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(HANSARD)

Tuesday, May 26, 1998

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

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

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THE SENATE

Tuesday, May 26, 1998

The Senate met at 2:00 p.m., the Acting Speaker, Eymard G. Corbin, in the Chair.

Prayers.

[*Translation*]

SENATOR'S STATEMENT

NEW BRUNSWICK

BAROQUE MUSIC FESTIVAL OF LAMÈQUE

Hon. Rose-Marie Losier-Cool: Honourable senators, every year, the municipality of Lamèque in New Brunswick hosts an internationally renowned music festival. What started out as a simple harpsichord recital in 1971 has gone on to become a baroque music festival. With an all-baroque program, it is a one-of-a-kind event in Canada. Since it first began, the festival has always featured internationally renowned artists. Performers at Lamèque's baroque music festival have included the Musika Antiqua Köln ensemble, Floulegium and the Toronto Consort.

This year, from July 29 to August 3, under the artistic direction of Mathieu Duguay, the festival will again feature excellent ensembles.

Germany's Concerto Köln, the Ensemble Anonymus, and Canada's Ensemble Leonore IV will join the Mission Saint-Charles choir, which, for the first time, will be accompanied by a children's choir.

With the assistance of the Société Radio-Canada Atlantique, the concerts have all been broadcast nationwide since 1977, giving the festival exposure in all regions of the country.

The church at Petite-Rivière-de-l'Île, near Lamèque, is the perfect site for the concerts. The interior of this tiny church is decorated with colourful naive style frescoes. This wonderful natural setting never fails to delight the public.

I issue a personal invitation to senators to visit New Brunswick and take in Lamèque's baroque music festival and other festivities in the region. Our wonderful beaches and the warm welcome of New Brunswickers are two other reasons you should visit.

In closing, I would add that this is the first year that the ferry will go directly from Shippagan in New Brunswick to the Magdalen Islands. I urge you to come and discover our lovely corner of the country during the summer months.

[*English*]

ROUTINE PROCEEDINGS

THE ESTIMATES, 1998-99

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Sharon Carstairs (Deputy Leader of the Government) tabled the Supplementary Estimates (A) for the fiscal year ending March 31, 1999.

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, May 27, 1998, I will move:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in Supplementary Estimates (A) for the fiscal year ending March 31, 1999.

[*Translation*]

BUSINESS OF THE SENATE

ADJOURNMENT

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

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, May 27, 1998 at 1:30 p.m.

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

Hon. Senators: Agreed.

Hon. Lowell Murray: I would ask the Deputy Leader of the Government what time the Senate will adjourn tomorrow. The Standing Senate Committee on Social Affairs, Science and Technology, will be hearing six witnesses tomorrow afternoon on Bill S-10. These witnesses have already received confirmation that they will appear at 3:30 p.m.

[*English*]

•(1410)

Senator Carstairs: Honourable senators, it is certainly our intention on this side to proceed with government business as quickly as possible, and I do not anticipate any difficulty in having the Senate rise by 3:15 p.m. tomorrow.

Motion agreed to.

CANADA LABOUR CODE CORPORATIONS AND LABOUR UNIONS RETURNS ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-19, to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Acting 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 Thursday next, May 28, 1998).

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation from the Austrian Federal Council headed by Mr. Ludwig Bieringer, President of the council. Accompanying the delegation is His Excellency Walther Lichem, Ambassador of the Republic of Austria. Welcome to the Senate.

QUESTION PERIOD

POST-SECONDARY EDUCATION

INCREASES IN TUITION FEES AT ONTARIO UNIVERSITIES—IMMEDIATE AVAILABILITY OF GRANTS FROM MILLENNIUM SCHOLARSHIP FUND—GOVERNMENT POSITION

Hon. Ethel Cochrane: Honourable senators, my question is for the Leader of the Government in the Senate. The University of Ottawa has just announced that tuition fees for students will increase by 9.5 per cent next year and 12 per cent for those who will be taking medical studies. Other Ontario universities are also planning similar fee increases. The University of Toronto plans to double fees in professional programs over the next couple of years.

My question for the leader is this: Why is the government still refusing to offer scholarships from the millennium fund until the year 2000, when students are facing large increases now?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, my honourable friend will know that the Millennium Scholarship Foundation is an innovative project undertaken by the government to directly assist students in every province and territory in the country. Her question is valid. The response is that it would be a question of funding. The fund has been appropriately named the millennium fund because that is the time when it is scheduled to begin.

The concerns of my honourable friend have been noted. I will raise those concerns with my honourable colleagues in cabinet and with the Prime Minister to determine whether there is any disposition to begin the program at an earlier date.

RESTORATION OF FUNDING PREVIOUSLY CUT FROM TRANSFERS TO PROVINCES—GOVERNMENT POSITION

Hon. Ethel Cochrane: *The Globe and Mail* reported that the government has a surplus of $4.2 billion for the 1997-98 fiscal year. If that money is there, why must students wait until the year 2000 for assistance? Why will the government not restore some of the post-secondary education funding that has been cut from transfers to the provinces?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would not rule out the possibility of beginning the scholarship program at an earlier date. I think the government should be congratulated for taking such an initiative, which is unprecedented in our country.

PROPOSED MILLENNIUM SCHOLARSHIP FOUNDATION—PROVISION FOR PRUDENT INVESTMENT OF FUNDS—GOVERNMENT POSITION

Hon. W. David Angus: Honourable senators, my question is to the Leader of the Government in the Senate. Bill C-36, an act to implement certain provisions of the 1998 budget, is now before Parliament. Contained in that bill is a provision to establish a Millennium Scholarship Foundation to administer a $2.5-billion fund, a major announcement of the present government.

Given the recent work of this house, the Senate, to establish good governance principles so that the Canada Pension Plan Investment Board might operate, administer and invest under appropriate policies, standards and procedures, I ask the Leader of the Government in the Senate why Bill C-36 does not contain any aspects of good governance principles?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would dispute the premise of my honourable friend's question. I would also say that the existing legislation creating the Millennium Scholarship Foundation is very flexible. It already takes into account most of the concerns expressed by the provinces, including those from the Province of Quebec. I am sure that good governance will ensue, as it always does under this particular government.

Senator Angus: Honourable senators, as I understand it, Bill C-36 has only one stipulated requirement on governance, and that is that directors be knowledgeable about education and the needs of the economy. Will the Leader of the Government in the Senate please explain why no legislative requirement exists in this bill to ensure that the money is invested prudently? Is this a case of "What is a billion?" Has the government not learned anything from the Banking Committee's intervention on the Canada Pension Plan Investment Board?

Senator Graham: My honourable friend knows that the Millennium Scholarship Foundation is a special part of the Canadian Opportunities Strategy announced in the 1998 budget. This coupled with the additional measures taken make post-secondary education more affordable to all Canadians. They give young Canadians more choices. My honourable friend is a long-standing legislator and long-standing member of the Senate Banking Committee, and I am sure he would agree that those are questions that can be put to the appropriate authorities when the bill reaches this place.

JUSTICE

COSTS RELATED TO GUN CONTROL REGISTRY—CHANGES TO ORIGINAL PROPOSAL—EFFECT ON BUDGETS OF LOCAL POLICE FORCES—GOVERNMENT POSITION

Hon. Eric Arthur Berntson: Honourable senators, I have a question for the Leader of the Government in the Senate in relation to the cost of the gun registry that we talked about a year or two ago, at which time we tried to make the point that this registry would be very costly, and of relatively little value.

•(1420)

About a month ago the Minister of Justice, Anne McLellan, said that the cost of this registry would be around $66 million. About a week ago, federal spending estimates pegged those same costs at $87 million. We now hear that the costs will run closer to $120 million. Perhaps my honourable colleague would explain to this house why the costs have soared this extra 40 per cent beyond the original estimate?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, strangely enough I can give you an even higher figure, because this is the year that we implement the Firearms Act and, as the year of commencement, it will be our highest year of expenditures. My honourable friends opposite will know that this year's spending will be a one-time set-up cost of the magnitude of which we are speaking. The costs will include spending on the overlap of the old and new programs.

However, expenditures for the Canadian Firearms Centre this year may be much higher than my honourable friend suggests. His highest figure was $120 million, and I understand that that figure could go as high as $133 million. This would include the cost of running the old program, set-up costs for the new program as of October 1, 1998, and the costs of running the new program from October 1, 1998, until March 31 of the following year.

Senator Berntson: I was under the impression that the cost to run the old program was somewhere around $60 million. However, do not hold me to that figure, for I am not absolutely certain. The cost of the new program is, perhaps, $133 million, and now we have the cost of setting up and paying for the overlap. I do not know how much additional administrative work is needed for the new program over the old program.

The executive director of the new program has said that an additional $35 million will be used to inform or notify spouses of people who make application under this program. Perhaps the honourable leader could tell us whether or not that is in anticipation of far more applications than had previously been anticipated, or is it approximately the same number as was anticipated? It seems like a significant amount of money for a few stamps or telephone calls.

Senator Lynch-Staunton: They have no idea. They are completely at sea. They do not know how many groups will be registered.

Senator Graham: If we are completely at sea, as my friend, the Honourable Leader of the Opposition suggests from his seat, then 80 per cent of Canadians who support this legislation are at sea with us. I feel quite comfortable in that setting.

Senator Lynch-Staunton: Then get it going. It has been two years since the passage of the legislation. What are you waiting for?

Senator Graham: The process has taken longer than was anticipated. There have been external developments such as the choice of Alberta, Saskatchewan, Manitoba and the Northwest Territories not to administer the new legislation. That has added to the federal costs.

Senator Berntson: Many of the changes occurred because the original plan was completely unworkable, and therefore you were pushed to make changes. This problem will be around to haunt you for a long time.

As a final supplementary, might I ask the Leader of the Government, while he is at sea with 80 per cent of Canadians out there with him, whether or not he has counted the thousands of police officers, the people who are on the front line, not only enforcing the terms of this legislation but who are out there every day, doing other things and putting themselves at risk. As a result of the inadequacies of this legislation at the start, and the time and expense it has taken to fix it, some police officers are concerned that there will be budget cuts elsewhere, cuts that will perhaps take policemen off the street to make this registry work.

Can the Leader of the Government provide us with an assurance today that budgets will not be cut, and that the comfort level of police officers on the street will be increased and not decreased?

Senator Graham: That is the case. One of the objectives is to increase the complement of police on the street. The police will save time and money by having access to an electronic database, replacing the present manual system for keeping records, and by substituting a mail-in postcard registration form for a mandatory visit to a police station.

Senator Lynch-Staunton: Sure, it is just like holding a school board election in Quebec; mail it in.

Senator Graham: We can deal with that one, too, if you wish, Senator Lynch-Staunton.

Gun control registries will help to reduce the health and emergency response costs associated with gun injuries, which are now estimated at $77 million per year. Registries will assist us in our fight against black market sales and provide police with important information on the history of a gun, and on whether guns might be present in the case of an emergency call concerning, for example, a domestic dispute. This is progressive legislation.

GUN CONTROL LEGISLATION—COURT CHALLENGE BY PROVINCES AND TERRITORIES—GOVERNMENT POSITION

Hon. Lowell Murray: Honourable senators, in this country, as we all know, Parliament legislates the criminal laws, and the provinces, for the most part, administer them. In this case, four provinces and one of the territories are challenging the law in court as being *ultra vires* of a federal Parliament. I will leave that aside for the moment.

Three provinces, Alberta, Saskatchewan and Manitoba, and the Northwest Territories have announced that they will not administer this law that has been passed by Parliament. Is this a precedent? What is the position of the Attorney General of Canada and, indeed, the Government of Canada on this issue?

Hon. B. Alasdair Graham (Leader of the Government): The position is one of disappointment.

Senator Murray: What will you do about it?

Senator Graham: The provinces and the aforementioned territory will not be forced to administer the law, but they must enforce it.

Senator Murray: They will not enforce it. What are your options in that case, minister?

Senator Graham: I want to inform my honourable friend that this matter is the subject of continuing negotiations with all of the provinces, which we hope to complete by the fall.

THE HONOURABLE PETER BOSA

BEST WISHES ON RETURN TO THE CHAMBER

The Hon. the Acting Speaker: Honourable senators, I am sure, will join with me in welcoming back to this chamber the Honourable Senator Bosa.

Hon. Senators: Hear, hear!

•(1430)

NOVA SCOTIA

PARTICIPATION OF PORT OF HALIFAX IN CONTAINER SHIPPER PROPOSAL—INVOLVEMENT OF MUNICIPAL AND PROVINCIAL STAKEHOLDERS IN DECISION-MAKING PROCESS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate who is, as well, the ministerial spokesperson for our province of Nova Scotia. The minister is well aware of the debate surrounding the invitation from a consortium of container shippers to a series of East Coast U.S. ports, six or seven in all, and the Port of Halifax. The proposal asks for indications of interest in proceeding with new terminals and facilities that would accommodate the Post-Panamax business that they not only foresee but are anxious to take up.

My question deals with process. How will the Port of Halifax arrive at a decision as to whether or not it will participate and, indeed, put forward a proposal? How will they make that decision?

Honourable senators, I ask that question because, over the weekend, I had a number of concerned calls about a meeting that will take place either this Thursday or a week from Thursday — it does not matter when — between a small group of interests in the Port of Halifax. They have taken it upon their shoulders to make a decision with respect to all of the Port of Halifax and how this call for expression of interest will be answered.

Can the leader shed any light on my concerns?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I know that the Halifax Port Authority is looking at this matter very seriously, indeed, in cooperation with the City of Halifax and the Province of Nova Scotia.

I read with great interest my honourable friend Senator Forrestall's enlightening and optimistic article in one of the editions of *The Daily News* over the past few days with respect to the Post-Panamax period. I congratulate him on his research in this respect.

I hope the Port of Halifax authority will be able to find the resources and the will to put forward what would be considered not only an appropriate bid but a winning bid in trying to seek this very large piece of business which will be of benefit to all Atlantic Canadians.

Senator Forrestall: I thank the minister for his kind words, but can he tell me whether or not the Halifax regional municipality will be included in this momentous decision-making group? Will the Province of Nova Scotia be involved in that decision-making process? Is there room in that group for a representative of the Halifax Port Development Corporation or the greater metropolitan chamber of commerce, particularly the shipping representatives of that group? Who will constitute the group, or will the decision be made by the Chairman, Mr. Merv Russell, and the current board of directors of the Port of Halifax Authority?

Senator Graham: I am sure that Mr. Russell, who has had wide experience in this particular field, would find it very wise to consult with all of the potential stakeholders in the area, including the municipality of Halifax, the chamber of commerce, the port development authority, and all of the other interested people.

Senator Forrestall: Who will make the decision? Will it be the people to whom the invitation was extended?

Senator Graham: I would presume that the response will come from the people to whom the invitation was extended, after consultation with all the stakeholders.

INDUSTRY

AGREEMENT ON INTERNAL TRADE—FAILURE TO HOLD OBLIGATORY ANNUAL MEETING OF COMMITTEE ON INTERNAL TRADE—GOVERNMENT POSITION

Hon. James F. Kelleher: Honourable senators, I have a question for the Leader of the Government in the Senate. Chapter 16 of the Agreement on Internal Trade created a ministerial committee that is supposed to supervise the implementation of the agreement. This committee on internal trade is co-chaired by the federal Minister of Industry. Article 16.01 stipulates that it must meet at least once a year. However, the leader's government allowed almost two years to elapse between its meeting in June, 1996 and the most recent February, 1998 meeting.

Will the leader explain why his government has failed to ensure there was an annual meeting in 1997, and can he advise us of the date of the committee's next meeting?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it may have had something to do with the election that was held in 1997. However, I shall seek that information and attempt to determine the date the next meeting will be held.

As well, I wish to tell Senator Kelleher that after Question Period is completed, the deputy leader will table two delayed answers to questions that the honourable senator has already asked on this same subject.

AGREEMENT ON INTERNAL TRADE—DELAY IN PUBLICATION OF ANNUAL REPORT OF COMMITTEE ON INTERNAL TRADE—GOVERNMENT POSITION

Hon. James F. Kelleher: I thank the Honourable Leader of the Government in the Senate for that response.

Honourable senators, Article 16.01 also requires the committee on internal trade to prepare an annual report. Although the Prime Minister and his provincial and territorial colleagues signed the agreement almost four years ago — in July, 1994 — only one annual report has been released. The annual report was issued on February 20, 1998, and it only covers the 18-month period of July, 1994 to March, 1996.

This failure to honour article 16.01's reporting requirement is depriving Canadians of their right to know, and it cannot continue. We are now well into 1998, and I would therefore ask the Leader of the Government in the Senate the following two questions:

First, will he advise when we will receive an annual report that covers the rest of 1996 and 1997?

Second, will his government undertake that, henceforth, these annual reports will be issued each and every year and tabled on a timely basis in the Senate?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the answer to both questions is obviously "yes."

I will attempt to obtain a report for the remainder of 1996, and for 1997, as my honourable friend has asked, and I will attempt to urge my colleagues responsible to ensure that annual reports are forthcoming, as has been suggested they should be, according to Article 16.01.

ATOMIC ENERGY OF CANADA LIMITED

NUCLEAR TESTING BY INDIA—REASSESSMENT OF NUCLEAR POLICY—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I should like to return to the question of nuclear testing by India. It has come to light in the last two weeks that a great deal of information was available to all countries around the world about the movement of arms and arms technology and expertise from certain countries to India, Pakistan, Iran, and other places.

In light of the fact that the government still has a proactive position on selling nuclear equipment, is it considering putting a moratorium on any further sales until such time as the Canadian public can be reassured that these reactors will be used for useful purposes?

In our present contracts, only voluntary scrutiny is available, and no mandatory scrutiny is provided for nuclear authorities from our country.

•(1440)

Will the government undertake to reassess this policy, to change the voluntary nature of that inspection to a more mandatory partnership for inspection, before any further nuclear reactors are sold?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Senator Andreychuk has expressed a valid concern. As she knows, all countries purchasing CANDU reactors from this country are under the International Atomic Energy Agency safeguards which prevent the diversion of nuclear material for clandestine purposes, through detailed and minute accounting procedures.

With respect to more stringent requirements, I presume that, as a result of the most recent incidents in India and what has been called the potential that looms in Pakistan, the government and its agencies will be undertaking some stricter safeguards in that respect to ensure that all possible measures are taken to ensure that these incidents are not repeated.

Senator Andreychuk: Honourable senators, my concern is not with the Atomic Energy Agency but with the Canadian government, which should insist that there be more stringent requirements. It is incumbent on the government to do so at this time, to re-evaluate its requirements and not to leave the matter to the agency. Also, Canada has sold a reactor to China, and we do not have stringent requirements there. We are still under the same lax requirements we had 20 years ago. Will the government, not the Atomic Energy Agency, reassess its position?

Senator Graham: Honourable senators, I am sure the government will reassess its position. The non-nuclear weapon states, which includes India, must make binding commitments to nuclear non-proliferation. They must also agree to implement full International Atomic Energy Agency safeguards on all current and future nuclear activities. In addition, all the nuclear partners for Canada must sign a binding, bilateral nuclear-cooperation agreement with Canada that sets out certain commitments, including a commitment to peaceful non-explosive use in accordance with International Atomic Energy Agency safeguards, and a commitment that any Canadian-supplied nuclear material such as uranium will not be reprocessed or highly enriched without Canada's consent. There is also a requirement for prior written consent before any transfers to a third country.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 6, 1998, by the Honourable Senator Kelleher, regarding difficulties with interprovincial trade agreement, failure to reach agreement on energy; a response to a question raised in the Senate on May 12, 1998, by the Honourable Senator Kelleher, regarding difficulties with interprovincial trade agreement, failure to fulfil sectoral agreements; and a response to a question raised in the Senate on May 14, 1998, by the Honourable Senator Kinsella, regarding the statement of the minister regarding citizenship of children born in Canada to non-Canadian parents.

INDUSTRY

DIFFICULTIES WITH INTERPROVINCIAL TRADE AGREEMENT—FAILURE TO REACH AGREEMENT ON ENERGY—GOVERNMENT POSITION

(Response to question raised by Hon. James F. Kelleher on May 6, 1998)

It is correct to state that barriers to trade within Canada represent obstacles to jobs and growth.

That is why the government made it a priority during the first mandate to reach and push for full implementation of a comprehensive accord with the provinces covering internal trade within Canada.

The federal position remains that we can and we must do our utmost to dismantle internal barriers to trade, given that they diminish our sense of nationhood and undermine benefits which Canadians legitimately expect from belonging to the economic union.

Progress is being made. For example, at the most recent meeting of the Ministerial Committee on Internal Trade, held on February 20, 1998, Ministers reached agreement on:

– procurement in the Municipalities, Academic Institutions, Health and Social Services (MASH) sector covering all provinces except B.C.;

– expanded application of the procurement disciplines to hitherto "excluded entities";

– developing proposals on the use of investment incentives before the Annual Premiers Conference (APC) in August 1998; and

– agreement to engaging stakeholders and reporting back on possible new initiatives.

Regarding the Energy Chapter, at their meeting in August 1997 the Premiers called for an Agreement within six months. Energy Ministers are to meet in early July in advance of the next Premiers' meeting, and the government is hopeful that an Agreement will be concluded in this time frame.

DIFFICULTIES WITH INTERPROVINCIAL TRADE AGREEMENT— FAILURE TO FULFIL SECTORAL AGREEMENTS— GOVERNMENT POSITION

(Response to question raised by James F. Kelleher on May 12, 1998)

The substantive obligations in the *Agreement on Internal Trade*, whose deadlines have passed, are described below.

1. Article 502.4—Deadline was June 30, 1995

Commitment

To conclude work to extend procurement disciplines to municipalities, academic institutions, social service agencies, and hospitals (the MASH sector)

Status

On February 20, 1998, ministers of internal trade for all Parties, except British Columbia and the Yukon, agreed in principle to have their MASH sector entities open their procurement to firms across the country. This extension is expected to come into effect in about a year's time from the agreement in principle.

2. Article 516.4—Deadline was July 1, 1996

Commitment

The Parties shall, within 12 months after the date of entry into force of this Agreement, undertake a review to:

a. assess whether this Chapter has met its objectives;

b. assess and adjust threshold levels, as necessary;

c. revise this Chapter to accommodate changing principles under this Agreement; and

d. review the opportunities for progress related to public procurement not covered by or excluded from this Chapter.

Status

A review of further work in the Procurement Chapter awaits ratification of agreement to extend the procurement disciplines to the MASH sector and an agreement to extend procurement disciplines to many more entities (mainly Crown corporations).

3. Article 516.5—Deadline was July 1, 1995

Commitment

The Parties shall, before the date of entry into force of this Agreement, review and finalize the list of excluded services set out in Annex 502.1B.

Status

The Parties have reviewed the list of services (e.g. the services of licensed professionals, such physicians and other health professionals, lawyers, architects, engineers, etc.) that are currently excluded from the purview of the Agreement on Internal Trade. However, the provinces were unable to reach an agreement on whether these services should be covered. As a result, further negotiation on this issue has been suspended until a consensus can be reached that would enable coverage of these services.

4. Article 517.2—Deadline was June 30, 1996

Commitment

The Parties shall enter into negotiations with a view to reducing, modifying or amending the list of entities that are now excluded (those listed under Annex 502.2A) in order to achieve reciprocity by, in particular, listing such entities in covered by either the terms of the Procurement Chapter (i.e. list them under Annex 502.1A) or the non-intervention commitment (Annex 502.2B).

Status

On February 20, 1995, ministers responsible for internal trade issues, agreed to aim for an agreement by July 1998 that would substantially increase the scope of coverage of the procurement disciplines to many more entities (mainly Crown corporations).

5. Annex 807.1—Deadline was January 1, 1996 for the completion of negotiations on the cost of credit disclosure and January 1, 1997 for the adoption of harmonized legislation related to this disclosure

Commitment—Cost of Credit Disclosure

Annex 807.1

7. The Parties shall adopt harmonized legislation respecting the disclosure of cost of credit in accordance with the following objectives, among others:

a. to ensure that, before making a credit-purchasing decision, consumers receive fair, accurate and comparable information about the cost of credit;

b. to ensure that, with respect to non-mortgage credit, consumers are entitled to repay their loans at any time and, in that event, to pay only those finance charges that have been earned at the time the loans are repaid; and

c. to ensure that the disclosure is as clear and as simple as possible, taking into account the inherent complexity of disclosure issues related to any form of credit.

10. The Parties shall complete negotiations on the harmonization of cost of credit disclosure no later than January 1, 1996, and shall adopt such harmonized legislation no later than January 1, 1997.

Status

Ministers responsible for internal trade have agreed to harmonize legislation respecting the disclosure of the cost of credit and implementation will occur late in 1998.

6. Article 809.2(d)—Deadline was June 30, 1995

Commitment

Governments agreed to develop appropriate resolution mechanisms for disputes arising under the Consumer-Related Measures and Standards Chapter of the Agreement on Internal Trade.

Status

This work has been basically completed and is expected to be formally approved shortly.

7. Article 902.4—Deadline was September 1, 1997

Commitment

Governments shall, no later than September 1, 1997, complete a review of the scope and coverage of, and any recommendations for changes to, this Chapter with the objective of achieving the broadest possible coverage and further liberalizing internal trade in agricultural and food goods.

Status

In July 1997, federal, provincial and territorial Ministers of Agriculture agreed to change both their approach and the deadline for a revised Agricultural and Food Goods' Chapter. They directed officials to consult stakeholders on the principles, which should be embodies in an expanded chapter and which would cover most agricultural measures. Agriculture Ministers are to review the results of these consultations at their next annual meeting in July 1998 and aim for a completed, revised chapter by December 1998.

8. Article 1010.2—Deadline was June 30, 1995

Commitment

Nova Scotia reserves the right to maintain differential floor pricing mechanisms for beer and beer products of Parties other than Nova Scotia and New Brunswick. Other Parties reserve the right to apply differential pricing mechanisms to beer and beer products of Nova Scotia. In both cases, this will be subject to review by the Parties before July 1, 1996.

Status

Nova Scotia continues to maintain the right to charge a differential floor price for beer and beer products of Parties other than Nova Scotia and New Brunswick.

9. Article 1010.3—Deadline was July 1, 1996

Commitment

New Brunswick and Quebec reserve the right to apply a differential cost of service, fees or other charges to beer and beer products of any other Party where it can be demonstrated that beer and beer products originating from New Brunswick or Quebec, respectively, encounter higher cost of service, fees, other charges or handling requirements than beer and beer products of that Party. Any implementation of this reservation will be subject to review by the Parties no later than July 1, 1996.

Status

Discussions are continuing to try and resolve this issue.

10. Article 1011.b—Deadline was July 1, 1996

Commitment

Quebec may require any wine sold in grocery stores to be bottled in Quebec, provided that alternative outlets are provided in Quebec for the sale of wine of other Parties,

whether or not such wine is bottled in Quebec. British Columbia and Quebec agree to negotiate by July 1, 1996, equivalent access for wine and wine products of the other Province. Until an agreement is implemented, British Columbia retains the right to apply measures of reciprocal effect to wine and wine products produced in Quebec.

Status

Discussions are continuing to try and resolve this issue.

11. Article 1810.3—Deadline was July 1, 1995

Commitment

Negotiations on Chapter Twelve (Energy) were to have been concluded no later than the date of entry into force of the Agreement on Internal Trade.

Status

Premiers, at their last Annual Conference in August 1997, agreed that negotiations on an energy chapter should be completed as soon as possible. Federal and provincial negotiators have made significant progress to this end and are continuing their discussions.

12. Article 1404.3—Deadline was July 1, 1996

Commitment

The Provinces shall enter into negotiations, to be concluded no later than July 1, 1996, for the special provisions required to extend coverage of this Chapter to regional, local, district or other forms of municipal government.

Status

Parties to the Agreement agreed to delete this requirement.

13. Annex 1408.1—Various deadlines

Commitments

Motor Vehicle Weights and Dimensions

1. The Parties undertake to establish and maintain uniform rules governing the size and weight of commercial motor vehicles, building on the Memorandum of Understanding signed by the Parties in 1988, as amended in 1992.

2. The Council shall review the status of these rules at least every two years.

Extra-Provincial Truck Carrier Operating Authorities

3. In furtherance of Council direction, each Party shall eliminate its operating authority requirements for extra-provincial trucking operations no later than January 1, 1996.

Motor Carrier Safety Rules

4. Subject to paragraph 5, each Party shall implement the National Safety Code for Motor Carriers, as it exists on the date of entry into force of this Agreement, within six months after that date.

5. The Parties shall endeavour to resolve issues relating to the effective delivery of the National Safety Code program before the date of entry into force of this Agreement.

Bill of Lading

6. The Parties shall establish a uniform national bill of lading for transportation of goods by motor carriers before the date of the entry into force of this Agreement.

Fuel and Sales Tax and Vehicle Registration Administrative Harmonization

7. The Council shall establish a work plan for the creation of harmonized administrative mechanisms for the collection of fuel and sales taxes and vehicle registration fees before the date of entry into force of this Agreement.

Memorandum of Understanding on Regulatory Review

8. The Parties affirm their commitments to the guiding principles of regulatory policy and the criteria and process for regulatory review embodied in the "Memorandum of Understanding to Review Regulations Affecting Transportation," and will bring the process envisaged by that Memorandum of Understanding into operation.

Agents for Service

9. The Council shall establish a work plan for the creation of harmonized administrative arrangements for the designation of agents for service as referred to in Article 1405(1) before the date of entry into force of this Agreement.

Status

With the exception of the commitment to eliminate extra-provincial truck operating authorities, the remaining obligations have either been met or are being met. The response for extra-provincial truck operating authorities is given below.

14 Article 1411—Various deadlines for the phase-out of listed non-conforming measures

Commitments

Each Party shall liberalize or remove its non-conforming measures listed in Annex 1411 in accordance with that Annex. These measures mainly deal with regulatory provisions governing transportation services.

Status

The phase-outs are proceeding as scheduled with the exception of repeal by Canada of Part III of the *Motor Vehicle Transport Act*, which was supposed to have occurred on January 1, 1998. This repeal would have removed the basis under which some provinces regulated interprovincial trucking.

Quebec and British Columbia experienced difficulties in keeping to this schedule and worked with adjoining provinces to try to work out a deal. Quebec, for example, agreed to open up half of its bulk trucking market immediately. As a result of these negotiations, with the exception of Ontario, the other provinces agreed to a delay for the repeal of this part of the *Motor Vehicle Transport Act* until January 1, 2000. Consequently, the federal Minister of Transport agreed to delay its repeal until then.

It should be noted that most provinces have deregulated, which has increased competition for most of their trucking industry. For British Columbia and Quebec only, log hauling and bulk trucking will continue to be regulated until January 1, 2000. This regulated portion accounts for less than two per cent by revenue of the total national trucking industry.

CITIZENSHIP AND IMMIGRATION

STATEMENT OF MINISTER OF REGARDING CITIZENSHIP OF CHILDREN BORN IN CANADA TO NON-CANADIAN PARENTS—GOVERNMENT POSITION

(Response to question raised by Hon. Noël A. Kinsella on May 14, 1998)

It is important to point out that the Minister never said that children born in Canada to foreign parents would not be granted Canadian citizenship during her recent interviews with the Canadian Press. The Minister did say that Canada should review the issue — that it was a fundamental issue that Canadians needed to discuss despite the controversy it might raise. She also pointed out that, in 1994, the Standing Committee on Citizenship and Immigration had recommended that children born in Canada not be entitled to Canadian citizenship unless at least one of the parents is a Canadian citizen or a permanent resident.

At present, the *Citizenship Act* provides for the automatic acquisition of citizenship by birth on Canadian soil. There have been concerns raised regarding the possible abuse of the current legislation by people who come to Canada to have a child solely for the purpose of ensuring that their children acquire Canadian citizenship. Concerns have also been raised that the existing law may allow foreign nationals who are illegally in Canada to delay their removals on the grounds that they have Canadian-born children.

The Minister is aware of the problems that the current provision of the *Act* may create with respect to acquisition of citizenship by birth on Canadian soil. However, amendment of the provision raises concerns for both the government and the Canadian public, and the extent of the impact will have to be assessed before deciding on a solution to adopt. The government has made no decisions regarding any proposed amendments to the current Act.

The Citizenship Act has not been revised since 1977. In making changes, it is the government's desire to end up with legislation which will reflect the needs of Canadian society and will prepare the department for the 21st century. Canadian citizenship is extremely important, and the Minister and departmental officials are still in the process of examining in depth a number of issues, including who should qualify for citizenship.

The Minister hopes to be able to bring proposals to Parliament in the near future.

THE SENATE

REQUEST FOR ANSWERS TO OUTSTANDING ORAL QUESTIONS—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am glad to see that questions asked in 1998 are being answered. I wonder if the deputy leader or the leader himself could assure me that questions asked on November 19, 1997, will be given an answer before we break for the summer, as well as other questions that have been on the Order Paper for quite a while and only require factual answers, not opinions.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I will undertake personally, in cooperation with the deputy leader, to ensure that any outstanding questions are answered at the earliest possible moment. I apologize to my honourable friend the Leader of the Opposition; I was not aware that there was a question outstanding from 1997.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Acting Speaker: Honourable senators, I should like to introduce the two pages participating in the exchange program between the Senate and the House of Commons who will be with the Senate this week.

[*Translation*]

I am pleased to introduce Julie Grenier, from the village of Saint-Léon, Manitoba. She is studying journalism at Carleton University.

[*English*]

On my left is Ashleigh Keall of Regina, Saskatchewan, who is enrolled in the Faculty of Social Sciences at the University of Ottawa. She is a psychology major.

Welcome to the Senate.

ORDERS OF THE DAY

CANADIAN TRANSPORTATION ACCIDENT INVESTIGATION AND SAFETY BOARD ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Forest, for the third reading of Bill S-2, to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act,
>
> And on the motion in amendment of the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane, that the Bill be not now read the third time but that it be amended:

1. In clause 1, on page 1:

(*a*) by adding the following after line 17:

"**(2.1) The definition of "transportation occurrence" in section 2 of the Act is replaced by the following:**

"transportation occurrence" means an aviation occurrence, a railway occurrence, a marine occurrence, a pipeline occurrence or a highway occurrence."; and

(b) by adding the following after line 19:

""highway occurrence" means

(*a*) any accident or incident associated with the operation of a truck, and

(*b*) any situation or condition that the Board has reasonable grounds to believe could, if left unattended, induce an accident or incident described in paragraph (*a*);".

2. In clause 2, on page 2, by adding the following after line 14:

"**2.1 Section 3 of the Act is amended by adding the following after subsection (4):**

(4.1) This Act applies in respect of highway occurrences

(*a*) in Canada, if the occurrence relates to extraprovincial truck transport; and

(*b*) outside Canada, if Canada is requested to investigate the occurrence by an appropriate authority.."

3. In clause 3, on page 2, by adding the following after line 21:

"(1.1) Subsection 4(2) of the Act is replaced by the following:

(2) The Governor in Council shall appoint as members persons who, in the opinion of the Governor in Council, are collectively knowledgeable about air, marine, rail, pipeline and highway transportation.".

4. On page 3, by adding the following new Clause after line 10:

"4.1 The portion of subsection 6(1) of the Act after paragraph (*b*) is replaced by the following:

and in this subsection, "transportation" means air, marine, rail, pipeline or highway transportation.".

5. In clause 7, on page 3, by replacing lines 31 to 36 with the following:

"7. (1) Subsection 10(1) of the Act is replaced by the following:

10. (1) From among the employees appointed under subsection 9(1), there shall be

(*a*) a Director of Investigations (Air), a Director of Investigations (Marine), a Director of Investigations (Rail and Pipelines) and a Director of Investigations (Highway); and

(*b*) other investigators.

(2) Subsection 10(2) of the Act is replaced by the following:

(2) Each of the four Directors mentioned in paragraph (1)(*a*) has exclusive authority to direct the conduct of investigations on behalf of the Board under this Act in relation to aviation occurrences, marine occurrences, railway and pipeline occurrences, and highway occurrences, respectively, but

(*a*) the Directors' authority under this subsection must be exercised in accordance with any policies established under paragraphs 8(1)(*b*) and (*c*); and

(*b*) the Directors shall report to the Board with respect to their investigations and shall conduct such further investigation as the Board requires under paragraph 8(1)(*d*).".

6. In clause 13:

(a) on page 5, by replacing line 32 with the following:

"(2) Paragraphs 19(9)(*a*) and (*b*) of the Act are"; and

(b) on page 6:

(i) by adding the following after line 4*:*

"(*b*) where the investigator believes on reasonable grounds that the medical examination of a person who is directly or indirectly involved in the operation of an aircraft, a ship, a rolling stock, a pipeline or a truck is, or may be, relevant to the investigation, by notice in writing signed by the investigator, require the person to submit to a medical examination;," and

(ii) by adding the following after line 18*:*

"(3.1) Paragraph 19(14)(*a*) of the Act is replaced by the following:

(*a*) to imply that a thing seized pursuant to subsection (1) may not be an aircraft, a ship, an item of rolling stock, a pipeline or a truck, or any part thereof; or".

Hon. Mira Spivak: Honourable senators, I should like to thank the honourable senators opposite for their remarks on the proposed amendments to Bill S-2. In particular, I note that the senators who spoke, Senators Poulin, De Bané and Carstairs, have said that there is merit in the proposal to extend the mandate of the Transportation Safety Board to include extra-provincial motor vehicle accidents.

In response to the amendments, however, they have said, in essence — and I hope I have this right — "not yet," but for different reasons. I would like to address those reasons.

First, Senator De Bané raised the "constitutional or jurisdictional issue." As he said, road safety in Canada is a shared responsibility between the federal, provincial and territorial governments. Vehicle and driver licensing, road construction, maintenance and traffic rules, and enforcement for cars or trucks within a province are clearly provincial matters. However, in very practical terms, what we are talking about is giving the safety board the authority to investigate accidents involving the very large, long-haul trucks which cross provincial borders and our borders with the United States. Saskatchewan has recently approved tractor-trailers of a size unique in Canada — very large tractor-trailers. As both senators acknowledge, this extra-provincial traffic falls within the legislative authority of Parliament.

According to Transport Canada, this federal jurisdiction over the safety of extra-provincial commercial vehicles also extends to the movement within a province of those carriers which cross provincial or international borders. As Senator De Bané correctly pointed out, this federal responsibility under the Motor Vehicle Transport Act has been largely delegated to the provinces. Thus, it is not that Parliament lacks the constitutional authority, it is rather that the government has chosen to delegate many of its aspects.

As Senator De Bané also correctly pointed out, Transport Canada does get involved in the area of accident investigations, to help in setting manufacturing standards under the Motor Vehicle Safety Act. Now we are at the crux of the matter. Parliament, in creating the safety board, saw the need for an independent board, a board far removed from the government regulator. Four years later, the CTAISB Act review commission put it succinctly in its report, "Advancing Safety":

> Parliament made the TSBC independent so it could challenge the regulator.

Yet, today, within Transport Canada, we find both the regulator and the investigator dealing with manufacturing standards and truck safety. Bill S-2, unless amended, would not change that situation.

•(1450)

As to the safety aspects delegated to provinces — that is, the day-to-day activity and the overseeing of carriers — perhaps we would not need these amendments if the provinces and territories had created independent boards and been responsible for doing the job, although one national board would probably be less costly than 12 provincial and territorial agencies. However, the provinces have neither jointly nor singly tackled the problem. Further, there is no indication from Transport Canada that the council of ministers, of which Senator Carstairs spoke, has any concrete plans in that direction.

Granted, provincial regulators have the benefit of police investigations and coroners' inquests, but the question is: How does the lessons learned from an inquest after a fatal accident in Nanaimo, British Columbia, help prevent accidents in Quebec City or Halifax? How are the lessons learned anywhere passed on to all parts of the country? To quote the review commission again:

> The central reason for accident investigation is to find and correct safety deficiencies... Safety lessons learned from the operation of vehicles within federal jurisdiction (can) apply equally to the same types of vehicles operating under provincial regulation.

I agree that we should not tamper with good working arrangements in many areas of shared federal-provincial jurisdiction. In this specific area of truck safety, the "good working arrangement" has translated into no independent board at all. In this specific instance, we must be very careful not to mistake for roadblocks what really are speed bumps.

Senator De Bané also raised the question of resources, suggesting that significant additional money would be required for the board to investigate trucking accidents. If the government chooses to do so, it could take the money and the staff now directing accident investigations within Transport Canada and give them to the board.

As officials with the safety board's U.S. counterpart told us, no one expects a national board to investigate every accident — in other words, to duplicate the work of the police. If it chooses, the government could give the board authority under Bill S-2 and give it a budget. That would mean the slow entry into truck accident investigations to which Senator Carstairs alluded. All that is needed is enough money to investigate some accidents that could offer useful lessons.

With respect to the need to assess the appropriateness of any additional expenditure, I should like to point out that in January, 1994, the review commission suggested that the government do what these amendments propose. Some 18 months later, in June of 1995, the government promised a "thorough review." Since then, almost three years have passed. That is enough time to have done that assessment.

Both senators also spoke about the need for consultation with the provinces. That is a valid point. However, raising it now overlooks the fact that the review commission did consult for one year prior to its report. It commissioned papers — one specifically on federal and provincial regulatory statutes and bodies — and it received special assessments of policy options from a number of provincial governments and more general submissions from others.

I should like to quote briefly from the June, 1993, submission from the Government of Quebec. Without referring specifically to highway accidents, the Quebec Department of Transport gave its clear support to a "multi-modal board," leading to "a more coherent approach to accident investigation." It also urged that the board be given authority to investigate accidents involving pleasure craft — that is, small boats, snowmobiles, jet skis and other vehicles used for recreation. The review committee liked that idea, and included it amongst its recommendations.

The reasoning that these amendments cannot be passed until discussions have been held with the provinces also falls short when we look at the government's response in June, 1995. Its promised "thorough review" was to consider federal-provincial cooperation in the area of highway safety, and to look specifically for areas of possible duplication. If the review examined those areas, why, then, are we still waiting for discussion with the provinces?

I asked Transport Canada for a copy of the scope, methodology, resources and results from that thorough review and received something that is much less — so much less that it raises the question of whether a "thorough review" was ever conducted. It seems reasonable that a "thorough review" conducted shortly after June, 1995, could have formed the basis for discussions with the provinces.

Senator De Bané reminded us that there was broad consultation with governments and industry on the changes included in Bill S-2. I respectfully suggest that what we are dealing with is not a question of lack of opportunity for consultation. If the government has chosen not to raise the issue at appropriate levels, then it might continue to do so for years. Meanwhile, deaths and injuries on our highways will continue — perhaps some that could be prevented.

Senator Poulin suggested that the idea of extending the board's mandate is beyond the scope of the bill. Senator Carstairs correctly pointed out that a similar amendment to include extra-provincial motor vehicle accidents was presented in clause-by-clause debate of the original act in the other place and was ruled beyond the scope of the bill. That was in 1989, four years before the review commission examined the board's first three years of operation and recommended extending its mandate.

In Bill S-2, as Senators Poulin and Carstairs also point out, we have some means for federal-provincial collaboration on accident investigations. Under proposed section 11 of Bill S-2, the board will have the authority to investigate accidents within the legislative authority of the provinces, at the provinces' requests, but only if the provinces agree to pay for them.

I suggest that the mechanism for extending the board's mandate is already found in Bill S-2, and that the amendments proposed are not beyond the scope of this bill. More important, it is not appropriate to give the board authority to conduct investigations into highway accidents at the behest of the provinces without also giving it the resources to do the job properly. As I said initially, the safety board must have the expertise at both board and staff levels to investigate trucking accidents in the same careful manner that it now investigates rail, ship, air or pipeline accidents. These amendments would ensure that the board has that expertise.

Finally, Senator Carstairs stated that we cannot have these amendments now, because, first, we must have that "thorough review" which the government promised. She suggested that the review itself was to be conducted when the act was reopened.

Frankly, I was puzzled by those comments. If we read the government's response of June, 1995, to the review committee, we see that it agreed, first, "that the expansion of CTAISB's jurisdiction to include extra-provincial motor vehicle occurrences should be given thorough review, given the considerable interest in highway safety..."

The government went on to say that an amendment to include extra-provincial motor vehicle occurrences may be considered for introduction when the act is reopened. It was not the timing of the review which was tied to the reopening of the act, but the possible introduction of an amendment. In any event, Bill S-2 is reopening the act, and still we do not have the results of the "thorough review" or the amendment.

The objections that we are hearing now to these amendments are an admission of the things that the government has not yet followed through on in its June 1995 undertaking. Nevertheless, much of what the government now says needs to be done to amend the board's mandate has already been done by the review commission.

Honourable senators, let me remind you: Among commercial vehicles involved in collisions, large tractor trailers are most often involved in fatal crashes, accounting for close to 60 per cent of commercial vehicles involved in those highway tragedies from 1991 to 1995. In 1995 alone, 344 tractor trailers were involved in fatal accidents. In that same year, 1995, almost 4,000 of these large vehicles were involved in accidents that caused personal injuries.

The question to be asked is: How long shall we wait for the government's amendments to give the transportation safety board its proper, badly needed mandate?

The Hon. the Acting Speaker: Honourable senators, it was moved by the Honourable Senator Poulin, seconded by the Honourable Senator Forest, that this bill be read the third time;

In amendment, it was moved by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane, that the bill be not now read the third time but that it be amended —

An Hon. Senator: Dispense!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: All those in favour of the motion in amendment please say "Yea."

Some Hon. Senators: Yea.

•(1500)

The Hon. the Acting Speaker: Will those honourable senators opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Acting Speaker: Call in the senators.

[*Translation*]

Hon. Jacques Hébert: Honourable senators, pursuant to rule 67, I ask that the vote be deferred until tomorrow, Wednesday, May 27, 1998 at 3:30 p.m., unless both parties agree on 3 p.m.

[*English*]

The Hon. the Acting Speaker: Would the Honourable Senator Hébert please repeat the time of the deferred vote?

[*Translation*]

Senator Hébert: Pursuant to rules 67.(1) and 67.(2), I ask that the vote be deferred until Wednesday, May 27, at 5:30 p.m. I added, on my own, however, "unless both parties agree for the vote to be held at 3:00 p.m.," since our deliberations end earlier on Wednesdays.

[*English*]

Hon. Mabel M. DeWare: Honourable senators, I would suggest that we defer the vote until 5:30 p.m. tomorrow.

Senator Hébert: Honourable senators, my suggestion would be that we vote at 3 p.m. so that we do not interfere with the committees which will start at that time tomorrow.

The Hon. the Acting Speaker: Is it agreed that the vote will be deferred until tomorrow at 3 p.m.?

Hon. Senators: Agreed.

CANADA MARINE BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bacon, seconded by the Honourable Senator Joyal, P.C., for the third reading of Bill C-9, for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence.

Hon. J. Michael Forrestall: Honourable senators, Bill C-9 is now before us at third reading. Passage of this bill at this time will have consequences. It is not well understood, and no economic studies have been done to determine its financial impact. Proper steps have not been taken in respect of environmental protection. In every clause and on every page of this bill there is room for amendment and improvement. The bill is not a good one.

It is not a good bill for reasons that I will elaborate on at some length. Since I have only 15 minutes in which to intervene on this bill, I would now ask that honourable senators grant me leave to append a minority report to the *Journals of the Senate* of this day. I raised this matter with committee members at the conclusion of the committee's clause-by-clause study of Bill C-9.

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

Hon. Senators: Agreed.

(*For text of report, see today's* Journals of the Senate, *Appendix p. 718.*)

Senator Forrestall: I thank honourable senators for their consent. It allows me to be somewhat more concise in my comments.

I would urge every honourable senator who has a port in his or her riding to consider the breadth of the problems that passage of this bill could cause.

As I was thinking about what I should say today, I concluded that it might be wise to review what I said during second reading debate on this bill. Having done that, I must begin my remarks today by paying tribute to the chair of the Standing Senate Committee on Transport and Communications, Senator Bacon. As some of you may know, one of the initial criticisms of Bill C-9 and Bill C-44 in the previous Parliament was that very few witnesses had been heard. As an aside, some of those witnesses were very selectively chosen in that only those who would speak favourably of the bill were allowed to come forward.

Before we began our hearings this spring, Senator Bacon promised me that all who wanted to be heard would be heard. She was true to her word. I believe all those who requested the opportunity to appear were heard for as long as it took them to make their case and for honourable senators to understand what they were saying and to ask appropriate questions. The chair conducted the meetings with an air of professionalism that would be the envy of many of us, were we to study this process, heated and controversial as it was. I commend her for it. She realized the needs of the witnesses and the senators. Above all, she realized the needs of the parliamentary process.

The committee heard positive and supportive evidence from those in the St. Lawrence Seaway Authority, from those who are about to participate in this commercialization, and from representatives of the Port of Vancouver. However, all other witnesses were critical of some aspects of this scheme to establish port authorities and with regard to the divestiture of Canada's small ports.

I will dwell on the two major areas of concern that arose. The Port of Halifax comes within the group of ports classified as "port authorities." Port authorities cannot borrow from the Crown or, indeed, pledge the guarantee of the Crown against loans required to finance capital improvements. This restriction hits the Port of Halifax very hard. The port does not have a sufficiently large cash flow to pledge in order to borrow the money needed to develop the port to compete, for example, for Post-Panamax shipping. Post-Panamax ships are in the generation of container ships which follow the so-called "Panamax" classification which are vessels that can transit the Panama Canal. The restrictions have to do with draft and width.

The Port of Halifax does not have a sufficiently large cash flow to finance investments at this level. This hurts even more because the St. Lawrence Seaway, which competes directly with the Port of Halifax for business, can use the federal government credit card for capital improvements.

The bill could also have devastating effects on Canada's small port communities. I am referring to the two-tier ports which are subject to divestiture; the small ports which form the lifeblood of Canada's coastal communities and the small communities which border on our inland waterways. These ports invariably operate close to the line financially and depend heavily on the federal government for help with capital improvements.

•(1510)

The Mayor of Corner Brook, Newfoundland testified as follows:

> As I have reiterated throughout the course of this presentation, the City of Corner Brook has deep concerns over the potential negative impact the divestiture of our port could have on our city and our region. From an operating perspective, the Corner Brook port is quite viable; however, the port is not self-sufficient from a capital perspective. As previously mentioned, over the past 10 years, the federal government has spent approximately $17 million to upgrade the port. Despite these significant expenditures, more capital maintenance is required to repair the wharf at the Corner Brook dock. It is highly unlikely that a private operation would be able to afford, or be willing to invest, expenditures of this magnitude.

His words echo the feeling of most Canadians living in coastal towns and villages. They are fearful of what may happen if the local port is sold off or, God forbid, even closed.

In committee, the senators from this side of the house presented 14 amendments designed to put into law processes whereby the ports could be protected against harmful government actions and means whereby the minister, through regulations, could help the larger ports obtain financing for capital improvements. We advanced those amendments in good faith after listening carefully to the concerns raised by witness after witness who appeared before the committee.

What happened to those amendments? They were all defeated by the government majority on the committee. Why would they do this? How, at a time when the Senate is being so closely scrutinized because its members frequently do not stand up for the regions they represent, could they totally disregard amendments that were designed to overcome the problems raised? I will tell you why. One of the reasons is the production of a letter by our colleague Senator John Bryden from the Minister of Transport assuring us that, if we simply pass the bill, he will take care of all the concerns that have been expressed by the ports communities in Canada.

I say to the minister and I say to my friends opposite that if the assurances contained in the letter of May 13, 1998 mean anything, put them in legislative form in the bill so they can be relied upon long after this minister is gone. It is of no comfort to me, nor to the ports of Canada, to have assurances that all will be well put in a letter signed by the same minister who sponsored this bill in Parliament. I find it maddening that the letter does not even address the funding needs of the Port of Halifax. To give you some order of the magnitude, the funding needs are $300 million to $1 billion.

Post-Panamax business is vitally important to the Port of Halifax and to this nation. If we lose it to the United States, the economic impact will be very long lasting and far reaching. So badly does the State of New Jersey want it that the governor of that state has said, "Three hundred million, $3 billion, $30 billion; what's the difference? We are going to get the Post-Panamax business."

Every competitor has that kind of support from their own state and from the federal authority, while we are proposing to cut off every nickel of support.

In conclusion, honourable senators, I am profoundly disappointed in the result of the committee's study of the bill. I believe that we missed a golden opportunity to truly represent the coastal port regions of our country. The bill does have an automatic review clause, and we welcome that. I can assure you that we on this side will be carefully monitoring the implementation of the bill. We will be ready when the time comes to review the effects the bill has had on the ports of Canada.

We are about to make a mistake. Please, in the name of God, let us take a few months and produce the economic impact studies that are so necessary if we are to avoid what could well be very widespread hardship in our coastal communities.

On motion of Senator Spivak, debate adjourned.

CANADA LANDS SURVEYORS BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cook, seconded by the Honourable Senator Lewis, for the second reading of Bill C-31, respecting Canada Lands Surveyors.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, as Senator Cook, in her remarks last week, more than adequately summarized the main features of this bill, my remarks will be limited to two related topics.

I first want to disclose openly a personal interest in the profession of land surveying, as my great-grandfather, the first Lynch-Staunton to come to Canada, was for a time a Dominion Lands surveyor. I mention this not to extol his merits; as a matter of fact, the Surveyor General of the day, on more than one occasion, found fault with his work. I wish, however, to recognize the unique contribution made by surveyors in the opening of the west.

I wish to quote from the introduction to a book entitled *Vision of an Ordered Land*, by James G. MacGregor.

> The feat of surveying the fertile lands of the prairie provinces in a checkerboard fashion is one of the outstanding accomplishments of the early Canadian government. As an example of the extension of a precise and uniform plan of survey over an immense area, no other system in the world equals it. And no other system assembled, trained, and directed such a body of dedicated surveyors.
>
> Many authors and old-timers have written about the early homesteading days and, with a lot of justification, have assumed that such-and-such a settler was the first white man in the lengthening chain of pioneers who were associated with that particular quarter section or township. In doing so they have overlooked the DLS. As a rule, some years before the arrival of the sodbuster, a surveyor had chopped out his vistas, run his lines around the quarter section, marked its corners with monuments and then vanished, so that to all but a select few his very name is unknown.
>
> The surveyors' records are replete with references to the pitiful plight of the Indians during the era when weeks might go by before either they or the surveyors happened to fall upon a forlorn band of three or four buffalo — the last remnants of one-time multitudes. They also refer to the many pleasures and thrills the surveyors experienced when, day after day and week after week, they breasted new crests, and new vistas of pristine prairie, parkland or mountain scenery lay stretched out before them. They tell, too, of encounters with rattlesnakes and bears and with mud and mirages, of prairie fires, rivers in flood, storms and blizzards, and of suffering because of a shortage of wood and water, as well as of a plethora of flies and mosquitoes, and of their annoyance at the almost equally galling political patronage of the day.

They are indeed amongst the many unsung heroes with which the story of Canada is replete.

The second reason I want to comment on this bill is to bring to the attention of all colleagues the manner in which it was handled in the other place. There was unanimous agreement to deal with all stages of Bill C-31 in one day. During the debate, which was really more of a friendly discussion amongst a few, the acting speaker ordered the bells be rung for lack of quorum.

The Reform member for Prince Albert then said:

> This legislation is important and timely so, despite the reservations expressed, the Reform Party will support it and seek amendments.

In Committee of the Whole, all clauses were agreed to unanimously, except for three which were agreed to on division. No debate took place at this stage and no amendments were proposed.

At third reading, the Reform member for Athabasca said:

> I wanted to raise those concerns on the record before this bill passed third reading.

He was referring to the three clauses passed on division.

•(1520)

He continued:

> I would be interested in hearing some kind of government response to those concerns. We have not had that opportunity. Unfortunately, I am not sure if we have enough government members present to do that.

The bill was then given third reading and passed on division. The time elapse for this whole parody was a little over one hour.

The party which complained the most about certain aspects of Bill C-31 is the same one which had the effrontery to set its sights on the Senate which, despite all its faults and weaknesses, would never treat any legislation with such indifference and disinterest. Even in the case of emergency legislation — the one affecting postal workers being the latest — the Senate insists on hearing witnesses from both sides before disposing of it.

The Official Opposition in the House of Commons is, by tradition and expectation, a government in waiting. Accordingly, to earn this standing, the last thing it must do is treat legislation in a cavalier fashion, except for that which may serve its narrow partisan interests.

The Reform Party would be well advised, if it truly aspires to national recognition and acceptance, to spend less time aiming its sights at the Senate, which is always good for a few smirks, and set the example in the House of Commons by showing more respect for the parliamentary process which can only be good for the entire country.

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 Carstairs, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

CANADA SHIPPING ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Mercier, seconded by the Honourable Senator Milne, for the second reading of Bill C-15, to amend the Canada Shipping Act and to make consequential amendments to other Acts.

Hon. J. Michael Forrestall: Honourable senators, I had wanted to take part in this debate. I did not know that a government member had spoken to it. I would like to take the adjournment of the debate.

On motion of Senator Forrestall, debate adjourned.

TOBACCO INDUSTRY RESPONSIBILITY BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-13, to incorporate and to establish an industry levy to provide for the Canadian Tobacco Industry Community Responsibility Foundation, with amendments and comments) presented in the Senate on May 14, 1998.

Hon. Lowell Murray, moved the adoption of the report.

He said: Honourable senators, in moving the adoption of this report, I have a suggestion to make. My suggestion is that we adopt the report which will have the effect of incorporating a handful of technical or drafting amendments which were identified for us at committee by the law clerk and agreed to and sponsored by the sponsor of the bill himself, Senator Kenny.

If we adopt the report, we will be incorporating those technical amendments. This will then leave the way open for substantive debate on Bill S-13 at the third reading stage, if that is agreeable to honourable senators.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker: When shall this bill be read the third time?

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

HEALTH

COMMISSION OF INQUIRY ON THE BLOOD SYSTEM IN CANADA—
COMPLIANCE WITH RECOMMENDATIONS—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator DeWare:
>
> That the Senate endorses and supports the findings and recommendations of the Commission of Inquiry on the Blood System in Canada;
>
> That the Senate for humanitarian reasons urges the Government of Canada and the Governments of the Provinces and of the Territories to comply with these findings and recommendations; and
>
> That a copy of this motion be forwarded to each federal, provincial and territorial Minister of Health,
>
> And on the motion in amendment of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella, that the motion be not now adopted, but that it be amended in paragraph two by removing and replacing the words "to comply with these findings and recommendations" with the following:
>
> > "to not exclude in determining compensation any person who has contracted Hepatitis C from blood components or blood products."—(*Honourable Senator Lynch-Staunton*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I will speak to Senator DeWare's amendment, because when I spoke to this motion, I carefully avoided engaging in anything resembling finger-pointing or insinuation of guilt on the part of any specific individual or government. It is not proper to make political hay out of a personal tragedy, and I doubt if I am alone, that two members in their comments attempted to just do that.

Senator Hervieux-Payette asked:

> Why in 1985, did the Progressive Conservative government not implement the tests that were perhaps available?

Senator Gigantès said that blood transfusions were "tainted by the Mulroney system" and "they made the mess and now they are trying to make out someone else was guilty."

While too many government supporters enjoy distorting facts to harm their political opponents, it is inexcusable to do so at the expense of innocent victims, as was done at that time. In any event, a correction is required, and I wish to set the record straight using the Krever Final Report as my main source.

The hepatitis test, which is claimed to have been first available in 1986 was actually developed in 1958. By the mid-1970s, a new third strain of hepatitis, first labelled non-A non-B hepatitis was detected. It was assumed without any scientific evidence whatsoever that only a few Canadians were infected with the disease, and so the introduction of testing procedures did not justify the cost.

The Krever Report points out that the Red Cross and government authorities agreed in the late 1970s to a need for more information on hepatitis C, but that nothing was done until the mid-1980s. I quote from the report:

> The inadequacy of the available data contributed to the lack of action to curb the spread of post-transfusion hepatitis. If timely surveillance of post-transfusion hepatitis had been conducted, its magnitude could have been recognized and the necessary risk-reduction could have been introduced.

In other words, while the test developed in 1958 was known to be linked to post-transfusion hepatitis since 1959, nothing was done to take advantage of it in Canada, even in the 1970s and early 1980s, when scientific evidence was conclusive. Compare this extraordinary indifference to what happened in the United States, where blood centres began testing as early as 1982, with all engaged in it by 1986.

•(1530)

Why the 1986 cut-off date if the claim that tests were unavailable before were so patently untrue? To exonerate previous governments, perhaps, and to discourage civil and even criminal lawsuits against some of its members and their officials, perhaps? In early 1996, the Federal Court was asked by the Government of Canada, most of the provinces, the Red Cross and a number of pharmaceutical firms not to allow the Krever commission to make any findings of liability or fault, whether civil or criminal. The case went right to the Supreme Court, which in September 1997 allowed the Krever commission to lay blame in 70 allegations of misconduct. Although this was not done directly, there is enough in the commission's report for the RCMP to have assigned 14 full-time investigators to its conclusions. One should not be surprised at this, as what happened in Canada also happened in France and in Japan. In both countries, charges were laid, and some people eventually went to jail.

As I said at the beginning, it was not my intention to refer to this aspect of the tainted blood scandal, and I have only done so to lay to rest the simplistic and partisan notion that any one group of individuals in one moment of time was responsible for it. A wiser course would be to wait for the results of the RCMP investigation, which hopefully will not go on endlessly, as have others which have been discussed in this chamber in the past.

Finally, Senator Grafstein asked, if by extending the compensation to all victims, a precedent might not be created. I can now be more precise than I was when he first asked the question. There are already, unfortunately, two precedents.

In April 1990, federal payments began to be made to those who had contracted HIV through blood components or blood products. Eligibility was originally for those infected between 1978 and 1989, but eventually those infected after 1989 became eligible. Nova Scotia announced its own program in 1993, and the other provinces and territories followed suit.

In the early 1960s, federal and provincial governments collaborated in the provision of rehabilitation counselling and other health and social services for thalidomide victims and their families. The drug's manufacturer reached settlements on behalf of Canadian victims in the early 1970s. In February 1990, the federal government approved a payment of $7.5 million to Canadian thalidomide victims, a supplement to the amounts already received by victims from the drug's manufacturer. At the time, it was estimated that there were 75 to 100 living thalidomide victims who had been born in Canada.

Sadly, there are two precedents resulting from, to put it mildly, avoidable human negligence, which is exactly what prompted Senator DeWare's amendment. Its intent has overwhelming support across the country, and I urge colleagues to reflect that sentiment by voting in favour of it.

Hon. Jerahmiel S. Grafstein: Would Honourable Senator Lynch-Staunton take a question?

Senator Lynch-Staunton: Certainly.

Senator Grafstein: Last week or the week before, we asked individual senators the position of their respective regions. In this case, I am asking the senator from Quebec the precise position of the Province of Quebec with respect to compensation as to who should pay and to whom the payments should be made.

Senator Lynch-Staunton: Honourable senators, a resolution was passed unanimously in the Quebec National Assembly and the government has confirmed that they would like the compensation formula applied to all victims of tainted blood received through human negligence, no matter the timing.

However, I do not think we are here to answer what each province's feelings are. We are here to urge on the Minister of Health, who took the lead on this issue and who is taking the credit for initiating a compensation formula, and whom we thank for urging and convincing the provinces to get involved, to realize that the overwhelming sentiment across this country is not to be discriminatory, not to be cut down by legalism, but to be a little more compassionate and apply the formula to all. The argument that comes back is that there were 60,000 victims before 1986, and the costs might be a little high. That 60,000 figure has yet to be proven, and not all the 60,000, even if it is proven, may be eligible.

The point is whether we will show some compassion to those who, through no fault of their own but that of the Red Cross, governments and others, are suffering today. Can we not show them a little compassion by giving them a little something so they can have a little more comfort and dignity through the days ahead of them?

Senator Grafstein: The resolution that was introduced indicates a wholesale support for all of Mr. Justice Krever's recommendations, and the specific topic dealt with covers one or two of the number. What is the position on my honourable friend's side of the chamber with respect to the other 48 or 49 resolutions on which we have not heard anything in any of the speeches?

Senator Lynch-Staunton: The honourable senator's point is well taken. Were we to rewrite the motion, we would have made it a little more specific. If he is willing to restrict the Senate's intention to compensation, we are quite willing to bring in another amendment to amend the first paragraph and limit our view on what the government should do with one recommendation of the Krever commission, and that is compensation.

If that is all that is needed to get support from colleagues on this issue, we could draft a motion right away and, before we adjourn, bring it in as an amendment.

Hon. Philippe Deane Gigantès: May I ask a question of Senator Lynch-Staunton?

Senator Lynch-Staunton: Certainly.

Senator Gigantès: Has the honourable senator read the editorial in *The Globe and Mail* and the column in *The Globe and Mail* by Professor Monahan, both of which say it is wrong to equate compensation with compassion, both of which say that what we are talking about is looking after people who are actually ill and suffering and helping them rather than general measures that do not target precisely those who need it, and that we do have a health care system?

Senator Lynch-Staunton: Honourable senators, I am not sure of the point of the question. I think the point of the argument is we have a category of citizens here who are suffering as a result of knowledgeable neglect. It was known that the blood was tainted. It is not as if tainted blood had been given unknowingly. The Red Cross, with Government of Canada agreement, could not be bothered to spend the extra money to use an American system to verify whether or not that blood was tainted.

We are not talking about the future of the health care system. We are not talking about malpractice. We are not talking about a patient suffering because of the misuse of the most up-to-date equipment. We are talking about a deliberate policy of various parties refusing to give to Canadians the minimum care they deserved, knowing that there were techniques to back up that care. Let us not confuse the future of the health system and the ability to fund it with the tragedy that we are going through, which we went through with thalidomide victims and we went through with the victims of HIV. Comparison with anything else is just not part of the debate.

Are we or are we not responsible or feeling responsible for collectively having been part of a tragedy?

Senator Gigantès: I was infected with hepatitis C in 1977. I have not had any ill effects. Should I be compensated?

•(1540)

Senator Lynch-Staunton: I never said all victims of hepatitis should be compensated. Tainted blood is the greatest cause of hepatitis C, but it is not the only cause. However, I will not ask Senator Gigantès to reveal his medical record.

Senator Gigantès: I was operated on, and had a transfusion.

Senator Lynch-Staunton: Then the honourable senator is one of the lucky ones. Unfortunately, there were a lot of unlucky ones, and I hope the lucky ones will be the first to show compassion to the unlucky ones.

Senator Gigantès: Then you will go on refusing to see the arguments of so eminent a jurist as Mr. Monahan, and the very learned editorial in *The Globe and Mail* which says that it is misleading and demagogic to equate compassion with compensation?

Senator Lynch-Staunton: Justice Krever is an eminent jurist, and he studied the question for four years. His efforts were nearly stalled by the government and others, and yet he persisted. No one has questioned how he came to his conclusions, and I support the one, in particular, regarding compensation.

On motion of Senator Grafstein, debate adjourned.

THE HOLOCAUST

STATEMENT ISSUED BY VATICAN VIEWED AS TEACHING DOCUMENT—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the Statement of the Vatican on the Holocaust as a teaching document.—(*Honourable Senator Spivak*).

Hon. Mira Spivak: Honourable senators, on March 31, Senator Grafstein called the attention of the Senate to the value of the statement of the Vatican on the Holocaust as a teaching document. At that time, the long-awaited Vatican text had barely been released.

In the days immediately following its publication, Jewish leaders worldwide expressed mixed views on the statement entitled, "We Remember: A Reflection on the Shoah." Some were disappointed with the document, believing that the self-criticism by the Church, for all its importance, did not go far enough. However, they also recognized the great value of the text — and that is my own view — as a history lesson, and as a moral lesson.

In less than 14 pages, the Vatican statement recounts this century's unspeakable tragedy. It asks all Christians throughout the world to meditate on the catastrophe which befell the Jewish people, and the moral imperative to ensure that never again will selfishness and hatred grow to the point of sowing such suffering and death. It acknowledges that the failure of some Christians to resist the Holocaust may have been linked to centuries of anti-Jewish attitudes in the church.

Also very valuable was Pope John Paul II's brief letter accompanying the statement. He called the Holocaust an "indelible stain on the history of the century that is coming to a close" and "an unspeakable tragedy, which can never be forgotten." The Pope voiced his hope that the document would help heal the wounds of past misunderstandings and injustices.

Senator Grafstein has suggested that it is important that schools, churches and other institutions make the historic document a teaching tool. I certainly endorse that idea. I was pleased to learn recently that the Canadian Conference of Bishops is disseminating the historic text through the Internet. The Conference of Bishops' appointee to the Canadian Christian-Jewish Consultation, Father Thomas Rosica, preached on it to a large gathering at the University of Toronto on Good Friday, and the Christian-Jewish consultative body, which has been developing relations between Christians and Jews in Canada since 1982, met in Ottawa this month and placed the Vatican statement on the agenda for September. These are encouraging signs.

The Vatican's statement was a long time coming. It was 11 years in the making, and now it could be an important springboard to deepening the dialogue between Christians and Jews everywhere, as well as serving as an extremely important teaching aid, informing our young people about the Shoah.

I would hope that members of the Senate will encourage the bodies I have mentioned to expand on the good work they have begun so that many more Canadians will reflect on the Vatican statement. I urge senators to encourage others in our communities also to make time for the lessons from history.

I am sure we can all agree with the Vatican text, including these words:

> The common future of Jews and Christians demands that we remember, for there is no future without memory.

Hon. Marcel Prud'homme: Honourable senators, tonight, in room 237, there will be another point of view expressed at a meeting organized by Canadians concerned about the Middle East.

I greatly appreciated Senator Spivak's introduction to the motion of Senator Grafstein. As I would prefer not to speak off the cuff on this issue, I should like to adjourn the debate in my name.

On motion of Senator Prud'homme, debate adjourned.

INCOME TAX ACT

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

On the Order:

> Resuming debate on the motion of the Honourable Senator Meighen, seconded by the Honourable Senator Kirby:
>
> That the Senate urges the Government, in the February 1998 Budget, to propose an amendment to the *Income Tax Act* that would increase to 30 %, by increments of 2 % per year over a five-year period, the foreign property component of deferred income plans (pension plans, registered retirement savings plans and registered pension plans), as was done in the period between 1990 to 1995 when the foreign property limit of deferred income plans was increased from 10 % to 20 %, because:

(*a*) Canadians should be permitted to take advantage of potentially better investment returns in other markets, thereby increasing the value of their financial assets held for retirement, reducing the amount of income supplement that Canadians may need from government sources, and increasing government tax revenues from retirement income;

(*b*) Canadians should have more flexibility when investing their retirement savings, while reducing the risk of those investments through diversification;

(*c*) greater access to the world equity market would allow Canadians to participate in both higher growth economies and industry sectors;

(*d*) the current 20% limit has become artificial since both individuals with significant resources and pension plans with significant resources can by-pass the current limit through the use of, for example, strategic investment decisions and derivative products; and

(*e*) problems of liquidity for pension fund managers, who now find they must take substantial positions in a single company to meet the 80 % Canadian holdings requirement, would be reduced.—(*Honourable Senator Carstairs*).

Hon. Consiglio Di Nino: Will Senator Carstairs allow me a brief intervention?

Senator Carstairs: Absolutely.

Senator Di Nino: Honourable senators, I rise today to speak on Motion No. 45, moved by Senator Meighen and seconded by Senator Kirby, calling on the government to amend the Income Tax Act to permit an increase in the foreign content rule of deferred income plans from 20 per cent to 30 per cent over a period of five years.

The motion is self-explanatory, and I invite all interested senators who have not already done so to read it. This is the first time this issue has been discussed, but I hope that it will also be one of the last. I say this because there clearly exists a consensus in its favour.

The Finance Committee of the other place has recommended the change being contemplated here. Private sector think-tanks, including the Conference Board of Canada, have given it their blessing. The financial press has supported the idea. Corporate Canadians, by which I mean money managers, trustees, and all those who have a fiduciary responsibility to Canadians who entrust them with their pension funds, have recommended such a change. Most important, individual Canadians for whom the foreign content rule is a barrier to diversifying their retirement savings, thereby increasing the risk of those savings while at the same time decreasing the potential return on their investments, also favour such a change.

Support for increasing the foreign content limit from 20 per cent to 30 per cent over five years has also been expressed on several occasions by the Standing Senate Committee on Banking, Trade and Commerce, most recently in its report on the CPP.

It is here that I wish to offer a personal opinion, honourable colleagues. That report also recommends the eventual elimination of the 30 per cent ceiling. This raises a number of questions which should be answered before we consider such a change. For example, what would be the impact of this potential loss of capital on the Canadian economy? Is there a correlation between the potential loss of this capital and Canadian jobs, and what restrictions should be placed on the money managers who will be investing these funds to safeguard pension moneys from being pooled together in only one or a very limited number of baskets?

With regard to the specific content of the Meighen-Kirby motion, I believe it is reasonable, and that it enjoys wide support. I would therefore urge honourable colleagues on both sides of the chamber to support it.

On motion of Senator Carstairs, debate adjourned.

•(1550)

MULTILATERAL AGREEMENT ON INVESTMENT

INQUIRY—DEBATE ADJOURNED

Hon. Mira Spivak rose pursuant to notice of March 18, 1998:

> That she will call the attention of the Senate to the differences between the proposed Multilateral Agreement on Investment and the NAFTA.

She said: Honourable senators, I wish to draw the attention of the Senate to the Multilateral Agreement on Investment and the substantive differences between the proposed treaty and the investment provisions of NAFTA. My reason for doing this — apart from the fact that it has been an issue in the Manitoba legislature — is that the MAI has been defended as nothing more or less than NAFTA and therefore an unqualified good for the country. I do not share this view. In recent weeks, the news media have carried dozens of reports about the temporary sidelining of the MAI after the latest meeting in Paris but it is not yet "Bye-bye MAI," in the words of one newspaper.

As the OECD's negotiating group said in a final communiqué late last month:

> ...after three years of intensive discussion and negotiation, texts are available on most of the essential elements of the agreement.

A new, expanded version of the text was released on April 24. The final communiqué says there is strong support to continue negotiations with a view to concluding the MAI at the earliest possible date. That is also the view of the Secretary General of the OECD, Donald Johnson.

Whether the 29 OECD countries can reach agreement remains to be seen. In the event they cannot, it is almost certain that an MAI-like treaty will emerge elsewhere, perhaps in the World Trade Organization or in negotiations towards free trade of the Americas. The MAI was designed to replace many of the more than 1,630 bilateral investment treaties between countries. Canada now has 24 and is negotiating 33 additional treaties with other countries in the world. No one is suggesting that the MAI is moribund. Our international Minister of Trade at a press conference in Paris described the temporary setback as a "period of redemption."

Parliamentarians and Canadians everywhere have had time to focus on the kind of multilateral investment treaty that would be best for Canada. For the past six months, many Canadians have devoted a great deal of effort to opposing the OECD's version of an investment treaty. Some 40 national organizations representing health, environmental, labour and other interests banded together to voice their concerns. Legislatures in British Columbia, Manitoba and Prince Edward Island debated the treaty and passed resolutions opposing it. So did elected officials in the Yukon, in Toronto and dozens of other municipalities.

One very striking difference between the MAI and the FTA and NAFTA is the way Canadians learned about them. A very long and public debate preceded the FTA and NAFTA. The government of the day stated clearly what it wanted to do. An election was held with free trade the chief issue. By contrast, not only was the MAI only a murmur in the last election but some members of cabinet were completely unaware of the treaty. Even the Prime Minister's Office was briefed after the election. The proceedings of two and a half years of negotiation were kept amazingly secret until last fall.

As Peter Newman stated in a recent article in *Maclean's*:

> ...it is as if the future of this country had surreptitiously been relegated to senior civil servants, apparently with a mandate to sign the country away. They have done virtually all the negotiations to date, and no one with any degree of public accountability has had much of a look in.

The public debate on MAI began last summer because a public interest group obtained a leaked copy and distributed it widely. It was some months before the members of the House of Commons and the Senate received the MAI draft text from the government, and committee hearings were held here in Ottawa. The Government of Canada still has not committed itself to national hearings on the MAI or a full impact analysis. That is part of the reason the Government of British Columbia plans to hold hearings in several communities in the fall and wants Canadians from all parts of the country to make representations.

At the political level, provincial governments and municipalities were not well informed, though the MAI would have a far greater impact on these jurisdictions than did the NAFTA negotiations. A multilateral agreement on investment per se is not the problem. Canada can benefit from agreements which set rules for international commerce, either in trade or investment. Canadians have invested close to $200 billion abroad. Last year the accumulated foreign direct investment in Canada reached $188 billion. Worldwide, the flow of foreign investment has grown twice as fast as the flow of trade. The problem is not with the treaty that sets rules for foreign investment. The problem is with the kinds of rules the MAI would set.

The resolution adopted by the Manitoba Legislative Assembly on March 25 — by the way, voted by all of the opposition parties as well as the government — says that as a trading province, Manitoba would find an investment treaty that mirrors the investment provisions of NAFTA potentially of great interest, but the Government of Manitoba and members of the legislative assembly are not prepared to support an MAI which goes beyond NAFTA. The Manitoba resolution states repeatedly that the draft MAI goes beyond the NAFTA agreement.

It is not difficult to compare the details of NAFTA and the proposed MAI to see how that is true. Under Article II of the draft text, the MAI goes well beyond NAFTA in its very definition of investment. It includes intellectual property, licences or permits — for example, timber-cutting licenses or fishing permits or permits for mining exploration. NAFTA includes none of these. Without good safeguards, in time that could mean that foreign fishing trawlers from 29 countries would have the same rights to our fish stocks as Canadian fishermen. That question, of course, could be academic given worldwide inability to prevent the rapid depletion of fish stocks everywhere.

After looking at the difference between NAFTA and the MAI on this basic point of defining an investment, the House of Commons Subcommittee on International Trade, Trade Disputes and Investments recommended that the MAI should be narrowed to "replicate" NAFTA. The government very recently responded that it wants a definition that is compatible with NAFTA and other agreements. The original, broad definition of investment remains in the latest April version of the text.

It should also be noted that while NAFTA is an agreement between three countries, the MAI is a treaty among 29 countries and under Article XII of the draft text would be open to any other state, regional or economic integration or organization or separate customs territory that wishes to sign on.

There is another important difference. One of MAI's significant clauses, Article III on performance requirements, severely restricts what Canada could require of foreign companies in return for giving them access to our resources.

Companies could not be required to hire locally or to buy local goods and services or to transfer new technology. Like the NAFTA, the MAI would require Canada to follow those rules not only for investors from countries which signed the treaty, but also for investors from all other countries.

The MAI goes further than NAFTA by adding new items. It would prohibit governments from requiring foreign investors to set up regional headquarters or to establish joint ventures or to meet a minimum level of local equity participation. In these so-called performance requirement clauses, the MAI goes beyond NAFTA and extends these privileges to investors anywhere in the world.

Both NAFTA and the proposed MAI apply equally to multinational corporations and not-for-profit organizations. However, unlike NAFTA, Article III of the draft text of the MAI on national treatment would require provincial governments to give foreign investors the same subsidies they now give our not-for-profit sector. NAFTA Article 1108 specifically exempts provincial subsidy programs. The MAI could present a huge problem for non-profit groups that operate daycare centres or senior citizens homes, for example. The MAI could force governments that grant subsidies to extend those as well to multinational corporations. In time, would that spell an end to non-profit programs subsidized by provinces and municipalities?

•(1600)

Because the MAI does not have a clause akin to NAFTA's exemption for government grants, low-interest loans or loan guarantees, the MAI would also obligate all levels of government to give foreign investors these incentives available to Canadian firms. Programs to assist small business, or aboriginally-owned enterprises, or not-for-profit or community-based businesses would have to be opened up to multinational corporations and could, in the long run, be jeopardized. NAFTA makes no corresponding requirement on any federal, provincial, territorial, municipal or aboriginal government.

NAFTA does apply to provincial and municipal governments, but it has made special provisions limiting its application. To cite another example, municipalities and many provincial governments are very protective of their right to buy the goods and services from local suppliers. The NAFTA exempts provincial government procurement policies. The MAI, as yet, does not.

Finally, dealing with the matter of treading on provincial rights, the NAFTA had a detailed process that allowed provinces to exempt their existing laws and programs through reservations. The MAI, in its latest draft text, has no counterpart. In February, the Minister of International Trade finally acknowledged that provincial rights will be affected by this agreement. For many months, it was claimed that it remained to be seen whether the MAI would apply to the provinces. In February, the minister stated that Canada would sign on to the MAI only if it contained iron-clad reservations — at both the national and provincial level — that completely preserve our freedom of action in key areas of health care, social programs, education, culture and programs for aboriginal peoples and minority groups.

That was welcome news, but no list of provincial reservations has been filed. There is no clear process for making these reservations. By contrast, NAFTA had a detailed process for provinces and states to list their laws, regulations and policies that would not be subject to it.

To guard against the lowering of environmental and labour standards, NAFTA created side agreements and commissions to investigate complaints that countries were not enforcing their laws. The draft MAI, under Article III, would discourage countries from lowering standards to attract investment but is silent on how it would require countries to maintain their laws. At best, the draft text suggests that there would be consultations between countries if standards were lowered to encourage investment. The House of Commons subcommittee called for strong and unambiguous language on the environment in the MAI. The government's reply was that it is still developing its position with the provinces.

NAFTA also lists five international agreements to protect the environment, which take priority over NAFTA. Among them are the Montreal Protocol on Substances that Deplete the Ozone Layer and the Convention on International Trade in Endangered Species. The MAI does not mention these, or any other significant environmental treaty that Canada has already signed. In fact, in the MAI clause on the relationship to other international agreements, as yet, only Canada's obligation to the International Monetary Fund would take precedence.

On culture, Canada did win an exemption for our cultural industries in NAFTA, but it is seen as being inadequate. It does not prevent the U.S. from taking retaliatory action when our laws and regulations protect Canadian book and magazine publishing, Canadian film and video, Canada's music industry or Canadian broadcasting. Culture has been one of the main stumbling-blocks in the MAI negotiations. The United States simply does not want to grant the exemption that Canada is seeking, and right now there is none in the draft text. In this instance, NAFTA is inadequate and the MAI is lacking an adequate exemption on culture.

Perhaps the most stunning way in which the MAI goes beyond NAFTA concerns the length of time that Canada would be locked into the treaty. NAFTA allows Canada to withdraw on six month's notice. By contrast, if we discover the MAI is not in Canada's best interests, under MAI Article XII on withdrawal provisions, we will not be able to withdraw for five years. Another 15 years will then pass before governments in Canada are free from its obligations. The MAI terms will apply to any foreign investment made before our withdrawal for another decade and a half. Unlike the NAFTA, the MAI ties future governments and parliaments to the decisions of this government. That kind of long-term lock-in would make it difficult, to say the least, to extricate Canada from unexpected, or unwanted, effects from a broad ranging treaty.

To recap, the MAI differs substantially from NAFTA in the number of countries that will be party to it; in the length of time that Canada will be locked into it, in the very definition of "investment"; in its application to other levels of government; and in the protection that it offers to Canadian environmental protection, Canadian labour standards and Canada's cultural sovereignty.

One area in which both NAFTA and the MAI treaties are similar is that both provide the means for foreign investors to file multi-million dollar claims against the federal government directly. No longer must American- and Mexican-based corporations persuade their governments to take up their grievances against Canada. These claims go beyond compensation disputes over what we commonly understand as expropriation. They can arise from any law, regulation or policy which has the effect of taking an investor's potential profit.

The government is fond of saying that Ethyl Corporation's $350-million suit under NAFTA's investment chapter is the only case of its kind. Frankly, that is incorrect. A major Mexican pharmaceutical company, Signa SA de CV, has filed notice of a $50-million suit alleging discrimination under federal drug patent laws. At least two other cases have been filed against the Mexican government and just recently, through our Access to Information Act, I learned that an American firm, Waste Management Inc., in August 1995, filed written notice of a $37.5-million claim.

What distinguishes the Ethyl case from the others against Canada under NAFTA Chapter 11 is that it is before an arbitration tribunal. Apparently, the Waste Management Inc. case was settled before a panel was formed and the Signa case is in abeyance. I say "apparently" because government officials are required to be silent about these cases until the foreign companies disclose information. Even our freedom of information law only wafts the veil of secrecy surrounding them. A recent request for documents produced two legal-sized pages of lists of records that are exempt entirely from disclosure under our FOI law.

We are only beginning to see some of the unforeseen consequences of NAFTA — Ethyl's suit against Canadian taxpayers being the most obvious example. Several months ago the former Conservative Party foreign affairs critic in the House of Commons suggested that we have a public debate on the MAI, that we have an election and let Canadian voters decide before the government signs on to the MAI. I agree and would only add that the same should hold true for any other MAI-like investment treaty, including several bilateral treaties already underway. Until we have a much better understanding of NAFTA's investment provisions, including the new rights we have given to foreign-based companies to sue the government, Canada should sign nothing that goes beyond NAFTA.

If globalization is inevitable — a dream come true for the Business Council on National Issues — must we roll over and accept all of its consequences, oblivious to our own self-interest and the public interest? To quote Peter Newman again:

> But the question remains whether any self-representing country can sign such an agreement. Unless it doesn't mean what it says, and is a statement of philosophy instead of intention, its provisions will rob national governments of the ability to impose sovereignty inside their own territory. Once that is gone, what is the point of pretending you're still a country.

We must assume that the MAI does mean what it says. Even Suharto stepped down before public protest. Perhaps our government should listen to the voice of the people and their concerns and look carefully at the MAI.

On motion of Senator Di Nino, debate adjourned.

•(1610)

NATIONAL REVENUE

TREATMENT OF TAXPAYERS—INQUIRY—DEBATE ADJOURNED

Hon. Philippe Deane Gigantès rose pursuant to notice of May 14, 1998:

> That he will call the attention of the Senate to the shameful way Canadians are treated by the procedures of the personal income tax system. He will suggest that the Senate propose corrective steps.

He said: Honourable senators, I am about to make a request that the Senate, after my departure, take up an issue which will make the whole Senate enormously popular.

What I am saying is not an attack on any government's right to use the tax system for things other than collecting money. I am not suggesting a flat tax. I am not suggesting that we should tangle with whether the so-called "fat cats" are privileged and the poor are not. I am saying that the public officials in the Department of National Revenue have always treated the taxpayer in a most cavalier fashion. It is time to look at how we can simplify the system and make the life of the taxpayer better.

For instance, what they ask us to do should be understandable.

[*Translation*]

I got a taxi driver, who pays income tax, to read a document. He could make no sense of the document, which states that the portion of net foreign income that is not taxable under a tax convention covered under line 256 must be deducted. If the net foreign income exceeds the net income, the basic federal tax must be entered on line 28. This is the net income from line 236, or if the taxpayer has filled out a T-581, the amount on line 8. If negative, enter zero minus the following deductions — how can a person deduct anything from zero? — net capital loss, other years line 253, employee relocation loan, and so on.

Never mind the errors in the French, for example the fact that "nom" does not have an "s" at the end even though it is plural. There are also their usually secret interpretations of regulations.

An Ottawa lawyer battled ten years to get Revenue Canada to reveal the interpretations. The department changes them when it feels like it, and does not tell people. This is unacceptable.

There is a place on the form that is labelled "depletion allowance." When you have finished doing your tax return, your energy is totally depleted and the department will allow you some deductions.

I will speak of my personal situation. In 1971, I wrote to Revenue Canada about a certain case. I asked Revenue officials to tell me what they thought about it. They sent me a form letter indicating what I could deduct. Then, 10 years later, they tell me the interpretation has changed. I was no longer entitled to deduct what I had been deducting for 10 years, and owed such an such an amount, plus penalty. I went to court over this, and I won.

I therefore propose that the Senate suggest an easier way for the taxpayer. For instance,

[*English*]

I suggest that the department simply send each taxpayer a document stating, "Submit your T4s, a list of your RRSP contributions and attach. Please sign at the bottom." That would create an obligation to tell the truth. If you do not include everything that you have earned and you have hidden something, then you would be breaking the law. The Department of National Revenue would then run all your figures through its computers, produce your tax return and send it back to you.

That is what it does now. You send them a report and they rewrite it with the assistance of their computers. They compare theirs with yours and assume that theirs is correct. There should be a provision stating that if the department sends to you a report that is not correct, then they should be as liable as you would be if you were to send them something incorrect.

I am suggesting that the Senate could try to improve things for the taxpayer in the mechanics of paying taxes. After my departure, if the Senate were to do this, it would be hugely popular. It could hold bitching hearings all over the country. Senators could appear on TV and rail against the revenue collectors. The country would see that the Senate is really useful and cares for the ordinary citizen.

Please do this, honourable senators. You will see how the image of the Senate will change for the better.

Hon. Consiglio Di Nino: Honourable senators, I think my colleagues on this side will be surprised at my applauding Senator Gigantès for a worthwhile endeavour.

Senator Lynch-Staunton: We are forgiving.

Senator Di Nino: I, too, feel that Revenue Canada, particularly through its income tax division, treats Canadians, both corporations and individuals, very disrespectfully. I think Senator Gigantès has a good idea.

I suggest that we take him up on it. I would like to suggest to the honourable senator that if he has any material or research that he has put together, he can send it to my office. You never know, we may ask the Honourable Senator Gigantès to work as a researcher for us for $1 a year just to keep him involved.

On motion of Senator Di Nino, debate adjourned.

The Senate adjourned to Wednesday, May 27, 1998, at 1:30 p.m.

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