treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada. Section 92.24 of the Constitution Act of 1867 gives constitutional authority and concurrent fiduciary obligation in legislative matters concerning Indians and land reserved for Indians to the federal government.

This bill provides three instances when aboriginal peoples will be consulted. The first two are set out in subclause 1(5) and 2(3), which state that the House of Commons, in dealing with whether the question and the majority are clear and sufficient, will take into account the statements or the resolutions of the representatives of aboriginal peoples of Canada.

That participation and consent requires both that First Nations be consulted in the initial determination on clarity or clear expression of a referendum question, in the determination of whether or not a sufficient political will has been expressed by a provincial population in a referendum, and in any ensuing negotiation on terms or amendments required for any province to secede from Canada.

The First Nations of Canada favour legislation that protects First Nations citizens from a unilateral declaration of independence by Quebec or any other province. Our aboriginal leaders worked tirelessly at the committee stage in the House of Commons to ensure that the bill was amended to include our rights of participation as co-governors of this land.

Those efforts resulted in amendments to subclause 5 of clause 1 and subclause 3 of clause 2, which now require consultation with our people, both on the question of clarity of a referendum question and on whether or not there has been a clear expression of will by a clear majority of the population of a province wishing to secede.

Neither the court nor Bill C-20 rules out the possibility of other political actors participating in those negotiations, including the representatives of the aboriginal peoples of Canada. Simply put, it was not for Bill C-20 to go beyond the court's reference by creating an obligation for actors other than those to which the court assigned such an obligation.

It should be added that, according to the Constitution Act of 1982, the federal and provincial governments are bound by an agreement in principle by virtue of which representatives of the aboriginal peoples would be invited to participate in discussions on any constitutional amendments that would affect the provisions of the Constitution that are mentioned in subsection 35(1). The clarity bill respects that principle by clearly stipulating that negotiations on secession would include at least the governments of the provinces, aboriginal peoples and the Government of Canada. Mr. Dion has stated clearly and recognizes that section 35(1) provides a constitutional guarantee that aboriginal peoples will be involved in secession discussions since their treaty rights in the Constitution under section 91.24 may be affected.

These provisions and guarantees are sufficient, in my view, to adequately protect and assure all aboriginal peoples — the First Nations, the Métis and the Inuit peoples — of their participation and involvement. For these reasons I support Bill C-20. I regret, honourable senators that I cannot accept any questions.

Hon. John Lynch-Staunton (Leader of the Opposition): Your Honour, do we have time for comments? I should like to comment on the honourable senator's speech. I believe that the rules provide for that.

The Hon. the Speaker: There are eight minutes left.

Senator Lynch-Staunton: I shall not need the entire time.

My comments, directed to Senator Chalifoux and her colleagues from the aboriginal community, are the following. I fear that their reliance on section 35(1) is misplaced. It does oblige the Prime Minister to invite aboriginal peoples to any conference discussing a constitutional amendment, but that is the limit of their participation. They are there to participate, but they are not part of the negotiations.

I am not the only one saying this. I shall quote from the second reading speech of Minister Dion when he introduced the bill at second reading. He said the following:

> Aboriginal populations in Quebec have twice demonstrated through referenda, in 1980 and 1995, their clear will to stay in Canada. If aboriginals were to express such a clear will once again, the Government of Canada could not guarantee in advance what fate would await them...

I shall repeat that to the Honourable Senator Chalifoux, because this is a statement from the minister himself. If the clear will to remain in Canada were expressed by the aboriginal population of Quebec:

> ...the Government of Canada could not guarantee in advance what fate would await them, but it is committed to taking that factor into account during negotiations on secession.

There is no mention here of having the aboriginal peoples themselves be part of discussions, or even interpreting 35(1) as intended to have aboriginals and others participate, other than as spectators and debators. There is nothing saying they will have a say in the final decision. That is why an amendment to this bill to protect the fiduciary responsibility that the aboriginals have been favoured with — and quite rightly — should remain and that their future should not be decided unilaterally without their full approval. Bill C-20 does not provide for that.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a further comment, honourable senators, in addition to what the Honourable Leader of the Opposition has pointed out. Let me draw the attention of all honourable senators to another bill we happen to be addressing in the house, Bill C-27, dealing with Canada's parks. I draw your attention to subclause 2(2) of that bill. What does the bill provide? Subclause 2(2) states:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

My heavens, we are prepared to put it in a bill dealing with parks, but we are not prepared to put it in a bill that speaks to the heritage and the citizenship and the land rights and the Canadian rights of our aboriginal peoples? Shame!

Hon. Jerahmiel S. Grafstein: Honourable senators, I have just a brief comment. I sat through the evidence presented by the Grand Chief of the Crees, and he felt this was not an ordinary bill. He agreed with the minister that this was an extraordinary bill, an extraordinary piece of legislation. It is not, as the previous senator said, just an ordinary bill. He said he wanted to be there at the outset of any process dealing with his treaty and constitutional rights. I agree with him.

Is Senator Chalifoux saying that she disagrees with the Grand Chief of the Crees, aboriginal peoples who, on the referendum and since, have been the staunchest federalists in the country?

Hon. Senators: Hear, hear!

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to speak to one point, which is the fiduciary role of the Government of Canada and the Parliament of Canada for the aboriginal people. Obviously, the Supreme Court said again and again that we, the federal authority — that is the government and the Parliament of Canada — have a fiduciary role for the aboriginal nations.

I asked the question to all those who came before us, and they all said that the Senate is part of the fiduciary role of the legislative branch of the state.

• (1730)

How is Bill C-20 protecting that? I simply raise the question. We all agree that we have a fiduciary role established by the Supreme Court. The Parliament of Canada, of course, is composed of two Houses, and the Senate obviously has a fiduciary role to play.

Hon. Charlie Watt: Honourable senators, I should like to begin with a few words in Inuktitut.

[*Senator spoke in his native language*]

Honourable senators, I appreciate the opportunity to speak on this important bill, C-20. Once again, we find ourselves at the crossroads between political expediency and the rule of law. Will the federal government implement the spirit and letter of sections 35 and 35.1 of the Constitution Act, 1982, or will it use Parliament's legislative powers to erode the principles of fairness, justice and the rule of law?

Today, we confront those issues in the context of secession. This content is of central importance to Canada as we know it — a country we seek to unify and strengthen for present and future generations.

Bill C-20 is an important bill to ensure clarity if and when a province holds a referendum on secession from Canada. It describes what should occur in circumstances of a potential crisis. As an old saying goes, crisis invokes danger and opportunity.

At this stage of our deliberations in Parliament we have the opportunity to ensure for all peoples in Canada the framework of clarity mandated by the Supreme Court of Canada to deal with the crisis of secession. We urge that a fair and balanced framework be created.

Since we need and desire clarity, we should begin this venture in our own chamber. Bill C-20 can and must be improved in this essential respect. We need to avoid risk, which is the other face of crisis.

The risk very simply is that the federal and provincial governments will get together and do a dirty deal on secession behind the backs, and at the expense, of the aboriginal peoples. The risk is that the permanent federal arrangement in the James Bay and Northern Quebec Agreement, which can only be amended with Cree and Inuit consent, will evaporate into thin, cold air. Approximately two-thirds of Quebec is subject to the terms of this important land claims treaty.

Honourable senators, basic constitutional considerations dictate that we must amend Bill C-20.

In 1983, aboriginal peoples largely contributed to the successful amendment of the Constitution Act, 1982. In particular, in section 35.1, the first ministers and we agreed that representatives of the aboriginal peoples should participate in constitutional negotiations that directly affect the status of section 91(24) of the Constitution Act, 1867, and sections 25 and 35 of the Constitution Act, 1982. Therefore, the omission in Bill C-20 of any explicit reference to the participation of aboriginal representatives in secession negotiations raises very grave concerns. This key omission is inconsistent with the "principled" approach required by the Supreme Court of Canada. It is also inconsistent with the trust responsibility of the federal government and Parliament. As a result, serious questions arise about the constitutionality of the draft legislation in a secession context.

As I stated before the special committee on June 12, the federal government is unnecessarily creating a very serious risk of a court challenge in this regard. Is this what supporters of Bill C-20 want? Is this what Canadians want? Do we really want litigation, conflict and distrust among Canadians?

If we do not amend Bill C-20, we can expect court challenges. In this respect, we should take note of inconsistencies in Minister Dion's statement in the House of Commons and the recent letter to Makivik Corporation, representing the Inuit of Quebec. On one hand, he defended the government's decision to exclude any explicit reference to aboriginal people in subclause 3(1). He did this on the mistaken ground that they are not "political actors" for the purposes of negotiating constitutional amendments.

However, Mr. Dion argues that this should be of no concern, since section 35.1 of the Constitution Act, 1982 already guarantees the participation of aboriginal peoples in secession negotiations. If this is the reason for the omission, why does the minister refer in the bill to federal and provincial governments as participants? They, too, are already guaranteed participation in any future negotiations.

In regard to aboriginal peoples, governments have made formal constitutional commitments. However, people come and go. Later, government officials are instructed to adopt restrictive interpretations of commitments. In this way, aboriginal peoples are robbed of their democratic rights of participation.

For aboriginal peoples, the familiar cycle of dishonour and marginalization is unacceptable. There are huge stakes involved in the secession context. Thus, failure to explicitly honour constitutional commitments concerning the participation of aboriginal peoples in any future negotiations is more than unacceptable — it is outright betrayal.

Why, as aboriginal peoples, do we have to continue to struggle day in and day out to ensure democratic participation in national issues of fundamental importance? Why is the constitutional principle of democracy subjected to a double standard whenever our human rights and our future are involved? Why are we being mistreated when we seek to help Canada?

Personally, honourable senators, I feel tremendously frustrated, and I will tell you why. Bill C-20 seeks to ignore or bypass the Constitution and section 35.1 of the Constitution Act, 1982. I feel the same frustration as I did in 1981 when the patriation legislation was being negotiated.

As I informed some senators on June 12 before the special committee, in 1981, as a leader of the aboriginal coalition, I and my colleagues were instrumental in reaching an agreement in the parliamentary committee on what is now section 35 on aboriginal and treaty rights in Canada. A few months later, aboriginal leaders were at a meeting of first ministers. We were invited, but we could not participate directly in the negotiations. That is the question that was raised just a few minutes ago.

• (1740)

Honourable senators, our clause disappeared behind closed doors during that time. We were not at the table, as, I think, everyone remembers. I stressed this point once before that this will happen again. That is one of the reasons we insist on amending Bill C-20. For self-serving reasons, the first ministers traded away constitutional recognition of our most basic rights. Later, they tried to maintain this injustice and ultimately failed.

On June 13, 2000, Honourable Senator Andreychuk emphasized the unwillingness of the federal government to consult and negotiate with the aboriginal people in respect of Bills C-23, C-49 and the gun legislation, despite the legal commitment to do so. She described to us the shameful pattern of the government's neglect and dismissal. She said:

> Honourable senators, I have been in the Senate for seven years. Each and every time a bill affecting aboriginals comes forward, it is always in the late stages that the government hustles to say that they will consult with the aboriginal community and that they will take them into account in the regulations. Each time we are told there was some error and that it will never happen again.

My concern, honourable senators, is that if aboriginal people are told that the error will not happen again after secession, trust will have been betrayed and it will be too late. This is the heart of the matter. The federal government tells us: "Trust me. Aboriginal people do not need any explicit confirmation of their participatory rights in Bill C-20." However, the principles of federalism, democracy, the rule of law and the protection of aboriginal and treaty rights require fair and equal application. According to Canada's Constitution, aboriginal people are owed more than vague and fleeting promises made by politicians.

Honourable senators, we need to improve Bill C-20 because such improvement would be in the national interest. I do not say that lightly. This improvement will also save time and money. Since 1998, we have observed a radical increase in the sums spent by the federal government to defend itself against litigation brought by aboriginal claimants. This trend must be reversed, especially with respect to legislation on clarity.

As parliamentarians, we are required to show unequivocal respect for the fundamental constitutional principles in the Constitution itself. It is critical for legislators to alert the federal government when it abdicates its trust and responsibility, when it ignores equality principles and when it pays lip service to basic constitutional provisions.

In this context, I refer to you the key study that was commissioned by the Privy Council Office in 1999. This highly relevant study is entitled the "Quebec Secession Issue: Democracy, Minority Rights and the Rule of Law." The author of the study, American Professor Allen Buchanan, concluded that the aboriginal people of Quebec "should be principal participants" in the negotiations on secession. Professor Buchanan rejects the "paternalistic" notion that, through the trust relationship, the federal government can speak or negotiate for aboriginal people in any future secession talks. He concluded his paper in this way:

> ...a proper understanding of the relationship between the right to secede, democracy and minority rights in the case of the possible secession of Quebec requires full partnership for those native peoples whose distinctive rights would be directly affected by separation.

I remind honourable senators that these views were commissioned by the Privy Council Office, which was headed by the Minister of Intergovernmental Affairs in 1999. Although the study was completed last year, the Privy Council Office suppressed the study. It chose not to disclose the study's existence to the legislative committee of the House of Commons in its examination on Bill C-20. It also chose not to share it with the Special Senate Committee on Bill C-20.

Why would the Privy Council not wish Parliament and the Canadian public to know that an esteemed scholar who had written extensively on secession strongly concluded that the participation of aboriginal peoples in future secession negotiations is essential? This conduct fails to uphold the constitutional and trust responsibilities of the federal Crown.

This federal attempt to withhold vital information on the constitutional status and human rights of aboriginal peoples reinforces our main point. We cannot depend on any federal "trustee" to safeguard our rights and interests. Bill C-20 must be amended now so as to prevent further betrayals in the future.

These urgent circumstances, fundamental constitutional and political imperatives, as well as common sense itself, compel me to move two amendments on the issue of aboriginal participation. I urge honourable senators to join me in ensuring honour, equality and justice.

In relation to Bill C-20, I urge honourable senators to ensure clarity for the first peoples. When I say "first peoples," I am not speaking only of Indians. I am referring to all aboriginal peoples of this country. Please do not let the federal government leave us in the dark while it congratulates itself for creating a framework of clarity. We have been there too long.

MOTIONS IN AMENDMENT

Hon. Charlie Watt: Therefore, honourable senators, I move:

That paragraph 6 of the preamble to Bill C-20 be amended to read:

> WHEREAS the Supreme Court of Canada has confirmed that, in Canada, the secession of a province, to be lawful, would require an amendment to the Constitution of Canada, that such an amendment would perforce require negotiations in relation to secession involving at least the governments of all of the provinces and the Government of Canada, **as well as the representatives of the aboriginal peoples of Canada, especially those in the province whose government proposed the referendum on secession**, and that those negotiations would be governed by the principles of federalism, democracy, constitutionalism and the rule of law, and the protection of minorities;

and in subclause 3(1) to read as follows:

> It is recognized that there is no right under the Constitution of Canada to effect the secession of a province from Canada unilaterally and that, therefore, an amendment to the Constitution of Canada would be required for any province to secede from Canada, which in turn would require negotiations involving at least the governments of all the provinces **and the Government of Canada, and the representatives of the aboriginal peoples of Canada, especially those people in the province whose government proposed the referendum on secession**.

I thank honourable senators. I hope we all do the right thing.

• (1750)

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

Hon. Jerahmiel S. Grafstein: Honourable senators, is it appropriate to ask the honourable senator a question or two at the moment?

The Hon. the Speaker: I am sorry, honourable senators, but the Honourable Senator Watt's 15-minute speaking period has been exhausted.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I propose that we extend Senator Watt's time by 10 minutes.

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

Hon. Senators: Agreed.

Senator Grafstein: I had the opportunity of listening to the presentations made by the Cree and Chief Fontaine. I understood that the Grand Chief of the Cree was very much in support of amendments. I assume that the honourable senator's amendments contain those principles. I was not too clear, however, with respect to the position of Chief Fontaine. He left the hearings just before the final questions were asked. Thus, I do not believe he was properly or fully questioned on this subject.

However, I read in the press immediately after that he had some quarrel or some disagreement with the Grand Chief of the Cree as to whether or not he in fact was in support of amendments to the bill. He has always made it clear that he is in support of the principles of the bill, as many of us are, including myself.

I read again today in the press that Chief Fontaine has apparently said that he favours amendments, but he obviously supports the bill. Could the Honourable Senator Watt enlighten us as to whether or not he is in support of these amendments?

Senator Watt: Honourable senators, unlike Senator Grafstein, I was a bit taken aback by the lack of clearness of the National Chief at the time he appeared before the Senate committee. There was quite an interesting article in the paper today, as the honourable senator has mentioned, that stated that the Crees have split with Chief Phil Fontaine on the issue.

There is an election going on for the position of National Chief of the AFN. I see that he is basically saying, "We support the amendments that are being put forward by the Crees," which in a sense are the same amendments that I have just presented. I believe the national chiefs are very much in support of the amendments. At the same time, they also support the bill. I hope I have answered the questions of the honourable senator.

Hon. Serge Joyal: Honourable senators, I should like to address a further question to the Honourable Senator Watt. At the beginning of the week, we were informed that a study commissioned by the President of the Privy Council on the issue of the participation of the aboriginal people in negotiations that could lead to secession was released. At the time of its release, the committee was winding up its deliberations on Bill C-20 and moving into clause-by-clause consideration of the bill. There was no possibility for us to invite Professor Buchanan, the author of the study, to testify. Did the honourable senator have an opportunity to look into the study? How does he interpret the statement that section 35(1) is sufficient to protect the rights of the aboriginal people in any negotiation that might lead to secession?

Senator Watt: Honourable senators, the study to which Senator Joyal refers came to my attention on Monday, when I was at my home in the North. Immediately upon hearing that the study had been released, I called the honourable senator to ensure that the study was relayed immediately to the committee, in order that they could take it into consideration before they wrapped up their work. I believe the honourable senator did just that. However, I am not sure whether he understood what they were talking about at the time.

My interpretation of this particular study is that it calls upon aboriginal peoples to be participants in the negotiations, if negotiations ever take place. The study also states that we can put forward any alternatives and play the role of broker, or whatever it might be called, to the negotiations. Our role is more than just participating or being invited to participate. The study clearly describes that we have to be there in order to defend ourselves and to protect our own interests while at the same time being among the overall players. That is the way I understand it.

[*Translation*]

Hon. Marie-P. Poulin: Honourable senators, I have just received a copy of the amendment by my colleague Senator Watt. I asked for the French and was told it was not available.

The Hon. the Speaker: I am sorry, Senator Poulin, that matter was raised earlier. It is clear that we can introduce an amendment in either language. There is no obligation for it to be done in both official languages. Obviously, it will be translated as soon as possible.

[*English*]

Senator Watt: Honourable senators, I should certainly like to have it in Inuktitut, too. Unfortunately, in this place, there are only two official languages. Thus, I have to pick one. I did not pick mine.

Hon. Joan Fraser: Honourable senators, with reference to the Assembly of First Nations, can Senator Watt confirm that my memory of that session of the committee is correct? My recollection — and I do not have the document in front of me — is that, both in its formal written submission and in the oral testimony of Chief Fontaine, the Assembly of First Nations said that, with an abundance of prudence, it would be happy to see such an amendment, yet it would also be content to see the bill go through unamended because it did not believe such an amendment was essential.

Senator Watt: Unfortunately, honourable senators, depending upon which side we are on, we have a tendency to interpret comments in whichever way we see fit.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, has the Honourable Senator Watt's time expired?

The Hon. the Speaker: Yes.

Senator Kinsella: Honourable senators, I rise, then, to speak to the motion in amendment. However, I should like to ask His Honour if he will be seeing the clock at six o'clock.

The Hon. the Speaker: Honourable senators, in a minute, I shall be forced to do so. Perhaps I can ask honourable senators now if it is their wish that I not see the clock.

Senator Hays: Yes, it is, Your Honour.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, I wish to ensure that the Deputy Leader of the Government realizes that we are being very cooperative. Some of the new senators must be asking, "What is going on?" I do not care on which side they sit. They should know that any senator may say "no" and that, as such, we would have to come back at eight o'clock. I shall not do that. Sometimes it is good to educate ourselves. In a short time, we shall have 14 new senators.

For those who are asking what is going on, I say that what is going on now is that any one of them, if they are upset or feel that they are being pushed around, can say "no." That is the rule. Of course, we are not now upset.

Senator Kinsella Honourable senators, in rising to speak in support of the motion in amendment submitted by Senator Watt and seconded by Senator Adams, I, too, wish to underscore the importance and relevance of this amendment with reference to the testimony that we heard in committee. I refer in particular to the testimony of Grand Chief Dr. Ted Moses.

• (1800)

We have on the record of this house the statement that Chief Ted Moses made in his letter dated Monday, June 19. That letter appears in the *Debates of the Senate*, because I read that letter into the record. It was addressed to Senator Fraser as the chair and to myself as the deputy chair of the special committee.

If all honourable senators will study the Buchanan report, which was attached to the letter from Chief Ted Moses, they will conclude, as did Chief Moses, that Professor Buchanan's study is very relevant to Bill C-20. The pith and substance of Senator Watt's amendments are completely supported by the findings of the study done for the Privy Council Office by Professor Buchanan.

It seems more than passing strange that we would be examining a bill in this house dealing with parks, Bill C-27, and making the special provision to ensure that there is no misunderstanding, that the parks bill would not interfere in any way with the rights of the aboriginal peoples as provided in section 35 of the Constitution Act. Yet we hear from the testimony of the witnesses who appeared before our special committee, their special plea, their specific plea, for clarity. They want assurance that their rights will not only be respected but that they will have the rightful opportunity to represent themselves in the negotiations that are envisaged by the bill that is now before us.

I cannot understand how any honourable senator would not immediately see that, if we go out of our way to put into a minor bill the special provision that we find in clause 2(2) of the parks bill, we would not put into a bill that the drafters themselves say is of the utmost gravity a provision that would be similar, such as is being proposed now by Senator Watt.

Honourable senators, let me speak further to issues —

The Hon. the Speaker: Honourable senators, I regret to interrupt the honourable senator, but the time for Senator Watt's speech has expired. No, I am sorry, you are speaking on the amendment, Senator Kinsella. Please continue.

Senator Kinsella: Rule 37(3) provides that the sponsor of the bill and the first senator speaking immediately thereafter would be permitted not more than 45 minutes. The tradition here has been that, when the sponsor of the bill speaks, then it comes to the opposition. Let me hasten to add that I shall not need 45 minutes, honourable senators —

The Hon. the Speaker: That rule applies to a bill. It does not apply to an amendment.

Senator Kinsella: That is fine.

Senator Cools: We change the rules as we go along.

Senator Kinsella: I shall continue and not use up any more of my 15 minutes on this. We shall come back and use 45 minutes to speak on the main motion, if we get to that.

In whatever time I have available, let me turn to the bottom line, the decision with which all honourable senators are struggling, namely, the decision that we must take here next week on the proposed exclusion of the Senate from a determinative role in Bill C-20.

I believe that that decision will really be a watershed or a turning point in the history of the Senate of Canada. History will record whether we, the senators who were on watch in the year 2000, defended the 133-year-old bicameral Canadian Parliament or whether the present class of senators bowed to the pressure of the executive.

Honourable senators, I have empathy for senators who are under tremendous pressure. We respect you for dealing with that pressure. We encourage you not to submit to the yoke of political masters.

My plea to honourable senators is that you reach down deep and muster the strength and fortitude to remain, quite frankly, more loyal to the Senate of Canada and to the Constitution of Canada than to the fleeting pressures of the political leaders of the moment. For this, honourable senators, is one of those rare moments in parliamentary life when it will be the strength of individual judgment that must prevail over the press of a whip.

Indeed, the Fathers of Confederation recognized the importance of securing the tenure for senators as a means by which they could truly represent minority or regional interests over the political pressure of the day.

While the original tenure in the Senate was for life, the present tenure until age 75 ought to afford sufficient protection for independent judgment.

Honourable senators, in the past, our predecessors gave us many examples of senators rising to the occasion in moments of testing. In my own limited time in the Senate, I recall the fortitude of senators on the Canada Council bill —

Senator Cools: I remember very well.

Senator Kinsella: — and the abortion bill, to name only two. We are fully cognizant, honourable senators, of the enormous political pressure that has been brought to bear on many honourable senators by representatives of the executive power. Perhaps this unseemly interference with senators should be the subject of a separate inquiry and possibly legislation.

In the meantime, I trust that we will remain resistant to this pressure and that, unless some are still working to improve on their respective curriculum vitae, we will see our duty as honourable senators to be the only epitaph that we really need.

Honourable senators, I am sure we have been asking ourselves, how did we get into this situation? I feel that, in the words of one of my western Canadian friends, "Things seem to be in the saddle and are riding mankind." We in this chamber must find the fortitude to come together and put the Canadian people back into the saddle.

The attempt of the Bill C-20 drafters to exclude the Senate is no small matter. In the words of Professor Smith, from Saskatchewan, one of the witnesses we had before our special committee:

> To abandon bicameralism at the moment the Canadian federation faces its greatest test is to abandon the principle that made Canada possible as a plural society in the first place....

• (1810)

We then had Mr. Justice Estey tell us:

> Here...the Senate has a distinct function in serving its duties in the bicameral legislature. Anything that interferes with the Senate's exercise of that power is unconstitutional.

Mr. Justice Estey further stated:

> How is it that Bill C-20 has survived its unconstitutionality when it has effectively and indirectly undermined the concept of bicameral Parliament?

That was from an academic and an eminent former justice of our Supreme Court.

We also heard from a provincial premier. Premier Binns of Prince Edward Island wrote to our committee on June 15. This is what he said:

> From the point of view of the proper functioning of the Senate, I share the concerns of those who see the implementation and functioning of Bill C-20 as a realistic threat. Until other arrangements are in place, Prince Edward Island should be true to its historic position: the Senate is important in defending the Island's representation in both Houses of Parliament. To the extent that Bill C-20 either directly or indirectly undermines the validity and functioning of the Senate, a province like Prince Edward Island must register concern.

Honourable senators, as I said, this is the testimony not of a group of academics alone but, rather, of a cross-section of academics who are in debate — a former justice of the Supreme Court and a first minister. They are saying that the Senate and bicameralism are important for us and let us not see Bill C-20 go through with the Senate being relativized as is presently proposed.

The only answer advanced by the minister responsible for this bill as a reason to exclude the Senate is because he claims it is not a confidence chamber or, to put it another way, the government, on the theory of responsible government, is only responsible to the House of Commons. The proponents of the bill attempted to make that argument, which we dealt with at second reading. As I said in my argument at second reading , there could be no more irrelevant a position advanced. It simply makes no sense.

The government, since the advent of responsible government, has been responsible to the lower house. We have never seen a bill like this one before, which so blatantly strips the Senate of its rightful role as protector of the regional and minority interest in Canada. The theory of responsible government has absolutely nothing to do with this bill and certainly is not only a wrong argument for excluding the Senate but also, quite frankly, an irrelevant one.

On ordinary legislation, the Senate, except for the initiation of money bills, has a role equal to that of the House of Commons. This bill has never been portrayed by Minister Dion as a constitutional amendment, which is another case where the role of the Senate differs from that of the House of Commons. From a constitutional point of view, the Senate ought to have the same position as does the House of Commons in this bill.

In the absence of the Senate being abolished, we in fact have in Canada a bicameral Parliament. Therefore, on a matter as important to the future of Canada as is this bill, if the minister finds a role for the House of Commons on determining the clarity of the question and the majority, then on the basis of our bicameralism, which is what we have in reality, an equal role must be there for the Senate.

The minister helpfully produced a list of a few statutes in which there is a role for the House of Commons but not one for the Senate. These precedents were relied upon. For those of us who examined the legislation on that list, the issues that were dealt with were not relevant. We have done that examination, as have many others. They are, for the most part, administrative issues, dealing with reports being submitted, et cetera — certainly nothing even close to the treatment of the Senate in a matter that is the content of Bill C-20.

The Hon. the Speaker: I hate to interrupt, Honourable Senator Kinsella, but your 15-minute speaking period has expired.

Senator Hays: Honourable senators, I propose that Senator Kinsella's time be extended for 10 minutes.

[Senator Kinsella]

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

Hon. Senators: Agreed.

Senator Kinsella: One other argument has been raised during our debate by my colleague Senator Kroft, namely, that the Senate willingly gave up the power to veto individual amendments in 1982 and, therefore, has no role to play here. In fact, he says the provinces were elevated to take over the role of the Senate.

Honourable senators, the constitutional amendment in 1982 contained a number of compromises, but the result of 1982 was a statute of Westminster, not a statute of this Parliament. As well, if we take Senator Kroft's argument to its logical conclusion, then the clarity of the question and the majority should be considered by provincial legislators as well. They should not be relegated to the role of advisors as has been the Senate. They cannot have it both ways.

Honourable senators, the government continues to believe that Bill C-20 is the right course to take following the near disastrous referendum result in 1995, and the ill-advised reference to the Supreme Court that resulted in the Advisory Opinion on Quebec Secession. The minister said:

> The government is made responsible much more by the clarity bill than without the clarity bill. If there were no clarity bill, during a scrum the Prime Minister may say, "Yes, it is clear, we will negotiate." With the clarity bill you need to have a deliberation.

The minister is wrong and the government is wrong if they believe that Bill C-20 will achieve the goal of clarity during a future referendum. If anything came through loud and clear during our hearings on Bill C-20, it was that clarity is lacking in this bill. Those witnesses who supported the concept of a bill were disappointed by the details. Perhaps the most startling evidence we heard came from Roger Gibbons, who has been quoted by others. He told us that the bill enjoys widespread support in Western Canada. He also told us that if Western Canadians knew the details of the lack of clarity in the bill and the minor role played by the provinces, that support would quickly vanish.

I want to go through the bill with you, honourable senators, in order to put on the record at third reading the concerns that were raised in committee by both witnesses and honourable senators.

Let us begin with the preambular paragraphs. On page 2 of the bill, the seventh preambular paragraph reads:

> WHEREAS, in light of the finding by the Supreme Court of Canada that it would be for elected representatives to determine what constitutes a clear question and what constitutes a clear majority...

Honourable senators, this is not a true statement. It is a false statement. The seventh paragraph in the bill makes a false statement because at paragraph 153 of the Advisory Opinion of the Supreme Court, the court writes:

> ...it will be for political actors to determine what constitutes "a clear majority on a clear question" in the circumstances under which a future referendum vote may be taken.

Simply on that basis, this bill has to be rejected in its present form. It is not true.

• (1820)

Honourable senators, we have heard evidence that is incontrovertible, that the Supreme Court, in its opinion, did not say that it would be for elected representatives to determine what constitutes a clear question. The seventh preambular paragraph to this bill is simply false.

In committee, I asked Professor John McEvoy the following question:

> Would you not agree that we should expunge that paragraph because it is not true? Also, would you not agree that the advisory opinion of the Supreme Court does not speak to excluding the Senate from this process?

Professor McEvoy responded with:

> I would agree with you. As I said in my statement, there is some cause for doubt whether or not that preambular paragraph is an accurate statement of the Supreme Court's opinion.

Honourable senators, clause 1 of Bill C-20 provides for the House of Commons to determine the clarity of the question, with the Senate relegated to a consultative role. Clause 2 of Bill C-20 provides for the House of Commons, following a referendum result, to determine whether the majority is clear. Again, the Senate is only provided a consultative role.

When I look at the whole legal process that is being proposed, that process commences with members of the House of Commons assessing the clarity of the question and subsequently the clarity of the result. As we all know, there are 301 members of Parliament. Where do 103 of them come from? The Province of Ontario.

Senator Cools: That's right! Long live Ontario. Loyal she remains.

Senator Kinsella: The Province of Ontario borders on the west of the province of Quebec. My province borders on the east. Yet there are only 700,000 people living in the Province of New Brunswick. We are fortunate to have one of the best premiers that we have ever had in that province sitting in the chamber today, and we were fortunate up till a few years ago to have two of our fine premiers sitting in this chamber. The whole Maritime region has 25 members in total in the House of Commons.

As a senator from New Brunswick, I feel, along with my colleagues from New Brunswick and together with our other Maritime colleagues, that we would have a tremendous responsibility to counterbalance the awesome power that would otherwise be exercised if only half of our bicameral Parliament addressed something that can only speak for Central Canada.

In committee, I asked Professor Behiels the following question:

> What, in your view, was the genius of the Fathers of Confederation when they conceptualized of an upper house to be composed of members chosen on the basis of senatorial divisions whereby the Maritimes has 24 and Ontario has 24? What was the genius in terms of protecting minority rights? As you know, because of section 16.1 of the Charter, the Province of New Brunswick has a special constitutional obligation to protect the equality of two linguistic communities. This whole process is very pressing for New Brunswickers and Maritimers.

Professor Behiels responded with:

> You are absolutely right. I could not quite understand the language of the Supreme Court when they talked about limited numbers of political actors. They then wrote that into the bill and in the process they wrote out a role for the Senate at the very early stages. I believe that is unacceptable. Honourable senators are quite capable in their positions to defend your institution and you should do so with tremendous vigour. Indeed, you should go to the Canadian people with that concern because the Senate is an integral part of Parliament. It has been and should continue to be an integral part of Parliament, especially on such a crucial issue as the break-up of their country.

He went on to say:

> I fully understand your point of view, and on this point you should insist upon amendment that in fact writes in the role of the Senate from the beginning. Otherwise, why are you here? What is your role? You have been reduced to floor sweepers.

Honourable senators, I asked Professor McEvoy if he could appreciate the need that members of this house feel to amend this bill. Would he find any offence in the bill being amended so that the Senate would be able to meet its responsibility and do its duty? Professor McEvoy said:

> In a perfect world, the Senate, being the House of a federation, it is the Senate that should make this decision, not the House of Commons, for the very reason that you give. If you must make a choice of one house over the other, I prefer the Senate as the voice of the regions of Canada rather than the House of Commons, as it is weighted by population in the centre.

Clause 3 of Bill C-20 says that an amendment to the Constitution would be required for a province to secede. It names issues that should be addressed in negotiations.

During our hearings, some senators felt that the bill only involved the clarity of the question and the clarity of the majority and that the negotiation stage, should we ever reach that point, was not provided for in the bill. However, clause 3 speaks directly to the requirement for a constitutional amendment, without telling us which amending formula would apply. One witness, Professor Magnet —

The Hon. the Speaker: Honourable Senator Kinsella, I regret to interrupt you, but your time has expired.

Senator Kinsella: Two more minutes?

Senator Hays: Honourable senators, we have been going for 25 minutes, but I think it would be in order to extend the time of Senator Kinsella for another five minutes.

The Hon. the Speaker: Is it agreed, honourable senators, to extend the time for another five minutes?

Hon. Senators: Agreed.

Senator Kinsella: It was Professor Magnet who said that the unanimity provision for constitutional amendment would apply. Others we heard from were not sure about that. In fact, they argued that they thought the 7-50 rule would be the appropriate one. The minister seems as confused on this issue as he is on the legislative basis for the bill.

Clause 3(2) says that before proposing any constitutional amendment, the government is to take into account the rights, interests and territorial claims of the aboriginal peoples.

Our colleague Senator Watt has spoken clearly to this point, and I support everything that he said, as well as his amendment.

I shall not keep you any longer on this. I see my colleague Senator Fraser is here now. She did a first-class job as chairman of the special committee, and I publicly acknowledge the work that she did. It was very difficult work because the substance of our work was so terribly important. At times, as I looked around the room, about a quarter of the Senate was present, and all had questions. To be able to manage that committee, in the time that we had, showed a great deal of skill, and I wish to place on the record my acknowledgment of that skill.

On motion of Senator Carstairs, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would call, under Government Business, Item No. 7, continuation of debate at second reading on Bill C-19.

CRIMES AGAINST HUMANITY AND WAR CRIMES BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Stollery, seconded by the Honourable Senator Carstairs, for the second reading of Bill C-19, respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts.

Hon. A. Raynell Andreychuk: Honourable senators, I am deeply honoured to be able to finally speak to Bill C-19. This bill implements Canada's obligations under the Rome Statute of the International Criminal Court. It also amends the provisions of the Criminal Code respecting war crimes by making it an offence to commit genocide, a crime against humanity, or war crime, and affirms that any immunities otherwise existing under Canadian law will not bar surrender of accused persons to the ICC or to any international criminal tribunal established by resolution of the Security Council of the United Nations.

• (1830)

Let me speak first about the concept of the ICC and to the clauses in Bill C-19 that are the implementation clauses for the ICC. Gross violations of human rights, widespread attacks against the principle of humanity, crimes generating massive victimization of peaceful populations which shock the conscience of women and men: these conflicts and atrocities that affect contemporary society demand a prompt response from responsible decision-makers. That, in a sentence, is what the ICC is about. It is the best response for all humanity moving the world towards a justice system for international atrocities.

Honourable senators, allow me to quote Professor Cherif Bassiouni:

> A journey that started in Versailles in 1919 is about to come to Rome in 1998....This three-quarter of a century journey has been long and arduous. It was also filled with missed opportunities and marked by terrible tragedies that ravaged the world. World War I was dubbed "the war to end all wars", but then came World War II with its horrors and devastation. Since then, some 250 conflicts of all sorts and victimization by tyrannical regimes have resulted in an estimated 170 million casualties. Throughout this entire period of time, most of the perpetrators of genocide, crimes against humanity and war crimes have benefited from impunity.

Professor Cherif Bassiouni wrote these words on the eve of the Rome Diplomatic Conference for the establishment of an International Criminal Court. The adoption of the ICC statute on July 17, 1998, represented a crucial achievement. However, as every journey is a point of arrival, it is also the departure towards a new objective: the entry into force, through the ratification of 60 states, of the ICC.

I am pleased, honourable senators, that Canada is finally moving towards ratification. It has been some two years, and many of us had wished that Canada had moved more quickly, particularly that Canada would have highlighted this moment of ratification of the ICC in such a way that it would have drawn attention to the issue of the international court in communities across Canada. It is no small feat for Canadians to be able to join the civilized part of society that demands the rule of law apply in these situations. I am, however, pleased that we are finally at this point despite the difficult conditions in which we find this ratification process, Bill C-19, coming to this forum. I would have hoped that there would have been much debate, and I would have hoped that there would have been priority given to this bill. Regrettably, that has not been the case, but I trust that it will not diminish the importance of this moment.

Many individuals and non-governmental organizations, as well as governments and institutions, deserve our gratitude for their efforts to bring about the prosecution and punishment of the most serious crimes under international law. Many jurists should be noted, including those who tried to build on the legacy of Nuremburg and the Tokyo Tribunals.

Two institutions hosted most of the discussions concerning the creation of a permanent system of international criminal jurisdiction. They are the Association International de Droit Pénal, the AIDP, and the International Law Association, the ILA. In addition, since its establishment in the 1970s, the International Institute of High Studies in Criminal Sciences, the ISISC, based in Siracusa, has been very involved.

The Inter-Parliamentary Union was the first parliamentary organization to call for an ICC, in 1926. These and other initiatives throughout the entire period of the Cold War, when the superpower confrontation blocked the development of international justice as envisioned in the Nuremburg precedent, paved the way for developments in the area of international criminal law, such as inclusion of the concept of an international court in the 1973 convention against apartheid.

In 1989, with the fall of the Berlin Wall, the ICC was reinserted on the agenda of the United Nations General Assembly at the request of a member of Parliamentarians for Global Action, His Excellency A.N.R. Robinson, currently President of the Republic of Trinidad and Tobago and, at the time, convenor of the PGA International Law Program. As a result of the work of PGA's network of over 1,300 members in 100 parliaments, this dream of having an international court is now coming to its last phase, and parliamentarians must rededicate themselves to ensure that, through their networks, through their non-partisan activity, we ensure that this court does in fact come into being.

After the creation by the UN Security Council and the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda, and while not setting their national agendas aside, states proved more willing to look to international humanitarian issues. In fact, Mr. Hans Corell, UN Under-Secretary for Legal Affairs, recently, in canvassing UN members, noted that members still rated peace and security as their main concern, but with the rule of law in international relations being a close second.

The ICC negotiations at the UN and in Rome were extremely difficult, but the final compromise reached at the 1998 diplomatic conference has been considered by many, including the UN Secretary-General, His Excellency Kofi Annan, as "a giant step forward in the march towards universal human rights and the rule of law."

The Conference Committee of the Whole, chaired by Canadian ambassador Philippe Kirsch, and its drafting committee, presided over by Professor Cherif Bassiouni, achieved the core objective of bringing together the pieces of the puzzle: 128 articles on law and procedure divided into 13 normative parts, as well as a highly significant preamble and a final act.

The preamble, *inter alia*, affirms the duty of every state to prosecute and punish international crimes and their obligation to press for punishment of perpetrators of these atrocities. The latter instrument contained the mandate for the UN Preparatory Commission, currently engaged in the elaboration of the rules of procedure and the elements of crimes for the court.

There are a few areas of the Rome Treaty that I wish to highlight. First, the crimes in the statute are crimes against humanity, genocide or a war crime, and they are defined on the basis of international law. The crime of aggression is yet to be defined and remains controversial. It is important to note that war crimes include those in internal armed conflicts. Today's world is more often than not affected by internal conflict, such as those in Sierra Leone, Rwanda, Kosovo and Chechnya, to name a few.

Second, the court is complementary to national judicial systems and will only take jurisdiction when states are unwilling or unable to bring perpetrators to justice.

Third, proceedings may be by any state, by the Security Council or by the prosecutor. The prosecutor's initiating role is a crucial element and is offset by checks and balances on the prosecutor.

Fourth, the court is not subordinated to the Security Council but has a constructive relationship with it. The Security Council will only be able to delay proceedings by an affirmative action and only in the form of a resolution adopted under Chapter VII of the UN Charter dealing with breaches of international peace and security. If, for example, there is any veto in the Security Council, the case can proceed by the International Criminal Court.

The strength of the ICC and some of the main objectives of its proponents are as follows.

• (1840)

The main objective of the ICC is to get 60 ratifications and to turn the court into a reality. It is encouraging to note that as of last week 100 countries have signed. "Signature" means obligation to cooperate with the implementation of the statute. To date, 13 countries have ratified. It is significant to note that the first country to ratify was Senegal. To date, four other African countries have signed the agreement.

With 514 treaties lodged at the United Nations, this one is more than pious invocation, if we can reach the 60 members, because it sets out not only the intent but also the implementation mechanism to make it a functioning institution, one with continuity and effectiveness.

The second objective is that the court not be retroactive. I believe that non-retroactivity was included to encourage ratification, but its greater function may be to serve as a clear standard and to act as a deterrent for all would-be perpetrators. In fact, this view has often been pointed out by Mary Robinson.

Third, utilization of rules, concepts, and procedures from all criminal systems around the world will maximize the potential for the court to be a just and fair one. A high degree of safeguards, checks and balances is being built in.

Fourth, the permanent court will benefit from just that, its permanency, to act more expeditiously than the ad hoc systems.

I hope that the committee studying the bill will ensure that the implementing procedure adopted in Bill C-19 most closely resembles the procedure contemplated for the International Court, both in practice and in keeping with its intent.

I want to commend Ambassador Phillipe Kirsch on his even-handed style and his personal commitment to seeing the Rome Statute come into force, both at the Rome conference and as he guides it through the preparatory commission. He has carried on a proud Canadian tradition of diplomacy in humanitarian cases. His efforts have not gone unnoticed.

I regret that we were not able to move more expeditiously to ratification. I believe that this bill should have received the highest priority, including a more timely and appropriate process here in the Senate. Nonetheless, its passage is important so that Canada's ratification can be completed.

In that regard, while I have heard it said that Canada's implementation legislation could be a model for other countries, I believe that its example is not to be a model but to be instructive and informative, at best. Many other countries have already embarked on an implementation strategy, such as the SADC countries. Their need is technical assistance and a prodding of the political will. In this, parliamentarians and parliamentary associations have the most effective means of assisting the ratification process.

As chairman of the International Law and Human Rights Committee for Parliamentarians for Global Action, I am pleased that parliamentary associations, which parliamentarians in Canada support, have formed a coalition group to further attempt to get technical assistance.

I trust that in committee we shall study the bill to ensure that we have maximized the opportunities in the Rome Statute for the betterment of Canadian laws.

I shall now turn to another area of Bill C-19.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, as Senator Andreychuk's time has nearly expired, I propose that we allow her a further five minutes.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Andreychuk: Bill C-19 covers changes to the Criminal Code by creating new offences respecting war crimes. Since these changes vary from the Rome Statute in at least two significant ways, it would have been better public policy to separate these two in a different statute. The Rome Statute requires education, and its education value is lost when it is incorporated within other legislation, particularly when that legislation does not conform to the Rome Statute.

I hope that the committee will determine whether this detracts from the Rome Statute or whether it is sufficiently identifiable as to not impede good understanding of the Rome Statute and its implementation mechanisms.

Since the war crimes changes are essentially a reaction to the *Finta* decision, a separate bill would have been more desirable. The committee will need to hear from Canadian groups that have raised the constitutionality of certain sections of Bill C-19, for example, the use of different definitions and rules for war crimes committed inside Canada than for those committed outside of Canada.

This part of the bill includes a retroactivity provision for war crimes. I believe that is the opposite of what the Rome Statute does. These are fundamental differences that need proper scrutiny in committee.

At a recent conference in Africa, a UNICEF worker asked a young girl what she wanted to be when she grew up. Her answer was, "To be alive." I believe that Bill C-19, implementing the Rome Statute, will give at least some measure of assurance that future generations will enjoy the benefits that we take for granted in Canada.

The issues that plague the world will not be solved by Bill C-19, nor by the Rome Statute, but they will go a long way toward developing badly needed international acceptance of the rule of law with regard to these horrendous crimes.

Hon. Anne C. Cools: Honourable senators, I move the adjournment of the debate.

Senator Hays: Honourable senators, I regret that I cannot agree to an adjournment.

Senator Cools: I beg your pardon?

Senator Hays: I shall speak to the bill. May I have the opportunity to speak?

Senator Cools: I am a little confused. The Honourable Senator Andreychuk just spoke; I moved the adjournment.

Senator Hays: I wish to inform the honourable senator that the adjournment question was not put.

Senator Cools: It is still before the chamber.

Senator Hays: Does the Honourable Senator Cools deny me the right to speak?

Senator Cools: No, I do not wish to deny the honourable senator the right to speak.

The Hon. the Speaker *pro tempore***:** The motion of adjournment is not —

Senator Cools: It would be very easy to run this place in accordance with the rules. I moved a motion.

The Hon. the Speaker *pro tempore***:** Senator Hays.

• (1850)

Senator Hays: Honourable senators, I should like to say a few words about this bill, which follow my listening to the sponsor of the bill, Senator Stollery, Chair of the Foreign Affairs Committee; and the Deputy Chair of that committee, Senator Andreychuk. I also am moved to speak by virtue of a number of non-governmental organizations that have contacted my office and others in this place and in the other place as to the importance of this bill and, in particular, the importance of us dealing with it expeditiously.

We have been trying to get to this bill on Order Paper for some time, but we have had difficulty because of the pressure created by other matters. I have been involved as deputy leader in consultations with senators and others. It is important that we give second reading to this bill today so that it can be dealt with by our committee. I do not know whether it will get out of the committee in time to be returned here for third reading, but it is important that an opportunity be given for the minister to be heard by the committee. I understand that the minister is available Tuesday morning of next week. If we were to adjourn this item, that opportunity would be lost. What will flow from that, I do not know. I do not know what the minister's feelings are about the bill, but I do know that this is an important bill. It is considered so by Senator Stollery and by the official opposition spokesperson, Senator Andreychuk. It is my intention to ask that the question on the motion for second reading be put, even if we must have a vote.

Senator Cools: Honourable senators, I rise on a point of order. We are out of order here. I am unclear. I was listening to the debate and was very struck by some of what Senator Andreychuk had to say. I am looking for the bill on the Order Paper. What number is it?

The Hon. the Speaker *pro tempore***:** Number 7.

Senator Cools: I do not follow at all what Senator Hays means when he says that he will move that the question be put. The question before the house was a motion for second reading. I was listening very carefully to what Senator Andreychuk had to say. I was very struck by several of the issues and I felt moved to speak about them, so I moved to take the adjournment, which is perfectly in order and very proper. It is extremely improper for Senator Hays to rise and say he does not want that to happen, that he simply wants the bill to go to committee.

I am very aware that Senator Hays may negotiate back and forth, but his negotiations in no way negotiate away my right to speak. I want to speak to this bill. If Senator Hays does not want me to take the adjournment, that is a different matter. He will have to move in the proper way to proceed, and to proceed in a proper way so as to do it. I wish to speak to this bill on Tuesday.

Senator Hays: Honourable senators, I ask that the question be put.

The Hon. the Speaker *pro tempore***:** Are you moving the adjournment, Senator Cools?

Senator Cools: I moved the adjournment before.

The Hon. the Speaker *pro tempore***:** Do you have a seconder?

Senator Cools: The question was put on the adjournment.

The Hon. the Speaker *pro tempore***:** It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Taylor, that further debate be adjourned until the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore***:** Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore***:** Please call in the senators.

Is there agreement as to how long the bells will ring?

Senator Hays: It has been agreed between the whips that there be a 10-minute bell.

• (1900)

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Nil

NAYS

THE HONOURABLE SENATORS

Adams
Andreychuk
Austin
Banks
Beaudoin
Bolduc
Callbeck
Carstairs
Christensen
Cook
Corbin
De Bané
DeWare
Fairbairn
Ferretti Barth
Finestone
Finnerty
Fraser
Gill
Graham
Hays
Hervieux-Payette
Kenny
Kinsella
Kroft
LeBreton
Lynch-Staunton
Maheu
Mahovlich
Mercier
Milne
Pearson
Pépin
Poulin
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Setlakwe
Squires
Taylor
Watt
Wiebe—42

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore***:** Honourable senators, it was moved by the Honourable Senator Stollery, seconded by the Honourable Senator Carstairs, that Bill C-19 be read the second time.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Hays, bill referred to the Standing Senate Committee on Foreign Affairs.

• (1910)

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, under Government Business, I should like to call Item No. 9, the second reading of Bill C-18.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Ione Christensen moved the second reading of Bill C-18, to amend the Criminal Code (impaired driving causing death and other matters).

She said: Honourable senators, I rise to speak in support of Bill C-18. This bill would increase the maximum penalty for impaired driving causing death to life imprisonment. It would add drugs alongside alcohol as a basis to seek a warrant to obtain a sample of blood from a suspected impaired driver in serious collisions. The bill would correct a drafting error, thereby harmonizing the French definition of "motor vehicle" in the Criminal Code with the English version. Finally, Bill C-18 would make section 553 of the code consistent with the Charter of Rights.

In most cases, licensed drivers engage in legal behaviour when they take to the road. Likewise, the consumption of alcoholic beverages by adults is a legal behaviour. However, we know that the combination of these two legal activities can, at times, produce tragic results. There are probably few adult Canadians who cannot name a relative, a neighbour, a friend or an acquaintance who has been killed or injured in an alcohol-involved collision.

Section 253(*a*) of the Criminal Code makes it an offence to drive while one's ability to do so is impaired by alcohol or a drug. Section 253(*b*) makes it an offence to drive with a blood alcohol concentration that exceeds 80 milligrams of alcohol in 100 millilitres of blood. Section 254 makes it an offence to refuse to provide a breath sample or, in certain cases, a blood sample.

It is no defence to a charge of impaired driving to say that the accused's blood alcohol concentration did not exceed 80 milligrams of alcohol in 100 millilitres of blood. The issue is whether the person's driving ability was actually impaired by whatever amount of alcohol was consumed. Conversely, it is no defence to a charge of driving while "over 80" to say that the accused did not show signs of alcohol impairment with the actual concentration found in the sample.

Honourable senators, section 255 of the Criminal Code currently sets the maximum penalty for impaired driving that causes death at 14 years imprisonment. Bill C-18 increases the maximum penalty to life imprisonment. This would harmonize the maximum penalty for impaired driving causing death with the maximum penalty for manslaughter and for criminal negligence causing death.

This increased maximum penalty would signal the seriousness of the offence, even in those impaired driving cases causing death that do not attract the maximum penalty. I ask honourable senators to keep in mind that the maximum penalty is reserved for the worst offender and the worst set of circumstances relating to the commission of the offence.

Earlier this year, the Supreme Court of Canada, in the course of its judgment in the *Proulx* case, made the following observations:

> ...dangerous driving and impaired driving may be offences for which harsh sentences plausibly provide general deterrence. These crimes are often committed by otherwise law-abiding persons, with good employment records and families. Arguably, such persons are the ones most likely to be deterred by the threat of severe penalties.

No one is suggesting that criminal legislation alone will suddenly stop all impaired driving behaviour. Surely, however, we can expect the criminal law to contribute in the struggle against impaired driving. To the extent that criminal legislation can deter, raising the maximum penalty for impaired driving causing death to life imprisonment will help.

Also, we ought not to lose sight of the fact that such an appropriate use of the criminal law is a denunciation by society that driving while impaired is unacceptable and deserving of our maximum penalty. Impaired drivers kill themselves, their passengers, and other road users. The tragedy, and the wrenching frustration, is that these deaths could so easily have been avoided. The fatal formula is simple. As alcohol consumption increases, the ability to evaluate one's own competence to drive decreases. If the individual has not made a prior lifestyle choice never to drink and drive, the door is open for the individual to persuade himself or herself with the beguiling words, "I was drinking, but I'm okay to drive."

Information from the Insurance Corporation of British Columbia indicated that for 1998 more than 80 per cent of deaths in alcohol-involved road collisions in British Columbia were drinking drivers and their own passengers.

Honourable senators, under section 256 of the Criminal Code, a peace officer may seek a warrant to take a sample of blood in narrow circumstances. The officer must reasonably believe that in the preceding four hours a person, as the result of the consumption of alcohol, committed a drinking and driving offence resulting in death or injury. A doctor must be of the opinion that the taking of the blood sample would not endanger the life or safety of the person.

Section 258 of the Criminal Code provides that a blood sample that is obtained for alcohol testing may be tested for the presence of a drug other than alcohol. However, under section 256, cases do arise where the officer does not have the required grounds related to consumption of alcohol to seek a warrant to take a sample of blood. Bill C-18 would add reasonable belief that the alleged offence was related to drug consumption as a basis to seek a blood sample warrant under section 256. It is anticipated that the number of cases in which police would seek the blood sample warrant, based upon a drug other than alcohol, would be comparatively few.

Honourable senators, Bill C-18 would correct the French version as to the definition of "motor vehicle" in section 2 of the Criminal Code. The current French version excepts from the definition a vehicle that is propelled by any means whatsoever. It should specify the exemption of a vehicle that is moved or propelled by musculaire power. The English version of the definition does not have this problem.

Bill C-82, which was introduced in the previous session of Parliament, amended the maximum penalty for the offence of driving while disqualified. Where the Crown proceeds by indictment, the maximum penalty was increased from two years' to five years' imprisonment. Driving while disqualified is listed in section 553 of the code as an offence that comes within the absolute jurisdiction of a provincial court judge. As such, there is no right to a jury trial. However, paragraph 11(*f*) of the Charter of Rights and Freedoms requires that an accused be given the right to a jury trial for an offence that carries a maximum penalty of five years' imprisonment or more. Bill C-18 would remove driving while disqualified from the list of "absolute jurisdiction offences," thereby ensuring compliance with the Charter.

Honourable senators, along with Bill C-82, which passed in the previous session, Bill C-18 would further implement recommendations for specific Criminal Code amendments that were made in the other chamber by its Standing Committee on Justice and Human Rights in May 1999. Such criminal code law amendments are one part of the combination of measures needed from governments, organizations, families and individuals in order to reduce and, we sincerely hope, one day, to eliminate impaired driving.

• (1920)

Society has come a long way in this important work thanks to the efforts of advocacy groups, police forces, schools, governments, breweries and distilleries, families and individuals. It is reassuring that we seldom hear the brazenly talk of having one more for the road. Instead, at functions where alcohol is served, persons proudly declare their DD, or designated driver, status. However, the sad reality is that a small percentage of drivers continue to drive while impaired.

[Senator Christensen]

This means that despite our progress, there is still much to be done.

Strong laws are part of the solution, but where anyone sees a person with an alcohol-fogged mind getting behind the wheel of a car, there is an obligation to take steps to ensure that driver does not proceed to the highways.

Over the last few months while this bill has been going through the other place and proceeding to here, I, as well as many in this chamber, have received numerous letters from persons and organizations urging the House of Commons and the Senate to proceed with this bill as quickly as possible so that in the summer months particularly, when these types of accidents are very high, perhaps some prevention could take place.

These letters spell out a long litany of tragedies — families, mothers, sons and friends who have perished as a result of this disease, shall we say. In many cases, two, three or four years was the sentence given.

I ask all senators to join in supporting Bill C-18, sending a strong message that impaired driving is not acceptable in our society. This new maximum penalty reflects the seriousness with which we view this offence.

Hon. Marjory LeBreton: Honourable senators, I should like to thank my colleague Senator Christensen for her appropriate remarks.

Honourable senators, I, too, am pleased to speak in support of Bill C-18. In the spirit of Bill C-82, passed one year ago, Bill C-18 aims to amend the Criminal Code so that a person causing death while impaired could be liable to imprisonment for life.

The current situation makes no sense at all. If a person takes a gun, with its clip of ammunition, and shoots someone, he or she is condemned as a criminal, but if the weapons used are an ignition key and a mickey of rye, the same impaired person who kills on a highway is just a sociologically careless driver.

We are right to question the logic of this. Bill C-18 intends to correct that double standard. This bill will bring comfort to Canadian citizens and their families who are entitled to the lives and affections of a loved one. It is not only the families who are innocent victims of irresponsible drivers, but it is also their friends. These people also have a right to know that they are protected by bodies such as ours.

Irresponsible drivers who believe that the road ahead of them is just a continuation of a local pub or a cocktail lounge must be stopped. The statistics are dreadful and they bear repeating. Four to five Canadians are killed daily; 125 are injured; $9 billion is spent annually in direct and indirect costs of impaired driving. An inestimable number of Canadians are the unfortunate victims of these crimes.

Let us be very clear: These are serious crimes. After each weekend, we develop a habit, especially those of us who have been through this, of reading newspapers with a double eye, one on the front pages and one on the obituary columns. Over and over again, radio or television brings us the bad and sad news.

We could have been in the situation this year of not having to consider the present Bill C-18 because last year, when Bill C-82 was passed and assented to on June 17, 1999, a deal had to be made to get the bill through before prorogation. The bill was stripped of a clause concerning life imprisonment for impaired drivers. The Bloc Québécois in the other place opposed this clause.

Their resistance surprised me, honourable senators, because Quebec has set a very good example in dealing with the issue of drunk driving or driving while impaired. Due to that amendment, life-sentencing was excluded last year from the bill with the promise from the government to reintroduce this as a separate bill.

The Minister of Justice agreed to do that in writing on June 1, 1999, and so it is that Bill C-18, having been given third reading in the House of Commons on June 14, is now before us.

First, I am pleased to see this piece of legislation brought back with the suppressed clause concerning life imprisonment. Second, I am especially pleased to point out that the very important leadership of our colleagues in the other place helped make this happen.

I wish to express my deepest personal gratitude to Mr. Peter MacKay, the house leader of our party in the other place. Mr. MacKay agreed to the Bloc amendment last year in order to get Bill C-82 through, but on the condition that the government commit itself to introduce a bill to raise the maximum sentence for impaired driving causing death to life imprisonment, as already stated, and the Minister of Justice agreed.

Honourable senators, this is a good day for Canadian justice. Bill C-18 will be establishing a greater sense of balance.

What is the present situation faced by most Canadians? A person convicted of manslaughter may get life, but an impaired driver causing bodily harm or death can only be sentenced to a maximum of 14 years, although these "terrorists on wheels," as I have called them, have usually been given very short sentences that do not match the severity of their crimes.

Whether it is manslaughter or an impaired road-killing, judges seldom give out maximum sentences unless in the presence of extremely aggravating circumstances. Ordinary people feel that drivers convicted of vehicular homicide get a relatively free ride in our courts, a slap on the wrist so to speak, and are released after vague promises to change their ways.

This is also the belief of potential perpetrators who feel they will suffer no lasting serious consequences. This will change when Bill C-18 becomes law. Impaired drivers will now face the full extent of the law for their acts if their drinking or impairment causes death on the road. The same will be true for those who are under the influence of drugs.

I do not pretend for a moment that a maximum life penalty will prevent all careless deaths on Canadian highways, but a very clear message will be sent and impaired drivers will soon know that they are entirely accountable for their actions. This law surely will be a very strong deterrent to those who may consider driving while impaired. The prospect of life, as opposed to a couple of years, surely will have an impact. Roads will be safer. Families will be happier. Hospitals and emergency wards will be less overwhelmed and, perhaps, will deal with cases that they should be dealing with, instead of these. The public purse would be richer and everyone would profit — less perhaps some defence lawyers.

Honourable senators, there was an agreement between all parties represented in the House of Commons, except the Bloc Québécois, to adopt Bill C-18. I thank the Government House Leader, Mr. Boudria; the Minister of Justice, Ms McLellan; and all members of Parliament who sat on the legislative committee that made possible this achievement.

Negotiation, as we all know, is not a practice exclusive to the Senate. A one-year wait is positive when redeemed with such a positive result. Impaired driving in the past has been considered by some a simple accident of misfortune. Thanks to Bill C-18, this no longer will be the case.

Sadly, as you know, on January 21, 1996, almost four and a half years ago, alcohol and a reckless, irresponsible young man took the lives of my daughter, Linda LeBreton, and my grandson, Brian LeBreton Holmes. It, of course, cast a dark shadow across the lives of my family and countless others. I joined MADD, Mothers Against Drunk Driving, and became an active member. You may have seen other MADD members around here today doing their study on the provinces.

I am proud to report that MADD, more than any other organization, has been the driving force behind the bill we are debating today. MADD is a national group that vigorously pursues a program aimed at safer roads for our fellow citizens. Let us not forget those victims who are left permanently handicapped and mutilated for life due to the deliberate acts of negligence, acts which are unacceptable and must not be tolerated in a enlightened society such as ours. If I started right now and told you about the tragedies of which I have become aware just since becoming involved in MADD, we would be here for hours and hours.

Honourable senators, impaired driving causing death will not disappear tomorrow because Bill C-18 amends subsection 255(3) of the Criminal Code. To pretend so would be a naive assumption. We need to stop closing our eyes to such crimes. By adopting this bill, we will be in a position to say, to paraphrase Neil Armstrong, "It's a small step for mankind but a great step for justice."

Some argue that what is required is more education and programs of public awareness. However, education and public awareness alone will never successfully bring down the numbers unless sentences become much stiffer and thereby discourage social recklessness. Once this bill is passed, federal and provincial governments will have to fully cooperate in order to ensure that the life imprisonment provision for impaired driving causing death is not an empty act.

The bill before us today is another important step along a very long path. While we have some way to go, there are encouraging developments taking place across the country. The Nova Scotia government, for example, on December 1, 1999, enacted a new motor vehicle act. Any driver pulled off the road with a blood alcohol level between .05 and .08 — the last figure being the current legal limit — will automatically receive a 24-hour licence suspension. We have proof that the program is already working. In Nova Scotia, impaired drivers also may soon be forced to pay a per diem fee of $100 for their incarceration. That is not a bad idea.

In Ontario, a lifetime licence suspension is imposed on a driver caught three times with impaired driving. The lifetime driving suspension can, however, be lifted after 10 years if the driver installs an ignition interlock device. This is a new technology that is catching on. Alberta and Quebec are taking the lead. Hopefully, this will encourage other provinces to step up these programs.

Bill C-82, which was adopted last year, now allows sentencing judges to require the use of ignition interlock as a condition of probation wherever such a program is available. Bill C-82 also made imperative that twice the amount of allowed .08 milligrams of alcohol per 1 millilitre of blood is a *prima facie* aggravating case for sentencing. As I said before, we still have a long way to go, but we are making steady progress. Because of better criminal and traffic highway laws, business and golf tournaments and other summer events, Christmas parties and office parties no longer present the dangers that they have in the past. Young people have made tremendous strides in schools and universities as they actively pursue programs to save the lives of fellow students and friends by targeting activities around graduation and summer.

Thanks to MADD, to the House Justice Committee, and to all members of Parliament both in the House of Commons and the Senate, the issue of impaired driving has moved to a new level of awareness. In addition, a section of Bill C-18 is totally new, when compared with Bill C-82. It is the provision amending section 256 of the Criminal Code. The new provision will authorize police officers on the scene of a crash to obtain a mandate for samples of blood from an unconscious driver suspected to be drug or alcohol impaired. What is new here is that it applies to drivers who are not only alcohol impaired but also drug impaired. As was the case last year, Bill C-82 increased to three hours from two the time allowed for officers of the peace to take a blood test on suspected impaired drivers. This has meant fewer cases being discarded by judges because of this change from two to three hours.

Honourable senators, I spoke to two police officers today. That change alone has made a marked difference. They have seen amazing results in only one year.

Last year, I was honoured to participate in the debate on Bill C-82, and I am pleased to be part of this next important step. These accomplishments are more comforting than you can imagine, but I speak of no personal revenge, as our case is already through the courts. I have already said this in the Senate, and I shall repeat it: I made a decision that I did not want my family or myself to be consumed by the tragedy when we became helpless victims of a crime committed by the person who changed my family's life. Rather, I decided to do what I could to change our laws to prevent or at least reduce the chance of others being victimized by totally preventable crimes.

Honourable senators, because I believe that the Senate has always cared for the well-being of Canadians, and because I am proud to sit in this institution, I strongly urge the passing of Bill C-18 before we break for the crucial summer period which, as Senator Christensen pointed out, is a high-risk period.

The lessons carved by so much suffering, which could have been avoided, should not be lost. You can be proud to know that you are contributing a wonderful gift to people — people who may not even realize that they are the recipients of it — of a safe and healthy life.

Hon. B. Alasdair Graham: Honourable senators, in participating in this debate, I wish to congratulate Senator Christensen, the mover of the bill; and Senator LeBreton, the seconder.

In particular, I wish to take a moment to pay tribute to Senator LeBreton for the incredible determination and dedication with which she has promoted legislation of the kind which is now before us. As she has indicated, Senator LeBreton suffered tragic losses in her own family as a result of an alcohol-related accident. Since that time, Senator LeBreton has been one of the leading if not the leading advocate in Canada in her tireless and tenacious efforts to help educate all of us about the dangers of drinking and driving.

Hon. Senators: Hear, hear!

Senator Graham: As she has indicated, she and her family suffered greatly, but they were not consumed. They did not allow the tragedy to consume themselves. They have gone out and have done something about it. She and her family have personally led the charge not only in educating the public but also in raising funds to help educate our young people. For all of this, Senator LeBreton, we in this place — all Canadians — shall be eternally grateful for your efforts.

Hon. Charlie Watt: Honourable senators, I do not wish to ask a direct question on this matter, but I want to know whether this bill will also apply to people who are under the influence while operating either a power boat or a canoe. A number of lives have also been lost as a result of such incidents. If the matter is to be looked at further in the committee, I would suggest that the committee also take a good look at that area, because it is also part of the problem we need to rectify.

Senator Christensen: Honourable senators —

The Hon. the Speaker: I am sorry, Honourable Senator Christensen, but leave must be granted for you to speak at this stage.

Hon. Dan Hays (Deputy Leader of the Government): Agreed.

The Hon. the Speaker: Leave is granted. Please proceed.

Senator Christensen: In boating, if the boat is motorized, it comes under this bill; if it is not motorized, it does not. A canoe, which is powered by muscle power, is not. However, if it is powered by an outboard motor, it is.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Christensen, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we have now completed all the items that will be spoken to today under Government Business. Accordingly, I would request that all remaining items under Government Business that have not been spoken to stand.

In that we have now completed Government Business, it would now be in order to ask for leave to revert to Government Notices of Motion for purposes of dealing with the adjournment motion.

Hon. Ione Christensen: Honourable senators, under Reports of Committees is a motion regarding a report of the aboriginal committee. Is that not correct?

• (1940)

Senator Hays: Honourable senators, I had not got to the point of abbreviating the rest of the Order Paper and Notice Paper, only matters relating to Government Business. I think that I shall come to that in due course.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

ADJOURNMENT

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

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(*h*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, June 27, at 2 p.m.

Motion agreed to.

HUMAN RIGHT TO PRIVACY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Sheila Finestone moved the second reading of Bill S-27, to guarantee the human right to privacy.

She said: Honourable senators, as I rise to speak to Bill S-27, an image comes to mind of Pogo, who said, in the old Walt Kelly comic strip, "I have met the enemy, and it is us." I hope today this is not the case as I make the case for a Charter of Privacy Rights for Canadians.

Technology is leaping ahead. It is becoming more and more obvious that we need ground rules and value rights and value rules. An article in the June 4 *New York Times* spoke of privacy as the new hot issue lurking just below the political radar, ready to explode onto the American scene. If you listen to the two presidential candidates, you will hear them alluding to it.

It has already exploded in Canada. Just last month, Bruce Phillips, our outstanding federal Privacy Commissioner, observed in his annual report that during the past decade he had yet to meet one person in public life or private life who has not professed great belief in the right to privacy. He also said, "I have witnessed some of those very same persons engage in activities utterly destructive of that right. Talking the talk is no substitute for walking the walk."

Honourable senators, I have talked the talk about the importance of privacy. Today, I should like to show you how I am able and am trying to walk the walk. Most important, I should like you to walk with me, because it is clearly in the interests of the society in which we all live that you do.

I have become increasingly concerned, first as a Member of Parliament and now as a senator, about the multitude of threats to privacy. In my former life, I was privileged to serve as the Chair of the House of Commons Standing Committee on Human Rights and the Status of Persons with Disabilities. During a 10-month period in 1996-97, the committee conducted an extensive examination of the changing face of privacy from coast to coast to coast through 21 communities across this country.

As our study progressed, we were both astonished and alarmed at how all-encompassing and widespread the monitoring of our personal lives has become. Computer databases, video surveillance cameras, drug testing and workplace monitoring have all become routine. Comparisons and integration of what were once discrete databases are on the rise. This so-called data matching and data warehousing of personal information is currently taking place both within and between governments and the private sector. Your lives are certainly under a microscope in many places, as is mine.

Let me give you some examples of the intrusions that we are facing — not in theory, honourable senators, but in the real world. These are facts that were brought to our attention when we did our study, situations that are exacerbated even more today.

First case: Surveillance technology no longer falls solely within the ability of national security and law enforcement agencies. This constant monitoring of individuals in public and private places is inconsistent with a free society. What privacy does one have when technology allows cameras to peer into buildings over a mile away? When they focus on you as you are walking down Sainte-Catherine Street or Sherbrooke Street? When infrared rays can pierce through thick brick walls? When super-hearing muffs can hear a whisper yards away?

Second case: In Fredericton, we heard of two pregnant women who faced the possibility of delivering children with disabilities. When they refused to undergo genetic fetal testing, it was strongly recommended that they submit to a psychiatric evaluation. In this case, the unwillingness to submit to an intrusive genetic test resulted in severe criticism. At some future point, honourable senators, will governments make certain forms of prenatal and postnatal testing mandatory? What will be done with that information, and how will it affect the reproductive rights of parents? How will it affect the future treatment by society of the children? How many intrusions by the state into human reproduction will we tolerate? Many of you have heard about the book of life that no one can read as yet — the human genome mapping that is currently moving ahead so swiftly, so fast. Honourable senators, we need a template against which we can evaluate and thereby secure our value system.

Third case: Increasingly, our workplaces are becoming like a fish bowl, with surveillance of computer activities and examination of our e-mails and our voice mail. Are we building a society on the premise that all citizens are inherently untrustworthy and must constantly be monitored in their employment simply because the technology exists to do so?

Fourth case: With increasing frequency, employees are being subjected to drug testing and genetic testing, concerns that our witnesses said have affected matters such as their insurance and their bank loans. There is a very serious concern that genetic discrimination will be the human rights issue of the 21st century.

Just this past week, I attended the Subcommittee on Communications, where we heard testimony from both Stephanie Perrin and, in particular in this case, Brian O'Higgins of Entrust Technologies. Entrust is a very successful Canadian company that designs public key infrastructures, or PKIs. Mr. O'Higgins was explaining to us how this new deployment of public key cryptography in a PKI architecture will be the basis of many new innovative information systems. He told us how in Finland and Hong Kong, where cell phones are even more ubiquitous than they are here, they will soon be using their phones with some type of swipe card or scratch card or gadget to make a purchase from a drink machine or to purchase a railway ticket or a dress. Using PKI to authenticate the identity of the phone and its holder, your phone bill will reflect the transaction. This will be another of the converging technologies. This is another area where our information is being gathered and analyzed. We are certainly seeing convergence, sort of like a Dick Tracy saga, where your phone replaces cash.

More data about us is gathered, then data matched, then data mined and data sold. This is a very important information commodity, which we may never have agreed to share in the first place. There are many uninvited nosy-bodies examining your and my personal profile.

These are just some examples of the privacy intrusions that face Canadians. You can read about them every day. They are examples of the whittling away of a fundamental human right of privacy. These intrusions are not just the stuff of fiction. In 1997, the House standing committee produced a report entitled "Privacy: Where Do We Draw The Line?"

• (1950)

Among its most important recommendations was a call for Parliament to enact a declaration of privacy rights, an overarching legislative framework that would set out the ground rules to ensure that the right to privacy is respected in Canada. This quasi-constitutional document would apply within federal jurisdiction. It would take precedence over ordinary federal legislation, serve as a benchmark against which the reasonableness of privacy-infringing practices, as well as the adequacy of legislation and other regulatory measures, would be assessed. Committee members also expressed the hope that this privacy charter would be adopted in the provinces and territories.

Accordingly, for many months now, I have been working with a dedicated group of privacy advisors and legal counsel to develop a privacy rights charter. In Vancouver in March, at a privacy protection conference, I circulated over 300 copies of my first consultation draft of the charter, following which I distributed another 300 copies to all the witnesses who participated in the House of Commons hearings on privacy.

I also recently attended a conference in Toronto. I have received many useful comments on the draft. In case you think that politicians do not listen to their constituents, I can say that I have laboured long and hard with my committee studying the comments I received. Those who took the time to reflect on the draft and write to me may well see their thinking incorporated into Bill S-27.

At the heart of the proposed privacy rights charter is the recognition of privacy as a basic human right and a fundamental human value, something Canada has committed itself to as a signatory to international human rights instruments. It is of fundamental interest to the public good and is essential to the exercise of many of the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms.

The privacy charter seeks to give effect to several principles: first, that privacy is essential to an individual's dignity, integrity, autonomy and freedom, and to the full and meaningful exercise of human rights and freedoms; second, that there is a legal right to privacy; and, third, that an infringement of the right to privacy, to be lawful, must be reasonable and justifiable.

The privacy rights charter will apply to all persons and matters coming within the legislative authority of Parliament. As I mentioned a moment ago, the charter would also serve as a template for corresponding legislation in the provinces and territories.

Some honourable senators may still have fresh in their minds reports about the extensive database maintained by Human Resources Development Canada on the citizens of this country. The federal Privacy Commissioner exposed the full extent of this database in his most recent annual report. HRDC has become the federal government's largest repository of personal information on citizens, particularly through the Longitudinal Labour Force File, which has centralized and integrated so much personal data on almost every person in Canada that it proposed a significant risk to our privacy. Everything about us is known — the taxes we pay, the number of times we have been married and divorced, and everything else. The Privacy Commissioner described this research database as the next thing to a citizen's profile.

What is wrong with a de facto citizen's profile, you may ask? To paraphrase Rex Murphy, if I want a diary, I will write one. I do not want one written for me, and I do not want, nor have I, nor has any other citizen, given permission to the civil service to keep it for me.

Finally, there is no legal framework to prevent the misuse of the information. Happily, in response to the public concerns, the minister responsible for HRDC announced that the Longitudinal Labour Force File would be destroyed. It is the absence of a legal framework for these HRDC databases that strikes a chord with me. It is precisely that legal framework that the privacy rights charter is attempting to establish.

One goal of the charter, among others, is to prevent the freewheeling collection and potential misuse of information such as that quietly kept in the bowels or, rather, the hard drives of HRDC.

Honourable senators, Bill C-6 is an effective bill that answers some of the questions that are put before you today as a targeted measure of government policy that responds well to the concepts of an overarching charter. Bill C-6 was an important measure to regulate the collection of personal data by federally regulated organizations. However, the bill that I have tabled, a bill for a privacy rights charter, goes much beyond the regulation and collection of personal information. It deals with all forms of privacy infringement — infringements of physical privacy, surveillance, monitoring or interception of private communications, and, of course, the collection, use, and disclosure of personal information.

Under the Charter, every individual would have a right to privacy. This right would include, but would not be limited to, physical privacy, freedom from surveillance, freedom from monitoring and interception of private communications, and freedom from the collection, use, and disclosure of personal information. No person would be permitted to unjustifiably infringe on an individual's right to privacy. Every individual will also be entitled to claim and enforce that right to privacy, or to refuse to justifiably infringe that right of another individual without reprisal or threat thereof.

We all recognize that privacy rights are not absolute. The key is to limit unwarranted infringements on privacy. Any infringement on privacy would be improper unless that infringement is reasonable and demonstrably justifiable in a free and democratic society. An individual's free and fully informed consent would constitute one such justification.

The charter would also enhance the protection of privacy where governments enter into contracts with organizations outside government. Every person to whom the charter applies must require that any organization with which it enters into a contract or agreement complies with the charter. Thus, government would not be able to sidestep its privacy obligations, for example, by contracting out a particular function to an association, corporation, partnership or trade union.

The Minister of Justice would be obliged to review all proposed legislation and regulations to determine whether they comply with the purpose and provisions of the Charter. The minister would be required to report any inconsistency to Parliament at the first convenient opportunity and to give public notice by publishing the report in the *Canada Gazette*. The minister would also be required to notify the Privacy Commissioner of Canada of any inconsistency or non-compliance at the first convenient opportunity. If the Privacy Commissioner requests, the Minister of Justice would be obliged to consult with and receive advice from the commissioner.

These review and notification obligations should also promote a new sensitivity to the implications of legislation and regulations. They will ensure greater openness in the legislative process. They are necessary to preserve this right in the face of the multitude of pressures to diminish or destroy it.

To provide greater certainty, the charter would authorize the Governor in Council to codify the infringements of privacy that are permitted by the Charter. Note that this is not a notwithstanding or an exception provision. The only authority would be to codify those infringements that are justifiable under the Charter. The authority does not extend to producing regulations that violate the provisions of the charter.

It is also essential that this privacy charter have paramountcy over other ordinary legislation, and inconsistency or conflict might arise between the charter and another act enacted before or after this charter comes into force. This provision would not come into force immediately as to permit those subject to the charter a reasonable chance to adjust their practices. The charter would then prevail to the extent of the inconsistency or conflict unless the other act expressly declares that it operates despite the charter. Furthermore, no provision of any other act would be construed so as to derogate from any provision of the charter.

Honourable senators, this privacy rights charter may not be perfect. That is why I hope we will have full and open consultations on the bill. However, it represents the best efforts of a dedicated group seeking to prevent what the *Economist* magazine last year described, prematurely I hope, as the death of privacy. The death of privacy is not the legacy that you and I would want to leave our country.

News of more regulation might be the last thing that the business community wants to hear.

• (2000)

It is not meant to negatively affect fair business practice. It should be welcomed for setting the guidepost for ethical practice. This is an overarching statement of principles that may guide the private sector as well as government onto a level playing field reflecting Canadian values.

I urge you not to lose sight of the value of your own personal privacy, the value of the right to be let alone, the value of the freedom from surveillance of your personal activities, finances, health, et cetera, by the state or by others.

Let us never forget that the right to privacy is a public good. As well, it is good for business; it is reasonable; it is built on trust, morality and decency. It heightens consumer confidence. Fundamentally, it is about human dignity in a democratic society.

Any way you look at it, I hope you will agree that it is what we all expect in a free and democratic country.

Hon. Nicholas W. Taylor: I found that a most interesting speech, honourable senators, but I wonder if I may ask Senator Finestone several questions.

I am particularly concerned at the interface between privacy and the public good. I am wondering whether the bill covers two areas. I am thinking in particular of airline pilots, for instance. Do you think their privacy is invaded if they are mandatorily tested for drugs? They have a public responsibility.

The other area involves DNA testing of people who have been arrested or convicted. Is it okay to have a DNA file, which might help solve crimes back in the past?

[Senator Finestone]

Senator Finestone: I thank the honourable senator for those questions.

In the first instance, for airline pilots, it is very much a part of their job description. They undertake that task knowing what the job description is. They have given informed consent. The basis of the bill before us, honourable senators, is that without informed consent one's privacy rights cannot be infringed upon. As well, a person can include in that informed consent that the information — say, the results of a blood test — cannot be shared with anyone else. In the case of an airline pilot, the purpose of a blood test is to ensure the safety of the people. It is within that context and that job description that that information is required. The results of a blood test are not the business of one's insurance company, nor the business of anyone else. If a man has not told his wife that he has a certain disease, that is his business, not the business of anyone else to send her that information. This information is well protected, encrypted if necessary.

Second, with respect to DNA testing, as you well know, we put through the House — and I am sure it went through the Senate — legislation respecting informed rights respecting DNA testing. I recall a very serious debate in the House of Commons on whether or not, when a person is first arrested and prior to conviction, the authorities have the right to do a DNA test. The discussion centred on the timing of the DNA test — when arrested, when going to trial, or at conviction — and I believe we decided that at the time of conviction was preferable so that a profile is not kept.

That is all informed consent and is under the aegis of good government. It protects society. That is why it is good public policy.

I do not think this presents any kind of problem. There would be exceptions, under certain conditions, that would prevail, because we live in a civil society that is democratic and needs protection from those who do not care to deal with us in a democratic and decent way.

On motion of Senator Kinsella, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, it is late. In the interests of expediting our work this evening, I should like to request the consent of senators to leave the remaining items under Senate Public Bills standing in their place and proceed to Commons Public Bills so that we might deal with the seventh and eighth reports of the Standing Senate Committee on Legal and Constitutional Affairs with respect to Bill C-445 and Bill C-473, involving constituency name changes.

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

Hon. Senators: Agreed.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF RIMOUSKI—MITIS

THIRD READING

Hon. Bill Rompkey moved the third reading of Bill C-445, to change the name of the electoral district of Rimouski—Mitis.

Motion agreed to and bill read third time and passed.

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

THIRD READING

Hon. Bill Rompkey moved the third reading of Bill C-473, to change the names of certain electoral districts.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in the same context as my last request for consent and agreement, I wonder if, under Reports of Committees, we could leave all items standing in their place with the exception of Item No. 5, which I understand Senator Christensen wishes to move.

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

Hon. Senators: Agreed.

ABORIGINAL PEOPLES

OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN THE NORTH—BUDGET REPORT OF COMMITTEE ON STUDY—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Aboriginal Peoples (*power to hire staff and to travel*) presented in the Senate on June 21, 2000.

Hon. Ione Christensen: Honourable senators, on behalf of Senator Chalifoux, Chairman of the Standing Senate Committee on Aboriginal Peoples, I move the adoption of the report.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have several questions on the matter, but I shall move the adjournment of the debate so that the chairman of the committee will be here when I have something to say.

On motion of Senator Kinsella, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO STUDY SENTENCING

On the Order:

> Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Bryden:
>
> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine issues relating to sentencing in Canada, and
>
> That the Committee report to the Senate no later than June 21, 2001.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, earlier today I took the adjournment on Item No. 69 because I wanted to look into it. I have done that and am satisfied. Therefore, the question can be put.

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

Hon. Senators: Agreed.

Motion agreed to.

• (2010)

FINANCING OF POST-SECONDARY EDUCATION

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Atkins calling the attention of the Senate to the financing of post-secondary education in Canada and particularly that portion of the financing that is borne by students, with a view to developing policies that will address and alleviate the debt load which post-secondary students are being burdened with in Canada.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I wish to take the same opportunity as Senator Kinsella. He received good advice not to speak more than once, but he continued, so I shall do the same tonight. Post-secondary education is of great concern to many honourable senators. As we may not have time next week, I would prefer to speak today, and I thank honourable senators for allowing me to do so.

Honourable senators, on February 22, Senator Atkins initiated further debate in this chamber on the problems of post-secondary education in Canada. In particular, he identified his concern over the high dropout rates experienced in our educational system, the lack of adequate preparation of our young people for the workplace, and the need to revisit the method of funding post-secondary education in Canada, most particularly the programs of financial assistance for students of post-secondary education. These are indeed issues worthy of our continued attention and I propose to comment briefly on some of them.

In addition, there are other related matters that I should like to draw to the attention of honourable senators. Before doing so, I would be remiss if I failed to reference the final report of the Special Senate Committee on Post-Secondary Education tabled in the Senate in December 1997. While much has happened since that report was tabled, I believe senators will still find the analysis contained in the report to be an extremely valuable guide to the policy issues bearing on this vital sector of Canadian society.

Senator Atkins is clearly correct to be concerned about the unacceptably high dropout rate from our educational system. As I observed during the debate on the final report of our special committee, in the course of the last two decades there has been a massive decline in the number of jobs in Canada requiring a high school diploma or less. In consequence, those who drop out without achieving at least a minimal level of qualification are likely consigning themselves to a life characterized by frequent and protracted unemployment and by social dependency. In effect, they are forfeiting the opportunity to become productive members of society and the resulting loss both to them and to Canada is tragic. For example, some 70 per cent of those receiving social assistance in Saskatchewan dropped out of the educational system before receiving a diploma. Taking whatever steps are necessary to minimize this unfortunate waste of human capital must be part of any comprehensive strategy for education in this country.

The dropout problem is indeed serious, but it is one in respect of which we have been making progress. This is evident in the statistics that Senator Graham provided when he spoke in this debate on April 11, but there is one area where our progress is woefully inadequate. I refer honourable senators to school dropouts among our aboriginal youth. Representing, as I do, the province with the highest proportion of First Nations residents, I am acutely aware of the enormous human cost and economic loss that results from a dropout rate for aboriginal youth that in some communities is several times the provincial rate for the non-aboriginal population.

Eliminating the educational deficit of our First Nations people is a prerequisite to them realizing their full cultural and economic potential. This cannot be, however, if present dropout rates are permitted to continue. Make no mistake; changing these rates will not be easy. They are the result of cultural and economic forces that have evolved over many decades.

Despite the evident difficulties, we must not delay. To do so would be to put yet another generation of aboriginal youth at risk. This dimension of the dropout problem is one particularly worthy of our consideration.

Should honourable senators decide to further investigate pressing issues of education, I suggest that exploring ways to reduce the dropout rate among aboriginal youth should be our first priority. In fact, I would hope that the Aboriginal Committee would undertake this challenge in their future studies.

Senator Atkins' second concern was with the adequacy of the preparation of our young people for the workplace. This is a concern that I share as well. As globalization has reduced the economic significance of national boundaries, competition has intensified and will continue to do so. If we are to succeed as a nation, we must be as productive and as adaptable as the most formidable of our trading partners. This requires that we minimize any mismatches between skills and knowledge of the graduates of our educational and training systems and the needs of Canadian enterprise.

It is important to realize that skills essential for effective long-term competition are not limited to narrow technical skills. As the recent report of the Expert Panel on Skills of the Advisory Council on Science and Technology recognized, technical competence must be supplanted by effective communication, the capacity to work cooperatively and the ability to think creatively and critically. These are precisely the skills inculcated in our universities by our faculties of arts. It is important to keep this in mind, despite the finding of the expert panel on skills that Canadian employers are not experiencing any general shortage of technically skilled people. Some provinces are embarking on policies that are essentially punitive to colleges and universities that emphasize the liberal arts.

In order to succeed, Canada needs balance the mix of skills available in our labour force. This will be difficult to achieve if the prerequisite program balance is lacking in our institutions of post-secondary education.

Senator Atkins' third concern was with funding of our post-secondary education and with the programs of financial assistance to students. While I believe these are issues I could expand upon, at this late hour I prefer to leave that to a further inquiry. Suffice it to say that there are countries where tuition for post-secondary education is much lower than it is in Canada. It is beneficial to remember, however, that in none of these countries is the post-secondary participation rate nearly as high as ours. Policies that may be suitable in an environment of restricted post-secondary enrolment are not necessarily transferable to a country with the OECD's highest post-secondary participation rate.

The difficulties evident in this area led the special committee to recommend that action be preceded by a comprehensive study conducted by the federal government and the Council of Ministers of Education and Canada into the relationship between accessibility and the costs of post-secondary education. I believe this was sound advice. Unfortunately, it was not acted upon as expeditiously as the seriousness of the situation warranted. Fortunately, but belatedly, the recommended intergovernmental review is now proceeding and I, for one, am anxiously awaiting the findings. However, I would feel more confident if this review were part of an agreed and comprehensive national strategy for post-secondary education, which is something that was also recommended by our special committee.

Each of the federal budgets since the tabling of our report has contained initiatives designed to improve the situation of post-secondary education and its students. While I feel some of these measures could certainly be improved upon — for example, making the tax credits available to students refundable rather than simply permitting unused credits to be carried forward for future use when the students are no longer in financial difficulty — I am encouraged that the government is indeed committing additional resources to this vital sector. It is difficult, however, to perceive that these measures constitute an integrated response to the evident problems. Again, there is an evident need for a national strategy for post-secondary education, one agreed to by both senior levels of government and one that would coordinate federal initiatives with those of the provinces. In a sector so vital to the well-being of Canada and Canadians, there is no room for a disjointed and piecemeal approach.

Honourable senators, I wish to comment on two further issues. One concerns the general approach being used by the federal government to infuse additional resources into post-secondary education. This is a theme from our report. The special committee pointed out the need for government policy to be predicated on a recognition of the regional nature of much of our post-secondary system. We do, of course, have prestigious, research-intensive institutions that draw their students from all over Canada and from around the world. Rightly, we are proud of the reputations and the accomplishments of these universities, but we also have many excellent smaller colleges and universities and institutions that are regional rather than national or international in their orientation. These institutions are vital to the economic, social and cultural well-being of the regions they serve, and they must not be overlooked when federal post-secondary policies are under development.

• (2020)

Honourable senators, we hear so much about the plight of farmers in Saskatchewan. It is the University of Saskatchewan and the University of Regina that create and maintain resources which foster knowledge about the agricultural sector. It is a boon to the economy and to the students that we have these excellent facilities in our communities, not to mention the college that is under the Federation of Saskatchewan Indian Nations that serves our aboriginal peoples. I think it is a college of excellence, with very little competition around the world for our aboriginal peoples.

The immediate cause of my concern is the continuing reliance upon partnership arrangements in funding research and related activities. Clearly, there is an advantage in leveraging government monies by enlisting private sector partners who are able to supplement the limited governmental resources. This advantage should be pursued. The difficulty, however, is that there is outstanding research capability in many of our institutions located in regions where private sector partners may not be readily available. If such partners with deep pockets become a prerequisite for accessing grants from the central funding agencies, or the Canadian Foundation for Innovation, then research activities will become increasingly concentrated in a small number of relatively large institutions. Inevitably, even more of our most able faculty will migrate to these institutions, and this will compromise the ability of Canadians to obtain an excellent education in virtually any of our colleges and universities.

Honourable senators, the first recommendation of the final report of the special committee was specifically designed to minimize such problems, and I would refer senators to our recommendation. I am confident that honourable senators will agree that our advice at that time is still excellent advice.

My final brief observation concerns the impact of fiscal retrenchment upon the enrolment of foreign or visa students. As the fiscal pressure on our colleges and universities has increased, many have responded by instituting policies of differential tuition for visa students, in some cases adopting a policy of full cost recovery. Whatever the merits of such policies — and I question them — they impinge with particular severity upon students from the Third World and developing nations, who are unable to afford these higher fees. To the extent that they can no longer attend colleges and universities in this country, the educational experience we provide our own students is significantly impoverished. Moreover, we forfeit the economic opportunities that result when visa students are returned to their own countries and quickly rise, as many do, to positions of influence. They are certainly less likely to direct economic activity to a country where they have not studied than to one where they have. Both humanitarian and economic concerns, therefore, caution against a too-short-sighted emphasis on cost recovery.

I wish to thank all honourable senators who continue to contribute to post-secondary education, and I believe, as one who has great involvement with the university sector, that it is not going unnoticed. The Senate's role in furthering the concerns of post-secondary education is one of our points of excellence, and we hope that, in turn, we create more excellence for students in Canada.

On motion of Senator Kinsella, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request agreement of the Senate that all remaining matters on our *Order Paper and Notice Paper* stand in their place, those that we have not dealt with, and that we move to the adjournment motion.

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining orders stand in their place?

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, June 27, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)

Thursday, June 22, 2000

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 Foreign Affairs	99/12/07 99/12/09	0 0	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	Legal and Constitutional Affairs	99/12/16	2	00/02/09		
S-17	An Act respecting marine liability, and to validate certain by-laws and regulations	00/03/02	00/04/04	Transport and Communications	00/05/09	2	00/05/17		
S-18	An Act to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities)	00/03/21	00/04/04	Foreign Affairs	00/05/04	0	00/05/16		
S-19	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	00/03/21	00/04/06	Banking, Trade and Commerce					
S-22	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	00/05/11	00/05/18	Legal and Constitutional Affairs					
S-25	An Act to amend the Defence Production Act	00/06/14							
S-26	An Act to repeal An Act to incorporate the Western Canada Telephone Company	00/06/15							

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts	00/02/29	00/03/28	Legal and Constitutional Affairs	00/04/13	0	00/05/31	00/05/31	9/00

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	0	99/12/14	99/12/16	35/99
C-5	An Act to establish the Canadian Tourism Commission	00/06/14							
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	99/12/06	Subject matter 99/11/24 Social Affairs, Science and Technology	99/12/06 99/12/07	2	99/12/09	00/04/13	5/00
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08	00/03/30	1/00
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	Aboriginal Peoples	00/03/29	0	00/04/13	00/04/13	7/00
C-10	An Act to amend the Municipal Grants Act	00/03/28	00/04/10	National Finance	00/05/04	0	00/05/09	00/05/31	8/00
C-11	An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts	00/06/08	00/06/15	Energy, the Environment and Natural Resources	00/06/22	0			
C-12	An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts	00/06/01 (withdrawn 00/06/13) 00/06/13 (reintro-duced)	00/06/15	Social Affairs, Science and Technology	00/06/22	0	00/06/22		
C-13	An Act to establish the Canadian Institutes of Health Research, to repeal the Medical Research Council Act and to make consequential amendments to other Acts	00/03/30	00/04/04	Social Affairs, Science and Technology	00/04/06	0	00/04/10	00/04/13	6/00
C-16	An Act respecting Canadian citizenship	00/05/31							
C-18	An Act to amend the Criminal Code (impaired driving causing death and other matters)	00/06/19	00/06/22	Legal and Constitutional Affairs					
C-19	An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts	00/06/14	00/06/22	Foreign Affairs					
C-20	An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference	00/03/21	00/05/18	Special Committee of the Senate on Bill C-20	00/06/19	0			

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
C-22	An Act to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence	00/05/09 (withdrawn 00/05/11) 00/05/11 (reintro-duced)	00/05/17	Legal and Constitutional Affairs (withdrawn 00/05/18) Banking, Trade and Commerce (00/05/18)	00/06/15	0	00/06/22		
C-23	An Act to modernize the Statutes of Canada in relation to benefits and obligations	00/04/12	00/05/09	Legal and Constitutional Affairs	00/06/08	0	00/06/14		
C-24	An Act to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act	00/06/14							
C-25	An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999	00/06/08	00/06/14	Banking, Trade and Commerce	00/06/22	0	00/06/22		
C-26	An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence	00/05/16	00/05/30	Transport and Communications	00/06/15	0	00/06/20		
C-27	An Act respecting the national parks of Canada	00/06/14							
C-29	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	00/03/23	00/03/28	–	–	–	00/03/29	00/03/30	3/00
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/03/23	00/03/28	–	–	–	00/03/29	00/03/30	4/00
C-32	An Act to implement certain provisions of the budget tabled in Parliament on February 28, 2000	00/06/07	00/06/13	National Finance	00/06/15	0	00/06/19		
C-34	An Act to amend the Canada Transportation Act	00/06/15	00/06/19	Agriculture and Forestry	00/06/21	0	00/06/22		
C-37	An Act to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act	00/06/15							
C-42	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/06/19	00/06/22	–	–	–	00/06/22		

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act to amend the Criminal Code (flight)	00/02/08	00/02/22	Legal and Constitutional Affairs	00/03/02	0	00/03/21	00/03/30	2/00
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02	00/05/18	Legal and Constitutional Affairs					
C-276	An Act to amend the Competition Act (negative option marketing)	00/05/18	00/06/15	Banking, Trade and Commerce					
C-445	An Act to change the name of the electoral district of Rimouski—Mitis	00/05/09	00/06/13	Legal and Constitutional Affairs	00/06/22	0	00/06/22		
C-473	An Act to change the names of certain electoral districts	00/04/10	00/06/13	Legal and Constitutional Affairs	00/06/22	0	00/06/22		

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	00/02/23	Legal and Constitutional Affairs					
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) *(Dropped from Order Paper pursuant to Rule 27(3) 00/05/11)*	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02	00/02/22	Social Affairs, Science and Technology	00/06/22	0			
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	00/02/22	Privileges, Standing Rules and Orders					
S-8	An Act to amend the Immigration Act (Sen. Ghitter) *(Dropped from Order Paper pursuant to Rule 27(3) 00/05/04)*	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03	00/05/04	Legal and Constitutional Affairs					

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, P.C.) *(Dropped from Order Paper pursuant to Rule 27(3) 00/02/08)* *(Restored to Order Paper 00/02/23)*	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	00/02/22	National Finance
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16		
S-16	An Act respecting Sir John A. Macdonald Day (Sen. Grimard)	00/02/22		
S-20	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	00/04/05	00/05/09	Energy, the Environment and Natural Resources
S-21	An Act to protect heritage lighthouses (Sen. Forrestall)	00/04/12	00/06/01	Fisheries
S-23	An Act respecting Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	00/06/06		
S-24	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	00/06/13		
S-27	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	00/06/15		

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	00/03/30	
S-28	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Carstairs)	00/06/22							

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Thursday, June 22, 2000

ORDERS OF THE DAY