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(HANSARD)

Monday, June 14, 1999

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

Monday, June 14, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

DR. HAROLD JENNINGS

CONGRATULATIONS ON WINNING PROFESSIONAL INSTITUTE OF PUBLIC SERVICE AWARD

Hon. Lowell Murray: Honourable senators, as Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, I accepted an invitation from the Professional Institute of the Public Service of Canada to attend a reception at noon today for the presentation of the PIPS gold medal award in the category of pure or applied science.

Steve Hindle, President of PIPS, presented the award to Dr. Harold Jennings, Principal Research Officer at the Institute of Biological Sciences of the National Research Council of Canada. Dr. Jennings was honoured for his contributions to the chemistry and immunochemistry of carbohydrates leading to the design and development of synthetic vaccines for the treatment and prevention of bacterial infections, especially those in children. We were told that Dr. Jennings' work at NRC over the last 30 years has saved thousands of lives and dramatically improved the world's capacity to develop new vaccines against many diseases.

The commercial success of this technology has produced $1 million in royalties for the NRC. Their further development is proceeding, in partnership with North American Vaccines, a Canadian corporation whose principal shareholders include BioChem Pharma. They also have a clinical development agreement and licence agreement for meningitis B with Pasteur Mérieux Serums and Vaccines.

Dr. Jennings is close to 70 years of age. His research colleagues say he has the enthusiasm and dedication of a 30-year-old scientist just starting out. Far from slowing down, he is in the forefront of critical new research projects by the Institute of Biological Sciences. My attention was drawn to an announcement made by the government last week that the institute is joining the Pasteur Mérieux Connaught Cancer Vaccine Network to carry out research into therapeutic cancer vaccines for prostate cancer. This private company is spending up to $350 million over 10 years to develop therapeutic vaccines for cancer. The federal government is investing $60 million. The long-term goal of the Network is to find ways of harnessing the immune system to treat cancer.

In the short term, the goal is to prove by the year 2000 that therapeutic vaccines can stimulate tumour-specific immune responses in cancer patients. The senior vice-president of Pasteur Mérieux Connaught is quoted as saying of the NRC scientists, "They are world leaders in the area of biological mass spectrometry, something that will be vital to the success of this project."

While briefly in the company of the NRC people, I had the opportunity to hear about other important work going ahead at NRC and in partnership with the private sector. In this category is the development of a new product to be used in the manufacture of pulp, replacing chlorine with a more environmentally clean process and, at the same time, reducing the manufacturing costs at pulp mills.

I also observed, with considerable gratitude as well as pleasure, that the NRC is home to a quite remarkable cross-section of greatly gifted people of several generations, both genders and a variety of ethnic shades and accents who, by all accounts, work effectively together and who certainly seem to enjoy each other's company.

The National Research Council has a proud history, its laurels added to today by the honour bestowed on Dr. Jennings. I congratulate him and the NRC as well as the Professional Institute of Public Service on their choice. I also urge honourable senators to take advantage of any opportunity to get acquainted with the work of the NRC. It should be the source of pride and satisfaction for all Canadians.

[*Translation*]

MR. YVON BEAULNE

TRIBUTE

Hon. Gérald-A. Beaudoin: Honourable senators, Mr. Yvon Beaulne died last week in Hull.

Mr. Beaulne was Canada's ambassador to Venezuela and the Dominican Republic (1961-1964), Brazil (1967-1969), the United Nations (1969-1972), UNESCO (1976-1979), and the Holy See (1979-1984).

This eminent career diplomat devoted body and soul to the defence of rights and freedoms over the years. He was Canada's representative to the United Nations Commission on Human Rights from 1976 to 1984. He chaired the commission in 1979.

In the early 1980s, Walter Tarnopolsky, later a judge with the Ontario Court of Appeal, founded the University of Ottawa Human Rights Centre. It was my privilege to participate in the activities of this centre. We had the full support of Ambassador Beaulne.

Yvon Beaulne came from a family with ties to the theatre and the world of diplomacy, politics, legal studies and culture. We offer our deepest sympathies to the family. We have just lost a great diplomat and a defender of rights and freedoms the world over.

ROUTINE PROCEEDINGS

UNITED NATIONS

TERMS OF GENERAL ASSEMBLY RESOLUTION FOR END TO CONFLICT IN YUGOSLAVIA—FRENCH VERSION TABLED

On tabling of documents:

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, last Thursday I had the honour, with leave of the Senate, to table a copy of the resolution by the Security Council of the United Nations.

Today, honourable senators, I have the honour to table a copy of the French version of the resolution by the Security Council of the United Nations.

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

Hon. Senators: Agreed.

[*English*]

• (1610)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lowell Murray: Honourable senators, again this week, it appears that it is the intention of the leadership to have the Senate sit beyond six o'clock, with leave. I had arranged to hold a meeting of the Standing Senate Committee on Social Affairs, Science and Technology this evening, beginning at six o'clock. Therefore, assuming that the Senate will be sitting beyond six o'clock, I would need leave to make the following motion:

> That with leave of the Senate and notwithstanding rule 58(1)(*a*), the Standing Senate Committee on Social Affairs, Science and Technology have permission to sit at six o'clock today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): With the understanding, of course, that if a vote is in progress at that time, the committee would not be sitting at six o'clock.

The Hon. the Speaker: That is the basis of our rules, that if there is a vote, all committees are suspended.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

JUSTICE

EXTRADITION ACT—ALLEGED CONTRIBUTIONS TO BILL TO AMEND BY CHIEF PROSECUTOR OF INTERNATIONAL COURT—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question arises from a question I have on the Order Paper regarding the possibility that the retiring Chief Prosecutor of the International Court, Madam Justice Louise Arbour, may have been consulted on the drafting, or the preparation of Bill C-40 before it was tabled. This point was raised by Senator Grafstein during discussions on the amendments he moved to Bill C-40, dealing with the Extradition Act. I feel that the matter of whether Madam Justice Arbour was or was not consulted in the preparation of legislation, prior to its tabling in the House of Commons at first reading, has taken on greater urgency because Madam Justice Arbour has now been named to the Supreme Court.

I am sure the Leader of the Government would agree with me that the matter now takes on some urgency. I ask that he have an answer to the question preferably before we adjourn for the summer, and certainly before she is scheduled to be sworn in.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am glad that the Leader of the Opposition has raised the question because I did not realize that this was an outstanding delayed answer. I do recall Senator Lynch-Staunton raising the question at the time of the consideration of Bill C-40, dealing with the Extradition Act. I also recall at the time the Minister of Justice stating quite unequivocally that she had not talked to Justice Arbour in relation to that piece of legislation. The minister further stated that any comments made were purely speculative, and were as a result of media interviews with Madam Justice Arbour that may have been conducted.

Senator Lynch-Staunton: The minister is quite right: The question was not raised during Question Period as such. I am raising it now as a result of a written question I put on the Order Paper, for which I would normally be willing to await the answer in due course. However, because Madam Justice Arbour has been named to the Supreme Court, it is important to clear the air as to whether or not she was involved or consulted in the drafting of legislation which was put before Parliament. Most people would agree that it is not the role of members of the judiciary to be involved in consultation, preparation, or whatever with regard to legislation that eventually may come before them as members of a court.

For Madam Justice Arbour's sake, I should like to clear the air on that matter, because during the debate here the impression was left that perhaps she had been involved. Surely between now and Friday, someone in the Justice Department can indicate that she was or was not involved.

Senator Graham: Honourable senators, I shall attempt to bring forward a definitive answer to that question. My recollection is that Madam Justice Arbour was asked by a reporter if she agreed with the thrust of Bill C-40 and whether it would be in compliance with our international obligations. I believe that her answer was in the affirmative. That is as far as I can go at the present time. However, I will try to be as helpful as I can and bring forward something that is more definitive.

NATIONAL DEFENCE

SEARCH AND RESCUE—REMOVAL OF HELICOPTER SERVICE FROM SOUTHWESTERN COAST OF NOVA SCOTIA—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is also to the Leader of the Government in the Senate.

Since it came to power this government has desired to eliminate the Coast Guard search and rescue helicopter service in southwestern Nova Scotia. First, the government replaced the Sikorsky with a small BO-15, which has very limited capabilities in bad weather and at night. Limited as it may be, this helicopter is under review again, in spite of the critical importance of this service to the region.

Will the minister for Nova Scotia commit today to maintaining the search and rescue helicopter service in that part of the province?

• (1620)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall make very strong representations, as presented by Senator Comeau. I feel that it is a very essential service, particularly in our coastal regions. I appreciate the concern that has been expressed by Senator Comeau. Again, I shall have a discussion on this matter directly with the Minister of National Defence and with the Minister of Fisheries and Oceans.

Senator Comeau: Honourable senators, the minister might mention to his colleagues that the budget for this service is very limited. As a matter of fact, we hear that there is not enough money for a full-time pilot and that a part-time pilot on contract must be called in. This is very difficult for search and rescue operations, especially in the winter when there is heavy-duty fishing. Rather than cutting back on the service and having part-time pilots, would the government consider having a full-time pilot on this aircraft?

Senator Graham: I wish to assure the honourable senator that this issue has a special interest for me, as I come from that part of the country. Again, I will have discussions with the appropriate ministers.

KOSOVO PEACEKEEPING FORCE—STATE OF LEOPARD TANKS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. The Government of Canada has now announced that it is sending Leopard C1 main battle tanks to Kosovo. They are underarmed and have been criticized by the Auditor General of Canada.

Could the minister tell us how many of these battle tanks are being sent and whether or not any modifications or upgrades have been completed on the Leopards before they are dispatched?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have already described the Coyotes as well as other equipment that has been sent over, but with respect to the Leopard tanks I will need to seek further information.

AGRICULTURE

FARM CRISIS IN PRAIRIE PROVINCES—POSSIBILITY OF GOVERNMENT SUPPORT—REQUEST FOR UPDATE

Hon. A. Raynell Andreychuk: Honourable senators, my question is for the Leader of the Government in the Senate. Could the minister advise us of the current state of the farm-aid package, now that the Minister of Agriculture and Agri-food has toured Saskatchewan and Manitoba?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I was in Nova Scotia on the weekend and arrived in Ottawa in time for the call of the Senate, at four o'clock. I have not had an opportunity to consult with the Minister of Agriculture. However, I assure Senator Andreychuk that I shall do so at the first opportunity, hopefully later today.

Senator Andreychuk: Honourable senators, it is difficult to ascertain what the Minister of Agriculture will do. He came to the province of Saskatchewan, but it appears that rather than speaking to farmers, he had a delegation come to meet with him, which delegation included most of the Liberal supporters throughout the province, including from the provincial base. Many of the farmers who came to plead their case were left outside while this meeting took place.

The minister indicates that no new money will be allocated for the farm crisis, but that he would look into the existing programs, whatever that means. I would appreciate some clarification as to his position.

For the information of this chamber, it continues to rain in that area. The situation is becoming more and more critical. It is having a ripple effect throughout the entire economy.

The Premier of Saskatchewan has called for an immediate and dramatic re-examination in order to help the farmers today, not later. Meanwhile, we remain in the same position: not knowing what the government will do, while the crisis continues to deepen.

I would appreciate it if this matter could again be taken up with the minister. Perhaps the Prime Minister could come out to the province to view the difficult situation.

Senator Graham: Honourable senators, I am very much aware of the concerns that have been expressed by Senator Andreychuk and others. I certainly sympathize with the situation and with the farmers who are so adversely affected.

Honourable senators, I shall do my best to bring the representations that honourable senators have made to the attention of the Minister of Agriculture and the Prime Minister at the first opportunity.

FIRST NATIONS LAND MANAGEMENT BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-49, providing for the ratification and the bringing into effect of the Framework Agreement on First Nation land management, and acquainting the Senate that they had agreed to the amendments made by the Senate to this bill without amendment.

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

On the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended,

(*a*) on pages 10 to 12, by deleting Part 3; and

(*b*) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

The Hon. the Speaker: If no honourable senator wishes to speak on this matter at third reading, the vote will be deferred to five o'clock. The bells will ring at 4:45 p.m.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

She said: Honourable senators, I rise today to speak at third reading of Bill C-79, an act to amend the Criminal Code (victims of crime). The amendments in this bill are necessary and reasonable reforms which will address the needs and concerns of victims of crimes within the criminal justice system.

Honourable senators, it is clear from the deliberations of the Standing Senate Committee on Legal and Constitutional Affairs and consultations with members opposite that both parties in this chamber support the amendments proposed in this bill.

Our colleagues in the other place, as well as victim advocates, service providers and members of the public have expressed their support for Bill C-79, and I believe with good reason. The Criminal Code amendments in Bill C-79 build upon existing provisions regarding the victim impact statement, the victim surcharge and publication bans on identity to make it easier for victims and witnesses to provide their testimony.

In building upon these provisions, they build upon very good legislation passed by the previous government. In the past, the effectiveness of the criminal justice system has been compromised by victims' and witnesses' unwillingness to participate in court proceedings.

The amendments also enact new provisions to address the concerns of victims regarding their safety, to enhance and expand the opportunities for their views to be considered, and to encourage the provision of information to victims.

As honourable senators would know, the amendments in Bill C-79 will implement the unanimous recommendations of the House of Commons Standing Committee on Justice and Human Rights, entitled, "A Voice, Not A Veto." These amendments will enhance the voice of victims of crime in our criminal justice system and will not in any way infringe upon the rights of persons accused of crimes.

Let me say at this time that I was delighted to be with the committee during its study of this bill, although it was not, unfortunately, for the entire duration. Nevertheless, it was good to be back with the Standing Senate Committee on Legal and Constitutional Affairs.

Two amendments raised particular concern during the committee's deliberations. The first amendment which raised concern was the victim impact statement and the second was the publication ban. Allow me to address these concerns briefly.

The victim impact statement amendments will give victims the opportunity to present their statements in open court. It will assure victims that in addition to the requirement that the statement be considered, it will be heard by the judge and anyone else present in the courtroom during sentencing, including the accused.

In regard to the second concern, Bill C-79 will permit a judge to restrict publication of the identity of a wider range of victims or witnesses. The publication ban will be imposed where the victim establishes the need for the order, and where the judge considers it necessary for the proper administration of justice. This provision will codify the principles of prevailing common law and procedure, as established by the Supreme Court of Canada. It will fully respect the need to balance the rights of the victim, the rights of the accused and the rights of the public.

Honourable senators, let me assure you that the expansion of the publication ban provision is not intended to penalize the press or restrict the openness of court proceedings. It is in response to concerns expressed by victims as well as victim advocates and service providers. It is designed to protect the identity of victims and witnesses of crime and spare undue hardship, embarrassment and continued victimization.

[*Translation*]

• (1630)

As parliamentarians, we have an obligation to the people of Canada to enact laws that are in their best interests. I firmly believe that Bill C-79 fulfils this obligation. With it, we encourage the expansion of services for victims and witnesses of crime, as well as the provision of information on the criminal justice system.

Honourable senators, I urge you to give your consent to Bill C-79, and give victims of crime the respect, dignity, and protection they deserve.

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to say a few words on Bill C-79.

Some media expressed concerns about the scope of the publication ban regarding the identity of a victim or witness, provided for in clauses 1 to 3 of Bill C-79.

When a judge makes such an order, he must take into consideration the factors listed in subsection 3(4.7) of the bill. These criteria are the result of a landmark ruling made a few years ago by the Supreme Court of Canada, in the *Dagenais* case.

As senators know, the *Dagenais* ruling deals with orders restricting publication, in relation with the right of an accused to a fair trial.

Let me briefly relate the facts. In November 1992, the CBC announced the broadcasting of a miniseries co-produced with the National Film Board, entitled *The Boys of St. Vincent*. At the same time, there was a trial in Ontario involving members of a religious order who were accused of having sexually abused young boys under their custody. Three other trials were about to begin. The miniseries was a fictitious story about sexual abuse inflicted on children living in a Catholic institution. The Ontario Court of Justice allowed an injunction application and issued a publication ban regarding the miniseries, in all of Canada. That ban was upheld by the Ontario Court of Appeal, but restricted to Quebec and Ontario, until the four trials were over.

The Supreme Court majority quashed the order prohibiting publication. Chief Justice Lamer was of the opinion that the common law rule that gives a judge the discretionary power to issue a no-publication order must comply with the principles stated in the 1982 Charter, otherwise the judge makes an error in law which may justify the quashing of that order.

According to Chief Justice Lamer, a hierarchical approach to Charter rights must be avoided when considering the advisability of a publication ban.

In his view, a publication ban should only be ordered when:

> (*a*) it is necessary in order to prevent a real and substantial risk to the fairness of the trial, because reasonably available alternative measures will not prevent the risk;
>
> (*b*) the salutary effects of the publication ban outweigh the deleterious effects to the free expression of those affected by the ban.

Using these criteria, Chief Justice Lamer concluded that the initial ban was far too broad and that a number of reasonable alternative measures were available to achieve the objectives.

Chief Justice Lamer also expressed concerns as to the efficacy of publication bans. In this era of modern technology, computer networks and global electronics, it was very difficult to restrict the flow of information.

In his reasons, Chief Justice Lamer stressed the importance of trial fairness, both to the accused and to society. For all these reasons, the majority ruled in favour of setting aside the publication ban.

Justice Gonthier, along with Justice l'Heureux-Dubé, wrote dissenting reasons. In his view, the Charter did not alter the balance required in common law between freedom of expression and the right to a fair trial. In addition, the publication ban at issue did not affect the application of section 2(*b*) of the Charter, primarily because, unlike news, the immediacy of the miniseries was not the essence. In Justice Gonthier's view, a temporary ban until the end of the trial would not cause serious harm to the CBC. He also felt that technological progress should not defeat publication bans in exceptional cases. For these reasons, Justice Gonthier therefore concurred in the decision handed down by the Ontario Court of Appeal, and limited the interlocutory injunction to Quebec and Ontario.

I should point out that the issue of a publication ban to protect the identity of the victim of a sexual assault had already been the object of a Supreme Court ruling in 1988, in the *Canadian Newspaper* case.

So, freedom of press implies, in principle, access to court hearings and the publication of court proceedings. In the *Canadian Newspaper* case, the Supreme Court ruled that the publication ban regarding a complainant's identity in a case of a sexual nature, when the complainant makes such a request under subsection 442(3) of the Criminal Code, interferes with freedom of press but is justifiable under section 1. It is, according to the Court, a minimal restriction to freedom of press and not a general interdiction. Its purpose is to encourage victims of sexual assault to lay charges, facilitate legal proceedings, sentence abusers, curb crime and improve the administration of justice.

Honourable senators, in my opinion, Bill C-79 complies with the principles stated in the jurisprudence of the Supreme Court of Canada and is respectful of the rights and freedoms guaranteed under the Canadian Charter of Rights and Freedoms.

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

It is moved by Honourable Senator Carstairs, seconded by Honourable Senator Losier-Cool, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion.

Motion agreed to and bill read third time and passed.

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—THIRD READING—DEBATE SUSPENDED

Hon. Aurélien Gill moved the third reading of Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another act.

He said: Honourable senators, I rise today to speak to Bill C-66, amending the National Housing Act and the Canada Mortgage and Housing Corporation Act.

The intent of this bill is very simple, to give the Canada Mortgage and Housing Act sufficient flexibility to carry out the mandate given it by the government.

• (1640)

Under the new mandate, the essential activities of the Canada Mortgage and Housing Corporation are better targeted and modernized to some extent. They include funding housing, providing accommodation assistance, doing research, distributing information and promoting exports.

The new mandate these amendments reflect opens a new chapter in the history of CMHC, but this is only the latest chapter in a strikingly successful history.

As part of our committee work, we heard witnesses describing the impressive legacy of Canada Mortgage and Housing Corporation. The Canadian Homebuilders' Association contended that Canada's enviable situation making it one of the best housed nations in the world is due in large measure to the vital role played by CMHC in helping the housing sector and the housing funding markets provide the innovations consumers need.

Throughout its 50 years of existence, CMHC has adapted its measures to the evolving capacity and needs of the market.

Honourable senators, this bill is designed to support the work of a corporation dedicated to improving the well being of Canadians, wherever they live, and helping communities throughout the country take full advantage of innovations in the housing market.

The benefits of Bill C-66 are threefold: CMHC will be able to respond to shifts in consumer demand and market conditions. The benefit to Canadians will be the availability of low-cost funds and access to mortgage financing no matter where they live in Canada; CMHC will be able to better promote Canadian housing products and services abroad. This will result in job opportunities for Canadians, here and abroad; CMHC will be able to offer administrators of housing assistance programs the flexibility they need to manage their resources effectively, for the greater good of those they serve.

As honourable senators know, CMHC's mortgage insurance is very successful, making it possible every year for hundreds of Canadians to realize their dream of home ownership. In fact, one out of three homes in Canada has been built or bought with assistance from CMHC.

The program makes it possible for Canadians to buy a home with an initial down payment of 5 per cent. It was originally intended for prospective homeowners but, because of its success, it now targets other buyers.

Just to give an idea of how many Canadians depend on this 5 per cent program, since it was first introduced in 1992, it has enabled over 600,000 Canadians to buy their first home. According to surveys, 70 per cent of these buyers would not have been able to afford a home without this reduction in the down payment.

This new act will improve an already excellent program. Indeed, Bill C-66 will eliminate useless constraints regarding mortgage loan insurance by Canada Mortgage and Housing Corporation. CMHC will thus enjoy greater flexibility and effectiveness to meet the housing needs of Canadians.

As soon as the new act comes into effect, CMHC can consider introducing on the market a number of original and innovative home financing products, including reverse equity mortgages, which allow older homeowners to use the equity in their homes to obtain funds while allowing them to continue to live in their homes.

I should remind honourable senators that, unlike private insurers, CMHC also plays a public policy role. Honourable senators, CMHC has a duty to serve Canadians precisely because of its public policy role. Its business structure allows it to fulfil that role. The changes made to the National Housing Act will allow CMHC to pursue this critical public policy role, for the benefit of future generations of Canadians.

This role also implies that CMHC must promote private funding for housing on reserves.

The Hon. the Speaker: I am sorry to interrupt you, Honourable Senator Gill but, according to the order of the Senate, I must now ask that the bells ring for the five o'clock vote. You can finish your speech when we come back, after the vote.

Sitting suspended.

[*English*]

• (1700)

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING

On the Order:

On the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended:

(*a*) on pages 10 to 12, by deleting Part 3; and

(*b*) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

The Hon. the Speaker: Honourable senators, the question before us is on the motion in amendment.

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk
Atkins
Balfour
Beaudoin
Berntson
Bolduc
Buchanan
Cochrane
Cohen
Comeau
DeWare
Di Nino
Doody
Forrestall
Grimard
Johnson
Keon
Kinsella
LeBreton
Lynch-Staunton
Murray
Oliver
Pitfield
Robertson
Roche
Simard
Spivak
Stratton
Tkachuk—29

NAYS

THE HONOURABLE SENATORS

Adams
Austin
Bryden
Butts
Carstairs
Chalifoux
Cook
Cools
Corbin
Fairbairn
Ferretti Barth
Fraser
Gauthier
Gill
Grafstein
Graham
Joyal
Kirby
Kroft
Lewis
Losier-Cool
Maheu
Mahovlich
Maloney
Mercier
Milne
Moore
Pearson
Poulin
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Ruck
Stewart
Wilson —35

ABSENTIONS

THE HONOURABLE SENATORS

Nil

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I did not vote for or against, nor did I abstain. I want to point out to those who are watching us that I was present in the Senate.

The Hon. the Speaker: Were you in your seat during the vote?

Senator Prud'homme: Absolutely.

The Hon. the Speaker: There is a problem. If you are in your seat, you must either vote or abstain.

Hon. Prud'homme: I still have the right to point out that I was present in the Senate during the vote, without necessarily say that I am for, against, or that I abstained. Those who draft the *Debates of the Senate* will make mention of this. That is good enough for me.

The Hon. the Speaker: These comments will be on the record, but your name will not appear on the voting list.

[*English*]

THIRD READING

The Hon. the Speaker: Honourable senators, we are now back to the motion for third reading.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Hon. John Lynch-Staunton (Leader of the Opposition): On division.

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

MERCHANT NAVY WAR SERVICE RECOGNITION BILL

MOTION FOR SECOND READING NEGATIVED

On the Order:

On the motion of the Honourable Senator Forrestall, seconded by the Honourable Senator Atkins, for the second reading of Bill S-19, to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment.

The Hon. the Speaker: Honourable senators, the question now before the Senate is the motion by the Honourable Senator Forrestall, seconded by the Honourable Senator Atkins, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators in who oppose the motion please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen.

The Hon. The Speaker: I see two honourable senators. We will then proceed with the standing vote as per the order of the Senate.

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Grimard
Atkins	Johnson
Balfour	Keon
Beaudoin	Kinsella
Berntson	LeBreton
Bolduc	Lynch-Staunton
Buchanan	Murray
Cochrane	Oliver
Cohen	Prud'homme
Comeau	Robertson
DeWare	Roche
Di Nino	Simard
Doody	Stratton
Forrestall	Tkachuk—28

NAYS

THE HONOURABLE SENATORS

Adams
Austin
Bryden
Butts
Carstairs
Chalifoux
Cook
Cools
Corbin
Fairbairn
Ferretti Barth
Fraser
Gauthier
Gill
Grafstein
Graham
Hervieux-Payette
Joyal
Kirby
Kroft
Lewis
Losier-Cool
Maheu
Mahovlich
Maloney
Mercier
Milne
Moore
Pearson
Pitfield
Poulin
Robichaud (*L'Acadie-Acadia*)
Robichaud (*Saint-Louis-de-Kent*)
Rompkey
Ruck
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NAYS

THE HONOURABLE SENATORS

Nil

[*Translation*]

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion by the Honourable Senator Gill, seconded by the Honourable Senator Ruck, for the third reading of Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act.

Hon. Aurélien Gill: Honourable senators, this public interest mission also requires Canada Mortgage and Housing Corporation to promote private financing for housing on reserves. During committee deliberations, a representative from the Bank of Montreal stressed the importance of creating private funding possibilities for the First Nations. She also supported Bill C-66 because, like her colleagues, she considers that, if Canada Mortgage and Housing Corporation is authorized to develop new instruments to support the mortgage market, the corporation will have many options in contemplating ways of helping her financial institution and others to better serve the needs of the First Nations.

[*English*]

Another facet of Bill C-66 promotes the goal of streamlining the administration of social housing so that public funds are used as effectively as possible. As we discussed in committee, the government's financial commitment to groups in receipt of social housing assistance, including aboriginal groups, will continue and will in no way be altered by this bill. In fact, honourable senators, the Cooperative Housing Federation of Canada does not oppose the bill.

Finally, but not least, I would like to address the growing role CMHC is playing in export promotion. Exports are the key to Canada's future prosperity.

[*Translation*]

Canada has a worldwide reputation for housing quality and the development of habitable and ecological communities. We are able to meet international demand for technology, products, services and specialized knowledge in the field of housing.

Senator Ferretti Barth presented a convincing brief to the committee on the enormous potential of the exports inherent in our housing technology and stressed the resultant job creation possibilities.

In conclusion, honourable senators, there is no doubt that the amendments in Bill C-66 will modernize the various aspects of the work done by Canada Mortgage and Housing Corporation. This law will benefit all Canadians. The competitive mortgage financing system will serve the interests of Canadian buyers, the increased promotion of Canadian products and services abroad will serve the interests of the housing sector, and the creation of more jobs and improved services by CMHC will benefit all Canadians.

Canada Mortgage and Housing Corporation plays a vital role in Canada's housing sector. Quick passage of this bill will ensure that it may continue to be a great asset to all Canadians for many years to come.

[*English*]

Hon. P. Derek Lewis (Acting Speaker): If no other senator wishes to speak on this bill at third reading, I will proceed with the motion.

It was moved by Honourable Senator Gill, seconded by Honourable Senator Ruck, that the bill be read the third time now.

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

Motion agreed to and bill read third time and passed.

[*Translation*]

BANK ACT
WINDING-UP AND RESTRUCTURING ACT

BILL TO AMEND—THIRD READING

Hon. Céline Hervieux-Payette moved the third reading of Bill C-67, to amend the Bank Act, the Winding-Up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts.

Motion agreed to and bill read third time and passed.

[*English*]

CANADA TRAVELLING EXHIBITIONS INDEMNIFICATION BILL

THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill C-64, to establish an indemnification program for travelling exhibitions.

Motion agreed to and bill read third time and passed.

THE ESTIMATES, 1999-2000

INTERIM REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report (Interim) of the Standing Senate Committee on National Finance (Estimates 1999-2000), presented in the Senate on June 10, 1999.

Hon. Terry Stratton: Honourable senators, I will first speak briefly not to the Finance Committee's report but rather to the examination of the disaster subcommittee's work to date. We heard from the Honourable Art Eggleton, Minister of National Defence, regarding national emergency preparedness for Canada. He was quite forthcoming. He talked about the Emergencies Act which came into effect in 1988 to replace the War Measures Act and which empowers the federal government to provide for the security and welfare of Canadians in a national crisis.

In a natural disaster, a state of emergency, an international crisis or war, this act is an instrument of last resort. In fact it has never been used since it was brought into effect. There are certain express conditions which must be followed.

• (1720)

Minister Eggleton also alluded to the rising costs associated with these disasters. In the last number of years, I believe that cost is in excess of $600 million. He encouraged us to explore measures that would mitigate these costs. Currently, no formula exists for this kind of action, which necessitates collaboration between the federal and provincial governments. In other words, while we want to do this, there is no method or formula to do it. He is looking forward to this report because he realizes, as does everyone, I believe, that something must be done.

On Monday, May 31, we heard from Dr. Gordon A. McBean, who is Assistant Deputy Minister for the Atmospheric Environment Service of Environment Canada. Dr. McBean, who is an expert on the environment, reiterated what the minister had stated, that, in effect, what is occurring is an ever-increasing frequency of these disasters. Dr. McBean's forecasts were quite disturbing. He stated that global warming is well on its way and that we can expect more storms. They can warn against snowstorms, floods, and give maybe 15 or 20 minutes of warning in advance of tornadoes striking, but the ever-increasing occurrence of these events is problematic. Dr. McBean predicts an increase in the severity and frequency of severe weather events.

Dr. McBean also told the committee that global warming will affect different areas of the country in different ways. Some of these changes are expected to have catastrophic effects on Canadians, which we already know. For example, he talked about the Prairies. We were interested in that particular area. I believe Senator Fraser may have asked the question. Dr. McBean said that we can expect more droughts to occur — although you would not believe it today given the flooding in that area of the country.

Honourable senators, the committee will continue its study in August, when we hope to hear from the Red Cross and others. We want to move briskly because it is the committee's wish to table its report by the end of this year. We will be presenting interim reports because this issue is of ever-increasing concern to Canadians.

Beginning on Sunday next and running through to Wednesday, the ninth world congress on disasters is meeting in Hamilton. This congress takes into account not only natural disasters, but disasters such as terrorism. Of course, our committee is interested only in the natural aspects of disaster.

That, honourable senators, is the report.

Hon. Anne C. Cools: Honourable senators, I wish to underscore the fact that this report is an interim report of the Standing Senate Committee on National Finance. The National Finance Committee will be continuing its examination of the Main Estimates for the fiscal year 1999-2000, and that examination shall be ongoing for quite some time.

I also wish to take the opportunity to thank all the witnesses, including the parliamentary secretaries, the officials from Treasury Board, and all the splendid people who appeared before the committee on sometimes relatively short notice.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

APPROPRIATION BILL NO. 2, 1999-2000

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-86, for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001.

She said: Honourable senators, I rise to move the second reading of Bill C-86, for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001. Bill C-86, also known as Appropriation Bill No.2, 1999-2000, seeks parliamentary authority to grant to Her Majesty certain sums of money — $31.9 billion — as provided for in the Main Estimates 1999-2000.

Honourable senators should note that the long title of Bill C-86 states "for the financial years ending March 31, 2000 and March 31, 2001," but that its short title states only "1999-2000." This is quite unusual, and I should like to provide some explanation about the difference in these titles. It is because Schedule 2 of Bill C-86 appropriates amounts to Parks Canada Agency for the fiscal years April 1, 1999 to March 31, 2001.

This difference in the title was questioned by some in the House of Commons by a point of order. On June 8, 1999, Speaker Gilbert Parent ruled on this point of order regarding the title of Bill C-86, declaring that Bill C-86 was in order. He stated:

> The multi-year appropriation authority covered in schedule 2 of the bill is based on legislation approved by parliament in 1998 by which Parks Canada Agency is granted the authority to carry over to the end of 2000-01 fiscal year the unexpended balance of money in fiscal year 1999-2000. But in my view, that money is originally appropriated for the 1999-2000 fiscal year. Despite what the long title says, we are still talking here about a yearly appropriation bill for the fiscal year 1999-2000. What is included in schedule 2 and referred to in clause 2 is there strictly for information purposes.
>
> My ruling is therefore that the supply bill is properly before the House.
>
> However, I must express strong reservations about the reference in the long title of the bill to two financial years. The reference is not at all needed and is in fact, in my view, misleading. It is obviously too late in the supply process to envisage an amendment to rectify that anomaly, unless of course the House were to proceed immediately to do so by unanimous consent.
>
> In any case, I do hope that in future supply bills the government will ensure that the title reflects that the appropriation requested from parliament, in keeping with our longstanding practice, is for the single fiscal year covered by the estimates.

I thought that honourable senators should have some clarification on this point. This issue of multi-year appropriation was also raised by senators during our National Finance Committee's consideration, particularly, by Senator Roch Bolduc. The sixteenth report of the Standing Senate Committee on National Finance, which was adopted a few minutes ago, states:

> Specifically, the Canada Custom and Revenue Agency and the Canadian Parks Agency are two agencies that will be using this system of appropriation. This approach would seem to place further appropriation into this category of spending that might not be regularly reviewed. While Mr. Ianno agreed that this two-year appropriation provision lies somewhere between an annually voted appropriation and a statutory appropriation, it will still be open to regular parliamentary scrutiny and will be reported annually in the Estimates.

• (1730)

The Main Estimates 1999-2000 were tabled in the other place March 1, and here in the Senate on March 2, 1999. They are for a total of $151.3 billion, which includes $105.6 billion arising from existing legislation, and $45.7 billion for which Parliament must grant its authority.

The Senate passed interim supply of $13.8 billion on March 25, 1999, for the first three months of this fiscal year ending March 31, 2000. Bill C-86, Appropriation Act No. 2, today seeks the Senate's and Parliament's authority for $31.9 billion, the remaining nine months' portion for this current fiscal year.

On March 24 and May 6 last, during our National Finance Committee's examination of the Main Estimates 1999-2000, Richard Neville, an official with the Treasury Board Secretariat, appeared before our committee. As always, Mr. Neville was very candid and open in his responses. I thank him. In addition, both Andrew Lieff and Bob Mellon, officials with the Treasury Board Secretariat, appeared with Mr. Neville on May 6. I thank them for their testimony.

Tony Ianno, Parliamentary Secretary to Marcel Massé, the President of the Treasury Board, appeared before our committee on June 2, 1999. Mr. Ianno assured senators that although the Main Estimates 1999-2000 reflect an increase over the previous fiscal year's amount, the government's expenditures are under control, and that this increase is consonant with the country's fiscal soundness. I would like to thank Parliamentary Secretary Ianno for his testimony and for his responses to the committee's questions and concerns.

On March 23, 1999, during second reading debate on Bill C-74, Appropriation Act. No. 1, I had noted a number of major increases in this year's Main Estimates over last year's. I had included the following, saying:

> — $874 million to the Department of Finance for Canada Health and Social Transfer payments; $840 million to the Department of Human Resources Development for increased employment insurance benefit payments; $600 million to the Department of Agriculture and Agri-Food Canada for income disaster assistance for farmers in response to recent declines in commodity prices; $287 million to various departments and agencies for the Year 2000 compliance requirements.

I would also like to highlight other major increases in the Main Estimates 1999-2000 as they are reflected in these appropriation acts. They include $700 million to various agencies for salaries and benefits for the judiciary, the Armed Forces and the RCMP; $383 million to the Department of National Defence's capital spending, including the $150 million reinstatement of a one-time 1998-99 reduction; $322 million to the Departments of Fisheries and Oceans and Human Resources Development for the Canadian Fisheries Adjustment and Restructuring Program; $175 million to Human Resources Development Canada for the Canada Student Loans Program; $171 million to the Department of Indian Affairs and Northern Development for Indian and Inuit programming, including $52 million for responding to the Royal Commission on Aboriginal Peoples, and also $42 million for the relocation of the Davis Inlet's Innu people; $165 million for the Department of Finance for transfer payments to the territorial governments, including the newest territory, Nunavut; $135 million to Health Canada for public education about tobacco control, toxic substance research, the Canadian Breast Cancer initiative, the Aboriginal Head Start Program, and also for First Nations and Inuit Health Services; and $65 million to the Canadian Space Agency for the Radarsat-2 project.

Honourable senators, those are some of the major changes to the Main Estimates 1999-2000. I urge all senators to grant supply to Her Majesty and to pass Bill C-86, Appropriation Act No. 2, 1999-2000, so that the Government of Canada may proceed with its business of governance.

[*Translation*]

Hon. Roch Bolduc: Honourable senators, we have just received from Senator Stratton a detailed report on emergency measures prepared by the Subcommittee on Canada's Emergency and Disaster Preparedness. Senator Cools has summarized the report of the Senate Standing Committee on National Finance on this year's estimates. This year, two special agencies of the government have presented multi-year estimates.

I do not know if this is a proper precedent. As it was explained to us, it is acceptable, but it may not be if the number of special agencies increases and they all adopt multi-program budgets. I can see it for capital expenditures, but not for operating expenses.

[*English*]

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

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

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

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 1999

SECOND READING—DEBATE ADJOURNED

Hon. Lorna Milne moved the second reading of Bill C-84, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect.

She said: Honourable senators, I am pleased to rise today to speak to Bill C-84, the Miscellaneous Statute Law Amendment Act, 1999.

The miscellaneous statute law amendment program was established in 1975 as a law reform initiative. Since then, eight acts have been passed, in 1977, 1978, 1981, 1984, 1987, 1992, 1993 and 1994. The purpose of the program is to make minor amendments of a non-controversial nature to a number of federal statutes without having to wait for them to be opened up for amendments of a more substantial nature.

The procedure for these MSLA amendments is designed to take up as little parliamentary time as possible. The MSLA proposals are tabled in Parliament and referred to the respective committee of each house for pre-study before a bill is introduced. Consideration of the proposals is non-partisan. If either committee objects or if either party in each committee objects to a proposal, the proposal is dropped from the bill. A bill is then introduced in Parliament containing only those proposals approved by the committees of both chambers.

Honourable senators, Bill C-84 is divided into three parts. Part 1 makes amendments of a housekeeping nature to over 80 statutes administered by over 20 departments and agencies.

Part 2 updates references in the Statutes of Canada to the revised Income Tax Act, which came into force after the rest of the revised statutes, 1985. These changes would have been made in the next statute revision process had the MSLA not been available.

Part 3 repeals spent acts and contains conditional amendments.

In order to be included in this MSLA process, first, an amendment must not be controversial; second, involve the spending of public funds; third, prejudicially affect persons' rights; or, fourth, create a new offence or subject a new class of persons to an existing offence.

The Standing Senate Committee on Legal and Constitutional Affairs reviewed the proposals contained in this bill against these criteria and reported them on May 13, 1999 in its twenty-fourth report, without amendment.

The Department of Justice tabled a number of changes to the proposals originally tabled before Parliament in 1998. These changes were also adopted by the Standing Senate Committee on Legal and Constitutional Affairs.

Some proposals were withdrawn because they had been included in other bills tabled before Parliament between November of 1998 and May of this year. Others were withdrawn at the request of the initiating departments. One change was made to take into account the change of name of a court in Ontario.

• (1740)

This bill has been carefully scrutinized by the committee researchers and has been found to be completely consistent, in both French and English, with the proposals that were studied by our committee. The only change is some renumbering due to the previously mentioned proposals that were withdrawn during the committee's consideration of the MSLA.

The miscellaneous statute law amendment process is a very important mechanism for quality control in the Statutes of Canada. In view of the unique procedure that these housekeeping amendments follow, I would ask for your agreement, honourable senators, to dispense with a reference of this bill to committee so that it may be reported back and read a third time, at the next sitting of this house, in an expeditious manner.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator answer some questions for clarification?

Senator Milne: Certainly.

Senator Kinsella: First, which minister is responsible for the bill?

Senator Milne: Since the amendments come from so many different departments, they come under a variety of ministers. We heard from the officials of the Department of Justice and from one other department, and I must admit I have forgotten which one.

Senator Kinsella: In terms of the legislative process, if we find a provision of this bill to be troublesome, we merely need to rise in this place and say that clause such and such is troublesome for the following reasons, propose an amendment, and there is unanimous agreement to drop that clause. Is that how the process works?

Senator Milne: The process worked that way when the MSLA amendments came before committee and were studied. At that point, every amendment that was at all controversial was dropped. The committee would then report back on the bill.

The Senate accepted our report on these proposals back in May. The bill that is now before us is the bill resulting from that committee report. It takes into consideration the fact that the House of Commons committee also studied exactly the same proposals and agreed with our report. Our committee actually completed its study before the proposals were studied by the House of Commons.

Senator Kinsella: Perhaps the honourable senator would give us an indication of how many clauses of the envisaged proposal were dropped at committee stage, or following the committee's study?

Senator Milne: The other members of the committee may correct me if I am wrong on this, since quite a few bills have been dealt with since then. However, I believe that approximately 20 clauses were dropped.

Hon. John Lynch-Staunton (Leader of the Opposition): I Honourable senators, I have a question for the chairman of the committee. I have no problems with the report from which this bill flows, except with respect to the reference in the bill to a request by the National Energy Board, which the report itself admits is pushing the use of the miscellaneous statutes bill a bit far, to the point where — and I admire the frankness of all parties involved — the report ends up by saying that "...this decision shall not serve as a precedent." However, I believe that it is pushing beyond the edge to use miscellaneous statutes to confirm what should have been confirmed in another way, if confirmed at all. Perhaps you could give us some reassurance on how this came about?

Senator Milne: This came about purely as a safety concern. The one proposal that was before us was a temporary, three-day extension of the width of a right-of-way. Whenever there is to be construction around an area, a gas company or a pipeline company can have a temporary, three-day extension of the width of the right-of-way in order that they have time to go in there and stake out the exact position of the pipeline, so that no construction digging will happen over the pipeline. It is purely a matter of health and safety, really. This was why the committee decided to go ahead and accept the proposal.

Senator Kinsella: Honourable senators, there was one clause of the bill, clause 134, that caught my attention, on page 40 of the bill. That clause addresses the rights of a Canadian citizen, or a permanent resident, who has sponsored an application for landed immigrant status. If that status is refused, they may appeal to the appeal division on either or both of certain grounds. Those grounds would be in the statute.

Honourable senators, it seems to me that that particular amendment speaks directly to an issue of rights which could very well prejudicially affect the Canadian citizen. — if, for example, I were sponsoring someone as a landed immigrant and I was curious as to whether or not there is a limitation being placed on the Canadian citizen, or the permanent resident, in terms of the grounds of appeal. Surely, the general grounds of appeal, in terms of natural justice as a ground, is available and cannot be obviated. This clause, if added, would seem to be limitingthe right of appeal.

Senator Milne: I am trying to find the precise section that the honourable senator is speaking about.

Senator Kinsella: It is on page 40 of the bill, section 134.

Senator Milne: On page 40, I have section 148 and 149.

Senator Kinsella: I am sorry, page 36 of the bill.

Senator Milne: I cannot, quite frankly, remember the discussion on that particular section of the bill. However, we were assured by the staff from the ministries that came before us that there was nothing controversial about it whatsoever. At this point, I must rely on what they told me because my memory is faulty.

Senator Lynch-Staunton: Honourable senators, to get back to my point, as I understand it, then, the National Energy Board went beyond its regulation authority on this question of a safety zone. Is that correct?

Senator Milne: No, they did not go beyond their authority. However, they had been operating beyond their authority over the last few years. They had been, in effect, requiring this extension of their rights with respect to rights-of-way without any parliamentary authority. In this bill, there is an attempt to introduce the parliamentary authority to allow them to do that because it is a safety matter. It was only because it was a safety matter that we agreed to it.

Senator Lynch-Staunton: I accept that argument, except it troubles me, again, that agencies and departments too often go way beyond the intent of Parliament. In this particular case — although it may be technical and it may be right what they did — they did not have the authority to do so. We are, as I understand, correcting the matter after the fact, which is not really the role of Parliament.

Senator Milne: That is quite true. This was one of our problems when we dealt with the bill.

Senator Lynch-Staunton: Yes.

Senator Milne: However, because it was a safety matter, we let this one through.

Senator Lynch-Staunton: I just wish to get out of my system and share with honourable senators that that is not the role of Parliament, namely, to accept that after a few years, because some agency went too far, they can plead whatever and then we just say, "All right, we will accept it."

I have not had a chance to look at the bill. However, I read the report. I congratulate you on an excellent report. I know you did a great deal of work.

• (1750)

I sense that there are other corrections in this proposed legislation that are perhaps the result of excessive use of authority. However, I will leave it at that.

Senator Milne: I believe that that was the only one.

Senator Lynch-Staunton: That reassures me.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, we have before us another bill to amend. It is the ninth such bill since the law amendment program was established in 1975. The title of Bill C-84 is self-explanatory: An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect.

In order to determine which proposals to include in a bill to amend, the Department of Justice of Canada has developed a series of criteria. The suggested amendment must not

(*a*) be controversial;

(*b*) involve the spending of public funds;

(*c*) prejudicially affect the rights of persons; or

(*d*) create a new offence or subject a new class of persons to an existing offence.

The Standing Senate Committee on Legal and Constitutional Affairs examined an earlier version of Bill C-84 and, aside from a few clauses which were in fact withdrawn and are not part of this bill, we feel Bill C-84 meets the preceding criteria.

When the time is right, however, thought will have to be given to the matter of repealing legislative provisions ruled without effect by the Supreme Court of Canada. The Criminal Code, for instance, still contains provisions ruled unconstitutional, invalid or without effect over ten years ago, and yet they are still in the Criminal Code! Something must be done about this terrible anomaly! The committee's report of May 13, 1999, examines this issue and suggests that the Minister of Justice contemplate appropriate action. This will have to be looked at.

That having been said, honourable senators, I move that we pass Bill C-84.

On motion of Senator Lynch-Staunton, debate adjourned.

[*English*]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before I proceed, I believe there is a general willingness in the chamber not to see the clock at six o'clock.

The Hon. the Speaker: Honourable senators, is there agreement that I will not see the clock at six o'clock?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Your Honour, since you asked if we see the clock, I suppose I could say that I see the clock very well. I think the clock will say six, soon. We will see what happens at six o'clock.

The Hon. the Speaker: If there is no agreement at this point, I will interrupt at six o'clock.

CRIMINAL CODE

BILL TO AMENDED—SECOND READING—
REFERRED TO COMMITTEE

Hon. Sharon Carstairs (Deputy Leader of the Government) moved second reading of Bill C-82, to amend the Criminal Code (impaired driving and related matters).

She said: Honourable senators, I shall not speak at this time. I yield to Senator Majory LeBreton, who, more than any other person in this chamber, knows the importance of this piece of legislation.

Hon. Marjory LeBreton: Honourable senators, before I begin, I would sincerely like to thank the government house leader, Senator Carstairs, for her generosity in turning the floor over to me. I very much appreciate the opportunity to address this most serious and important matter, although you will not be surprised to know that this is one opportunity I would have gladly passed up.

Preparing this speech was a most difficult personal task. Unlike many issues we address in Parliament where we are able to research the subject, listen to the debate and try to make informed and enlightened decisions in the best interests of our fellow citizens, with this subject, I totally and absolutely know of what I speak.

Perhaps this experience will result in my being able to make the point that driving drunk is a most serious crime.

Drunk driving is responsible for the largest number of criminally caused deaths and injuries in our country. Yet so many people seem to be reluctant to face the problem of drunk driving. Many avoid the call for serious and strict measures to remove these dangerous individuals from our public roadways.

Honourable senators, when a person takes a gun or a knife and shoots or stabs someone, the public knows immediately that a serious criminal offence has been committed. Quite understandably, action is demanded and the verdict is swift in the public's mind. They immediately call for stricter laws and stronger sentences. They argue for gun control. They call for more protection for police and the public.

Thank goodness the Canadian population has never grown immune to acts of violence, whether premeditated or what is referred to as a crime of passion or non-premeditated. Why is it then that some in our society still place drunk driving in the social problem category instead of where it belongs, as a serious criminal offence? Why is it that in an enlightened society such as ours, the perpetrators of such death, destruction and personal injury still get off relatively lightly.

Look around you, honourable senators, your local newspapers are full of stories of people killed and maimed by drunk drivers and many of whom, unfortunately, kill themselves as well. Imagine if, week in and week out, the stories read that guns or knives were involved in death or injury to our families, friends and neighbours. The public, quite rightly, would be storming this place demanding action.

This may sound slightly melodramatic, but I say this only to make the point that far too often the scourge of drunk driving is met with passive acceptance or benign neglect.

Hon. Marcel Prud'homme: Honourable senators, do not worry about the clock.

Senator LeBreton: Thank you, Senator Prud'homme.

Drinking in moderation is socially acceptable, but drinking and driving with a blood alcohol level above .08 is a criminal offence. We must not blur the very narrow ground between the two. Even .08, for some, is an unacceptable benchmark and some studies have proven that this level impairs one's abilities considerably. This is a debate for another day. However, one cannot overlook the calls to reduce the level to .05 or, indeed, to a zero-tolerance level for anyone operating a motor vehicle. For the moment, most would merely like to see our police officers and our courts simply implement the law as it stands using the .08 reading. Sadly, strict adherence to the .08 level is rarely enforced.

Honourable senators, my daughter Linda LeBreton and my grandson Brian LeBreton Holmes were killed on January 21, 1996. At that time I was confronted with the horrific reality that their unexpected deaths were the direct result of a decision by a young man to get behind the wheel of his car dead drunk, at almost three times the legal limit. I have come to refer to drunk drivers as "terrorists on wheels."

At the time, many people from all walks of life, doctors, nurses, lawyers, police, firefighters, ambulance drivers, parents, people who would encounter me in the stores and on our streets would say, "Do something, you are in a position to get the law changed."

• (1800)

As paralyzed as I was by the events and their aftermath — the denial, the anger, the frustration and, finally, the acceptance — I found myself not wanting my family or myself to be consumed by this tragedy to the point where we also became helpless victims of the crime. I did not want us to be yet more victims of the person who took my family's life.

I eventually took up the cause and spoke out. I followed every detail of the months of court proceedings and I spoke often about my daughter and grandson and our family. I found that to do so was very therapeutic. I started attending meetings of the local chapter of MADD. I then accepted the invitation to join the national board of directors of MADD Canada.

MADD is an organization, honourable senators, like no other. No one aspires to be a member. We fervently hope that the organization has no cause for expansion and we would all like to see the day that it folds for lack of a raison d'être. That is the goal we all work toward. It will be a happy day indeed if and when it is finally reached. Although progress is being made, that day appears to be a long way off. However, as the saying goes, hope springs eternal.

Honourable senators, Bill C-82 was introduced in response to recommendations made by the House of Commons Standing Committee on Justice and Human Rights in its report "Toward Eliminating Impaired Driving." The title of the report is appropriate in its use of the word "toward" because the legislation now before us takes an important step toward the goal of eliminating impaired driving.

I am personally pleased to be speaking in support of these changes to the Criminal Code, which will strengthen the laws — laws that cannot but act as a deterrent to those foolish enough to think that they can drive drunk and get away with it.

Bill C-82 recognizes that impaired driving continues to pose a very serious threat to the life and health of Canadians, that the provisions in the Criminal Code respecting impaired driving must reflect the gravity of the offence as well as the degree of responsibility of the offender, and that the sanctions to be imposed for offences involving drunk driving must reflect those as well.

Bill C-82 amends the Criminal Code to strengthen the laws and penalties in the following ways. It increases the mandatory minimum fine to $600 from $300 for a first impaired driving conviction. It increases the mandatory minimum prohibition from driving anywhere in Canada from three months to one year on a first offence, from six months to two years on a second offence, and from one year to three years on a subsequent offence.

Those, honourable senators, are the minimum sentences.

The maximum driving prohibition would be increased from three years to five years for a second offence, and from three years to life for a subsequent offence.

Honourable senators, given the high rate of convictions for impaired driving offences now in Canada, these changes would result in a substantial increase in the amount of time impaired drivers would be prohibited from driving anywhere in Canada.

The bill also increases the maximum penalty for driving while disqualified from two years to five years. It allows sentencing judges to require the use of an ignition interlock as a condition of probation, where such a program is available. Alberta has had a great deal of success with this interlock program.

The bill also authorizes a peace officer to demand a breath sample and, in certain circumstances, a blood sample, where the officer has reasonable grounds to believe that the person committed a drinking and driving offence within the previous three hours. This is an increase from the current two hours.

Honourable senators, that increase is very important. I have talked to many police officers about this. Two hours go by very quickly when confronted with the scene of a horrific crash. In some cases, the perpetrator is removed from the scene to the hospital as well. This provision would give the police more time to gather evidence. Hopefully, with the aid of this provision, we will no longer see so many cases thrown out of court on a technicality. How many times have we read in the newspaper that a case was thrown out because the police did not get a sample within two hours?

Bill C-82 also specifies that a blood alcohol level exceeding twice the criminal level of 160 milligrams of alcohol in 100 millilitres of blood must be considered an aggravating factor by the judge at the time of sentencing.

The recommendation of the House of Commons committee that the sentence for impaired driving causing death be raised from the current maximum of 14 years to life imprisonment was struck from the legislation in order to expedite the passage of this bill. That provision has been reintroduced in the House of Commons as Bill C-87.

While all the other clauses in Bill C-82 are important in the overall strengthening of the laws and the sentences, the deleted clause was the most defining one because it signalled to Canadians that, if they drink, drive and kill, they will face a penalty consistent with the crime. The crime, honourable senators, is vehicular homicide.

Honourable senators, when our loved ones, family members, friends or neighbours are killed by a drunk driver, it is no accident. To call these "accidents" is troubling indeed to many people who have lost loved ones. You may have seen the MADD slogan, "Drunk driving is no accident!" No, honourable senators, driving drunk is a deliberate, senseless act, and the results are totally preventable.

You can imagine my distress at seeing this important maximum sentencing clause used as a political football in the other place. I was surprised by the resistance of the Bloc Québécois. I fail to understand the reasoning behind their objections, because Quebec has set a very good example in dealing with issues of drunk driving. I could not help but think that those members fell within that category I mentioned earlier of those who resist the claim that drunk driving is a criminal act and adhere to the belief that it is merely a social problem. I believe they are out of step with the thinking of their fellow Quebecers and their fellow Canadians.

I was particularly offended by the actions and words of the House Leader of the Official Opposition. He charged that my colleague, and our party's justice critic, Mr. Peter MacKay, was "grandstanding" and "playing politics" because he took a principled stand and would not capitulate on the life imprisonment clause — something Mr. White, on behalf of his party, seemed prepared to do.

It got worse. Mr. Randy White, House Leader of the Reform Party, was quoted in *The Ottawa Citizen* on June 5 of this year as saying:

> During the House of Commons summer recess, 15,000 Canadians will be injured and 400 to 500 will lose their lives at the hands of an impaired driver.
>
> The changes (to the law) will likely prevent some of that carnage. Many people will ask why the Conservatives prefer the potential loss of life over the promotion of their own political agenda. Responsible politicians would act now.

Responsible politicians — indeed.

The suggestion by the Reform House Leader that we, the Progressive Conservatives, would be responsible for the carnage over the summer is offensive in the extreme, not to mention extremely hurtful and unfair. It also demonstrates a stunning lack of understanding of how changes in the law are implemented and the time it takes. I was left to wonder how he could think, let alone say, such a thing. We are talking about the precious lives of Canadians. To see a parliamentarian trying to score cheap political points at the expense of our dead and injured is repulsive.

I have to believe that these comments do not reflect the views of some of his colleagues who worked long and hard for changes to the law. I am speaking, of course, about the MP from Prince George—Bulkley Valley, British Columbia, Mr. Dick Harris, and the MP from Surrey North, Mr. Chuck Cadman. In the end, to everyone's complete satisfaction, Mr. MacKay was credited for his stance when he received the assurance in writing from the Minister of Justice that a new bill would be introduced amending section 255(3) of the Criminal Code to raise the maximum penalty for impaired driving causing death from 14 years to life imprisonment.

I wish to express my personal gratitude to my colleague Mr. MacKay; to the Government Leader in the House of Commons, Mr. Boudria, and to the Minister of Justice, Ms McLellan. That is an excellent example of bipartisan cooperation for the good of the country.

Honourable senators, our laws are only as good as the public's knowledge of them or our will to enforce them. Our penalties for criminal acts are only as good as our willingness to implement them. Research has shown that there is a high degree of ignorance of our impaired driving laws, an indication that governments at all levels must cooperate in the development of public awareness and education programs.

• (1810)

We have increased the penalties with this bill and will do so again in the fall with the life sentencing bill.

These new laws will only be effective if our justice system applies the law to its fullest extent. Certainly, in the past, sentences handed down have been significantly lower than what is allowable, and victims are often traumatized by their experiences in the courts. Bill C-82, with its minimum and maximum sentencing requirements, will go some way to addressing this problem.

The passage of Bill C-82 also goes some way to addressing the concerns of those who urged me to do something. However, I was but a small cog in the wheel that moved this issue forward.

We all know the statistics: Four to five Canadians killed daily, 125 injured, $9 billion annually in direct and indirect costs, and the inestimable number of Canadians who are direct and indirect victims of these crimes. A particularly startling statistic is that alcohol is involved in approximately 42 per cent of all vehicle fatalities — especially on weekends, when it is estimated by the Traffic Injury Research Foundation that one in eight drivers is impaired. It is a scary thought, is it not, as you are driving home at night?

Statistics are just that — statistics. We never think such tragedies will happen to us, and that, thankfully, is understandable. However, they do happen to us, and it is important that we put a human face on all of these numbers. I will use the next few moments to do just that.

We should all think of the Dupres of Greely who lost their son and twin brother on the very first day of this year, 1999; and of Zoe Childs of Kemptville, just outside of Ottawa, and her family after she, in the same crash, sustained life-altering injuries that left her paralyzed from the waist down; and of Samantha Kilminster of Kingston, whose losses are almost unbearable to think about — her husband, two sons and her niece. She survived the November 1998 crash, as did her third son — the horror of it all.

We should all think as well of Mr. and Mrs. Carl Rattray of Harrowsmith, whose daughter, Jamie Lee, was the niece in the Kilminster vehicle, being driven home from babysitting the Kilminster children; and of the families of Christina Carson and Jennifer Schaus, who were killed en route to their high school in Winchester on the morning of October 24, 1996.

What do we parliamentarians say to the family of a healthy, vibrant Gerald Murray, who was killed at 11:30 in the morning in Val-des-Monts, just outside of Ottawa, on his way to have lunch with his five grandchildren on January 7 of this year?

What do we say to Scott DuBois and his mother Diane? Scott's mom and dad, John and Diane DuBois, were driving along Highway 417 just outside of Ottawa this past February on their way back from Montreal where they were visiting Mrs. DuBois' sick mother. Who would ever think, when driving along on a divided highway, that, out of nowhere, you would be confronted with a vehicle going the wrong way? Mr. DuBois was killed — the shock and horror of it all. He probably had little time to think of what was happening, or to react.

Then there is the Gericke family, in a case eerily similar to that of our own family, where the father and oldest son were killed. In our case, it was the mother, my daughter Linda, and her eldest son Brian, who were killed. The crash that involved the Gericke family happened one year and four days after we lost our loved ones, and the perpetrators in both cases, the Gericke's and ours, were sentenced on the same day in July 1997.

The lists and circumstances could fill pages. I cannot possibly refer to all the tragedies, but my thoughts also turn to the family of Rosemary Bleackley who was killed on Highway 31, just outside of Ottawa in July 1994; and to James and Mary Agapotis, whose son Dr. Michael Agapotis was killed in a Nepean intersection in July 1993; to the family of Roeann McNeely of Smith Falls, who was killed near Carleton Place when her car was struck by a drunk driver who had crossed the road into her path; to the Peplinski family, from just outside of Ottawa, whose son was killed walking along a road; to the family of Robert John Hamilton, who was a passenger in a vehicle that crashed here in Ottawa at Carling Avenue and the Queensway; and, of course, to two people I have come to know and admire, Colleen MacKenzie, whose son Blair was killed just two weeks prior to his 21st birthday, and Susan McNabb, the mother of Shane Norris, who was struck down and killed in the west end of the city as he rode his bicycle home. Colleen and Susan are the driving forces behind the Ottawa chapter of MADD.

You will now understand, honourable senators, what I mean when I say that I am but a small cog in a big wheel that is rolling forward, demanding action, and now, thankfully, achieving positive results.

I feel honoured to be associated with my colleagues from the national board of directors of Mothers Against Drunk Driving — the chair, Tony Carvahlo; our president, Susan MacAskill from Nova Scotia; and our excellent executive director, Andrew Murie — and with our members from all across Canada. Their names include: Brad Dixon of Vancouver, Herb Simpson of Ottawa, Dr. Richard Swinson of Toronto, Ken Tanenbaum of Toronto, Pam Dutton of Coldbrook, Nova Scotia, Sandra Henderson of Kitchener, Jack MacLeod of Vancouver, Kathie Macmillan of Toronto, and, of course, MADD's founder, John Bates of Islington. To that list I add Chris George of Ottawa, who works for MADD in government relations as National Communications and Public Policy Advisor — and whom most of you have probably met — and Dr. Robert Solomon, who is our National Director of Legal Policy, an expert on the law in this country if I ever saw one.

We have taken a major step, but there is more to do, much of it regulatory, such as provision of devices for police to deal with the problem before the fact. Why not address the issue at source rather than after the crime has been committed?

As my colleague in the other place said, we in the Progressive Conservative Party would very much like to see police officers being given the ability to take an automatic breath sample at the scene of an accident or a crash — because sometimes there are accidents that are not alcohol-related — where there are reasonable and probable grounds to believe that alcohol is involved. We would also like to see greater use of passive alcohol sensors and mobile digital breathalyzers and that type of technology. We would also like to see greater training for police officers to recognize drug and alcohol impairment.

In conclusion, I believe that Bill C-82 is an extremely positive step. It is a non-partisan issue which most of us have participated in and embraced. As I said at the beginning, I am grateful to have been a participant in this debate. I believe we are duty bound to continue the good work, in cooperation with so many people who have been so instrumental in bringing this important bill before Parliament.

When the bill comes back from committee, I should like to speak for a few moments on some positive initiatives that were taken to honour Linda and Brian. These initiatives involved hundreds of people across the country, many of whom are in this chamber. I speak, of course, of the LeBreton-Holmes Memorial Scholarship Fund at the University of Ottawa and the impact that fund is having on young law students and hopefully on their future work in the criminal justice system.

Once again, I thank all honourable senators for their attention. I urge speedy passage of Bill C-82.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I did not interrupt Honourable Senator LeBreton at six o'clock because Honourable Senator Prud'homme had sent me a note that he had agreed not to see the clock.

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 Legal and Constitutional Affairs.

• (1820)

NORTH ATLANTIC TREATY ORGANIZATION

INVOLVEMENT IN YUGOSLAVIA—RELATIONSHIP TO INTERNATIONAL LAW—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the question of international law: Canada and the NATO action in the Federal Republic of Yugoslavia.—(*Honourable Senator Grafstein*)

Hon. Jerahmiel S. Grafstein: Honourable senators, before I start, I can advise that I wish to go beyond the one minute. Perhaps I might seek leave in advance.

Senator Lynch-Staunton: For how long?

Senator Grafstein: I estimate approximately 10 minutes.

Senator Lynch-Staunton: Why do we have rules?

The Hon. the Speaker: Senator Grafstein is requesting leave. Is leave agreed?

Hon. Senators: Agreed.

Senator Grafstein: Honourable senators, to continue:

Under international law, and since WWII in particular, the majority of states' rights and duties appear to flow from treaties and conventions, freely entered into. These conventions and treaties are part of the conventional law that still depends on customary law. What makes a convention or a treaty binding is a customary rule that, once a state enters into a convention or treaty, it is obliged to fulfil its obligations. Like the common law, customary law grows in episodic ways. It adapts to new situations, not by a regular process. It grows by actions and conduct. As Oliver Wendell Holmes once explained the development of common law:

> The life of the law is not logic but experience.

This epigram applies with even greater force to international law. Multilateral treaties, conventional law, provide an alternate, not an exclusive substitute for the customary international rule of law. Rather, it is a different branch of the same trunk. This is an organic doctrine of law. This is the "growing tree" doctrine, deployed in domestic law by case law, and it is that same organic doctrine that amplifies the principles and illuminates the precedents experienced under normative treaties. It may come as a surprise that, notwithstanding the various trade and business exchanges on tariffs, subsidies, finance and social policies, almost 50 per cent of the total learned, academic work on international law emanates from the most dangerous form of state intercourse — namely, acts of belligerency and war.

It was in 1899, 100 years ago, and then again in 1907, less than 100 years ago, that the first multilateral treaties of wide application respecting the conduct of belligerents, commonly called the Geneva Conventions, were codified from the customary law. These set out rules respecting belligerency and, in particular, the treatment of prisoners of war and civilians and, most especially, protection of neutrals. Even these principles emerged out of customary precedents. At the turn of this century, Americans were obsessed — preoccupied, to say the least — with having their neutrality protected from the whims of European intrusions or wars. The Monroe Doctrine, amplified by Theodore Roosevelt to extend to the Far East, reigned supreme. The U.S.-led effort, which led to the Geneva Conventions, was based on their desire to protect their neutrality.

Honourable senators, let me be clear. Let us separate questions of private international law from public international law. The private international law is applicable to commercial exchanges and is distinct from public international law.

The mystery of international law, as some say, can be clarified with one simple statement: International law limits the state. It constrains the sphere of a state's ability to exercise its authority abroad and, more directly, in Europe, especially since the Helsinki Accords, in 1975, incorporates rules of conduct at home. As senators will recall, the Helsinki Accords traded border sanctity for conformity to a higher standard of "human rights" treatment and compliance at home. Minorities' rights were to be accorded respect and equal treament. In other words, during the Soviet period, during the Cold War, the Soviet Empire agreed to the Helsinki Accords for recognition of the sanctity of their borders in exchange for a higher recognition of domestic human rights at home.

The former Republic of Yugoslavia, and now the Federal Republic of Yugoslavia, acceded to the Helsinki Accords.

International law is meant to regulate state activity to conform to certain norms. We should note that customary law does diverge from English common law. Whereas the English common law seeks to give detail to practical principles, there is most often a divergence in customary international law because the interests of states so often divert. Yet this rather strange gap has been slowly cured by closer integration, by the glue of multilateral treaties entered into freely by states. Uncertainty in international law is not necessary a criticism. Laws are stated in general terms whereas facts are never general.

States still argue that the rule of international law is subject to "political" questions of "sovereignty." Here may I emphasize the oft-used "thesis" of "political sovereignty." For example, in Nazi Germany, the German Supreme Court determined that the issuance of a birth certificate or a taxi cab licence to a Jew was defined as "political." Once called a "political" question, the subject-matter lay outside the purview of the normal German rule of law and thus logically beyond the jurisdiction of the domestic German courts. In effect, the "vital political interests" of that state, it was argued, were superior to and thus diverged from local law norms.

Whenever the interests of the state could be defined as a question of "political interest" or "vital interest," this became a matter beyond law — a matter of "political sovereignty." As Brierly noted in 1944, the political theory that defined

> vital interests of the State as political

has

> gone out of fashion although it continues to be indecently argued.

Hence, sovereignists argue that the international rule of law is optional. International law, they argue, gives way to vital interests or political interests and sovereignty, hence compliance with international norms and treaties is neither compulsory, nor unconditional, nor even reciprocal.

It is interesting to note that legal recognition of the state, the *de jure* versus the *de facto*, was once solely premised upon a judgment or an assessment by other states of a nascent state's convergence with a particular group armed with popular support that could exercise control and power over a particular land mass alone. Wilson's idea of "self-determination" at the turn of the century was the inner kernel of that principle. However, especially since 1975 with the Helsinki Accords, the states wishing to join multilateral organizations in Europe, such as the Council of Europe or the OSCE, require assent and conformity to international codes of humane conduct. These codes were articulated by conventional law: humane treatment of its population, gender sensitivity, minority sensitivity — a wide array of additional hallmarks. In essence, adherence to democratic norms, including freely elected assemblies, are becaming post-Helsinki hallmarks of *de jure* recognition of a state. In effect, a state has a duty to conform to international standards of democratic conduct in order to enjoy the fruits of membership in the democratic family of states. Time does not allow me to expand on this rather dramatic shift in international law. Yet, there has been a clear, unmistakable customary practice as well as the conventionally inspired practice in international law developing that state sovereignty should not be legally recognized unless they demonstrate their interest and conduct in conforming to these international and legally recognized norms in the treatment of their proposed "citizens" or their existing "citizenry." For example, membership in the European Union carries a precise set of preconditions. This, in summary, is the nature of the debate about Cuba and the future vitality of the Organization of American States — adherence to international democratic norms in human rights for membership in international organizations, and thus acceptance of the international family of states.

Honourable senators, when it comes to the question of war, "just war," it is clear that international law constrains the freedom of states to resort to war. As mentioned earlier, it was Catholic theologians and canon lawyers who created the doctrine flowing from St. Augustine, St.Thomas and Ignatius Loyola that war could be "just" under certain conditions. Canon lawyers transferred this doctrine from the ethical to the legal realm.

The rationale for "just cause" has not changed in centuries. "Just cause" for a "just war" could be argued for three distinct and different reasons. It was for self-defence, recovery of stolen property, or the punishment of wrongful acts committed by a state. The ultimate and "lawful" sanction to uphold law was "just war, in a just cause." Obviously this doctrine had difficulties. It required a determination, a judgment on the facts, of which side was "just."

• (1830)

Evidence had to be provided that the rule of law was the rationale whenever a society, a state, or a society of states collectively organized to resort to war as a sanction in the name of a "just cause." "Just cause" required evidentiary demonstration. Grotius, we were told, could not overcome his scepticism with the rationale for "just wars." Hence, he lamely concluded that the reliance on the "conscience' of the enforcing states was the basis of the international rule of law — a rather pale, a rather weak rationale at that.

As Brierly fairly pointed out:

> The attempt to distinguish between "legal" and "illegal" always had a sense of unreality.

In effect, the sanctioning nations are obliged to make a legal case for "just cause" for war. Each case must be measured by the facts, filtered by customary and conventional international law.

While the legal basis for resorting to war always presents difficulties, once war breaks out, both sides have the same rights and duties to limit their freedom of action against unarmed citizens, the wounded, soldiers or neutrals. So let us turn to the NATO action more closely for a moment.

There are two arguments against NATO's action. First, the UN did not sanction the NATO action by Security Council resolution. Second, NATO may have exceeded its own Charter as an alliance created purely as a defensive alliance. Proponents of this position argue that that was an action beyond the borders of any NATO member state. This forceful intervention went beyond the boundaries of a NATO state and addressed the internal conduct of an adjacent state and hence inimical to the doctrine of state sovereignty and NATO's charter.

As to the sanctioned party, the Federal Republic of Yugoslavia's repeated and serious breaches of international law have not been questioned, nor contested, nor satisfactorily argued. About this, there can be no serious question.

I remind honourable senators that even the Federal Republic of Yugoslavia assented to certain UN resolutions which they failed to maintain. Let me enumerate a few of the breaches of customary and conventional international law made by the Federal Republic of Yugoslavia under the Milosevic government. The list is long, but I want to put it on the record. I will quote the various conventions that they have breached: the United Nations

Charter, 1945; the UN Declaration of Human Rights, 1948; the UN Convention on the Prevention and Punishment of the Crime of Genocide, 1951; the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1953; the UN Covenant on Charter and Political Rights, 1966; the UN International Covenant on the Elimination of All Forms of Racial Discrimination, 1969; the Helsinki Agreement, 1975; the Convention of the Elimination of All Forms of Discrimination Against Women, 1979; the United Nations Declaration on the Rights of Peoples to Peace, 1984; the Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, 1984; Conference on Security and Cooperation in Europe, 1989.

Honourable senators, I turn as well to the UN resolutions breached by the Federal Republic of Yugoslavia. I will just give you the date line. It is very short and it is encapsulated in the second recital of Resolution 1244 (1999), which Senator Kinsella tabled in the Senate on June 10, and which was debated on that day. That UN resolution was adopted by the Security Council and gave explicit sanction to the peace mission in Kosovo. I refer to the second recital:

> *Recalling* its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999...

That is not an exhaustive list, honourable senators. There is also at the OSCE and the Council of Europe and other regional international organizations similar resolutions condemning the actions of the Federal Republic of Yugoslavia with respect to Kosovo.

For a more definite legal support for my contention, I refer to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide that was passed in 1951. The Federal Republic of Yugoslavia was a signatory to that convention. Even if it were not, that convention is clearly universally accepted as principles of international law.

Article I states:

> The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

I emphasize the words "to prevent and to punish."

Article II states:

> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:
>
> *a*. Killing members of the group;
>
> *b*. Causing serious bodily or mental harm to members the group;
>
> *c*. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...

Honourable senators, clearly all of these breaches of the Genocide Convention were apparent and repeatedly demonstrable in Kosovo.

Honourable senators, I turn now to the outstanding legal scholar, H. Lauterpacht who, in 1955, revised an earlier treatise by L. Oppenheim, written in 1912, called "International Law: A Treatise." Lauterpacht's 1995 "Revision of Oppenheim" forms a standard text in international law. Lauterpacht's article states, in part:

> How is it then that although individuals are not normally subjects of the Law of Nations, they have certain rights and duties and conformities with international law.

That recognized scholar and authority makes the point that, at that time, it was not generally accepted that individuals, as opposed to states, were entitled to protection. States dealt with the states; states did not deal with the individuals. This change of heart is the foundation of many human rights provisions. Lauterpacht:

> It is probable that the Charter of the United Nations, with its repeated recognition of "human rights and fundamental freedoms," has inaugurated a new and decisive departure with regard to this abiding problem of law and government. In some instances — as, for example, in the European Convention on Human Rights — that development has assumed the complexion of explicit rules legally binding upon States.

Honourable senators, if one looks at the conventional international law, let alone the customary international law, it is clear that, in Kosovo, all international organizations came to their individual and collective conclusions. Collectively, international organizations passed resolutions, delineating explicit breaches of conventions, treaties, resolutions and customary international law.

To say, however, that the United Nations is the exclusive arbiter of international action, and that only it can legitimize force even in aid of its own mandate, beggars the legitimacy of International Law.

One obvious example, as I pointed out last week, was the Sebrenica "safe haven" issue proclaimed by the UN, which led thousands of innocent citizens to believe that they were protected by international law under the United Nations' banner. They paid with their lives for that belief. The UN failed to enforce its own safe havens. The UN was derelict in its their duty to protect innocent lives under its own charter, specifically with respect to specific resolutions passed by the UN Security Council and breaches of the UN charter.

The UN failed to uphold compliance of its own repeated and "just" resolutions. Further, it failed to defended safe havens on the ground. This failure led directly to subsequent actions by the Federal Republic of Yugoslavia in its ethnic cleansing policies in Kosovo. Under international law, nothing prevents collective action from being taken by sovereign states to enforce UN sanctions and conventions. Clear, unquestioned, unambiguous, egregious, demonstrably serious breaches of international law are at hand. Democratic states have an entitlement under customary law and are not prevented under conventional law from upholding those particular principles of international law.

In my view, there is no prohibition in international law to this effect. It would be prudential for states resorting to force to seek UN sanction, which indeed they tried to do. The UN, as we know, was paralyzed by threatened vetoes of Russia and China, who had no political or even strategic interest in allowing a forceful support of UN sanctions.

• (1840)

Yes, it would be prudent for states resorting to force to seek UN sanction. It would be prudent either as a condition precedent or a condition subsequent.

Senator Kinsella pointed out that perhaps this question may be *functus* because if one looks at UN Resolution 1244, it rather explicitly ratifies *ex post facto* NATO's actions in Kosovo. However, that is not the question before this chamber. The question is: Was NATO action illegal at the time? Prudentially it is better, obviously, for the international rule of law for UN sanctions to be adopted and to be deployed for the use of force. It is a question of prudence as opposed to a question of requirement, and a question of credibility as opposed to a question of international law.

As to NATO exceeding its own Charter, again there is a question of prudence as opposed to legality. Nineteen nations, each member state of NATO who are masters of the NATO Charter, unanimously concur that the NATO Charter and its members were threatened by the Milosevic government's actions in Kosovo. Hungary, Italy and other adjacent states had been threatened with inundation by a huge movement of refugees. It is estimated — and these numbers are not exact — that somewhere between 1 million and 2 million people are on the move within and without Yugoslavia as a result of "ethnic cleansing."

It is true that Milosevic's government does not hold sole responsibility for ethnic cleansing, but clearly in Kosovo he and his government take responsibility. Nineteen democratic states unanimously decided to defend, as Chancellor Schroeder of Germany put it, "the front yard of NATO." There was and is a real and legitimate treat to the stability of NATO's borders if the actions of the Serbian government had gone unchecked.

Honourable senators, the proponents of the illegality of the NATO action failed to take into account the facts. They failed to take into account customary law, the conventional law and the precedents. Time does not allow me to explore the precedents in full. I would hope, perhaps, to respond during the debate.

Let me conclude by saying that the vital interests of democratic states, all states, lie in the recognition and defence of the humane treatment of individuals, allowing them to freely choose their course within a civil society according to the norms of international law. This is the one paramount principle underlying the legitimacy of any state. NATO came to the aid of international law itself when it was degraded and abused by egregious conduct. Honourable senators, international law was rescued by international law.

On motion of Senator Roche, debate adjourned.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF THE DELEGATION ON THE SECOND PART OF THE 1999 SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE—INQUIRY

Hon. Lorna Milne rose pursuant to notice of June 8, 1999:

> That she will call the attention of the Senate to the report of the Canada-Europe Parliamentary Association Delegation to the Second Part of the 1999 Session of the Parliamentary Assembly of the Council of Europe, held from April 26 to 30, 1999, in Strasbourg, France.

She said: Honourable senators, I rise today to discuss briefly my trip in April to Strasbourg, France, where I attended the Second Session of the Council of Europe Parliamentary Assembly.

We were a delegation of seven parliamentarians, led by Aileen Carroll and consisting of myself, Senator Grimard, Raymonde Folco, Louise Hardy, Francine Lalonde and Gary Lunn. We were joined in Strasbourg by Mr. John Noble, Canada's Ambassador to Switzerland and Liechtenstein and Canada's Permanent Observer to the Council of Europe's Committee of Ministers.

As official observers, the Canadian delegation participated fully in all aspects of this session. This included participation in political groups and committees. The delegation also intervened in three separate plenary debates. Ms Carroll's lead intervention on Kosovo, in particular, and Ms Hardy's moving speech about problems connected to the return of refugees to Croatia were well received by the assembly.

The Committee on Legal Affairs and Human Rights held four meetings during the week. The major items discussed were the judicial authority of the Council of Europe, a draft report by Lopez-Henares on terrorism within the European democracies, and a draft report on the International Criminal Court. The committee also discussed the possibility of setting up an ad hoc committee on the rights of national minorities and started to examine a draft report entitled "Additional Protocol to the Convention on Human Rights and Biomedicine and the Transplantation of Human Organs."

This committee also thoroughly considered a draft report of the situation of the refugees and displaced persons returning to Croatia. A delegate from the Netherlands, Hanneke Gelderblom-Lankhout, gave a very disturbing account of the current situation facing the refugees who are returning to their homes there. The report was adopted and was reported to the full Parliament. This debate was of particular interest to me, as much of the Council of Europe's session which I attended last September was centred on the then impending crisis in Kosovo.

Most of the debate and corridor discussion during this session again centred around the dreadful situation in Kosovo and the plight of the refugees and displaced persons. It is so vitally important, now that a peace agreement has officially come, that we look beyond the type of settlement dictated by the Dayton Accord and learn from its mistakes. It is to be hoped that some day Kosovo will again be a fairly peaceful, multicultural area, as it was before Milosevic started deliberately raising ethnic and religious hatreds for his own political gain. I am afraid, though, that it will take a long time for the hatred that has been aroused to die down. Now NATO and the United Nations, as we have seen in the papers yesterday and today, are a subject of hatred there.

I wish to make it quite clear that one of the most enlightening parts of a trip such as this is to discover just how much Canada is respected and listened to on the international scene. This was the second time that I had been to Strasbourg, and it was much easier to gain opportunities to speak and to make an impression. The other delegates begin to recognize you as a Canadian, and to invite your input into reports coming out of the different committees and your participation in the debates.

Honourable senators, I believe that the Council of Europe, widely regarded as the conscience of Europe, is a valuable and influential forum for debate and, eventually, for real action by the governments of Europe.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, this inquiry will be considered debated.

[*Translation*]

REVIEW ON ANTI-DRUG POLICY

MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE— DEBATE ADJOURNED

Hon. Pierre Claude Nolin, pursuant to notice given June 2, 1999, moved:

> That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specifics needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs is more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for of an anti-drug strategy developed by and for Canadians under which all levels of government to work closely together to reduce the harm associated with the use of illegal drugs.
>
> That, without being limited in its mandate by the following, the Committee be authorized to:
>
> - review the federal government's policy to reduce the use of illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
> - develop a national harm reduction policy in order to lessen the negative impact of illegal drug use in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;
> - study harm reduction models adopted by other countries (treatment programs and parallel programs aimed at illegal drug users) and determine if there is a need to implement them wholly or partially in Canada;
> - examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights in order to determine whether these conventions authorize it to take action other than laying criminal charges;
> - explore the effects of cannabis on health and examine the issue of whether decriminalizing cannabis would lead to increased use and abuse in the short and long term.
> - examine the possibility of the government using its regulatory power under the Contraventions Act as an additional means of implementing a harm reduction policy, as is commonly done in certain European countries;
> - examine any other issue respecting Canada's anti-drug policy that the committee considers appropriate to the completion of its mandate.
>
> That the special committee be composed of eight Senators and that four members constitute a quorum;
>
> That the committee have the power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence from day to day as may be ordered by the committee;
>
> That the briefs received and testimony heard during consideration of Bill C-8, respecting the control of certain drugs, their precursors and other substances, by the Standing Senate Committee on Legal and Constitutional Affairs during the second session of the Thirty-fifth Parliament be referred to the committee;

That the committee have the power to engage the services of such counsel (researchers, lawyers, medical specialists, addiction workers, and so on) and technical, information technology, clerical and other personnel as may be necessary for the purposes of its examination;

That the committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee be empowered to adjourn from place to place within and outside Canada;

That the committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95 (2) of Senate rules;

That the committee submit its final report not later than two years from the date of it being constituted; and

That the committee be empowered to continue to exist after the date on which it is to conclude its work in order to inform members of the Senate and the House of Commons, the Canadian public and any other person or association interested in its work, to disseminate the Committee's conclusions and recommendations by means of press releases, press conferences, information sessions or any other activity members of the committee deem appropriate at a particular time.

He said: Honourable senators, before beginning debate on my motion, I would like to introduce an amendment.

On June 2, 1999, after my motion was tabled, I was informed that this motion would have to be amended by deleting paragraphs 6 and 8 to conform to the *Rules of the Senate*.

• (1850)

I understand that His Honour may, with leave, amend the text of motions. I am referring to the paragraphs that read as follows:

That the committee have the power to engage the services of such counsel (researchers, lawyers, medical specialists, addiction workers, and so on) and technical, information technology, clerical and other personnel as may be necessary for the purposes of its examination;

And paragraph 8, which reads as follows:

That the committee be empowered to adjourn from place to place within and outside Canada.

I move this motion in amendment because I got a little ahead of myself. In a later debate, I will bring forward a proposal concerning these two paragraphs to the Standing Committee on Internal Economy.

The Hon. the Speaker: Honourable senators, Senator Nolin is asking for leave to delete part of his motion: the two paragraphs he just read. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, I am asking for leave to speak for more than my allotted 15 minutes.

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

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, I move that this motion, as amended, be adopted.

The Hon. the Speaker: The Honourable Senator Nolin, seconded by the Honourable Senator LeBreton, moved that the motion, as amended, be adopted. Do you agree to dispense with actually reading the motion?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, on June 19, 1996 — for the benefit of those of you who were not here at the time, and that is why my introduction refers to a debate held three years ago — during the Second Session of the Thirty-third Parliament, during the final debate at third reading in the Senate of Bill C-8, respecting the control of certain drugs.

I was strongly critical of the refusal by all previous governments, not just the government that introduced this measure, to consider a serious study of Canada's anti-drug laws.

At the time, I maintained that this was almost a deliberate unwillingness to see. I am speaking not just about honourable senators, but also about members of the other place. In my view, this attitude has meant that successive governments of all stripes have viewed drug use in Canada as a criminal rather than a public health matter. My view of this has not changed.

Worldwide, the illegal drug industry generates annual sales of $400 billion U.S. This money feeds organized crime, corrupts governments in many countries, contributes to violence, and encourages parallel economic development.

In many areas of the world, the fight against drugs leads indirectly to the spread of infections such as HIV, human rights violations, environmental damage, and the mass incarceration of persons charged with possession.

As you will read in the document you received, or will receive shortly — it is a briefing paper to provide additional information to those wishing to take part in the debate — an increasing number of countries have given up the fight against drugs because of the negative impact. However, in 1996, Canada passed prohibitionist legislation with criminal provisions that seem to fly in the face of Canadian and international human rights charters.

Let us look initially at the situation in Canada. The indirect effects and costs of drugs far exceed the direct ones. They bear little relationship to the level of consumption, and result not from the drugs themselves, but from punitive laws and political policies. The effects are felt primarily by the populations at risk, such as native peoples, young street people, people living in poor neighbourhoods and intravenous drug users.

Allow me, honourable senators, to elaborate on each of these four groups of individuals, of Canadians at risk.

Among native people, alcoholism and drug abuse are rampant. Depending on the location involved, between 65 per cent and 80 per cent of residents are affected by these problems. The principal cause of deaths among the Amerindian and Inuit populations are wounds and poisoning. The violent death rate is three to four times higher than in the general population. The number of deaths in which alcohol or drugs play a determining role is five times greater among native people than it is among non-native people. Two thirds of the native population dying an unnatural death have alcohol in their blood, compared with 45 per cent of the non-native population.

Here are two facts. First, the rate of suicide among native children in Saskatchewan is 27.5 per cent higher than among other Canadian children. Second, young natives are between two and six times more likely to have an alcohol problem than their counterparts in the rest of the population. These two facts, honourable senators, may perhaps explain the despair of their survivors.

A second group at risk is that of street children. They are also affected by the use of illicit drugs. A number of adolescents leave home to avoid physical, psychological or sexual violence or negligence on the part of their parents. Once on the street, they take risks, which include the use of illicit drugs and needle sharing.

A national study in 1989 revealed that one street child in four used marijuana daily, 4 per cent use cocaine and 4 per cent LSD. In a recent study, nearly ten years later, half the street children in Montreal were found to use intravenous drugs and are hard hit by suicide and overdose. The chance of their dying is 12 times greater than that of their peers.

A third high-risk group is people living in poor neighbourhoods. In large Canadian urban centres, these people also suffer the consequences related to the use of illicit drugs. For example, in Vancouver, a state of medical emergency resulted from a rapid increase in the number of HIV cases among users of injectable drugs, more specifically in Vancouver East, where the prevalence rate of such cases went from 20 per cent in 1997 to 35 per cent in 1998, that is in less than one year. This is unfortunately a world record.

• (1900)

Vancouver also has the largest number of deaths by overdose in Canada, with over 300 in 1998 and more than 2,000 since 1991. These rates of infection and drug addiction are related to poverty and social disruptions in downtown Vancouver.

The use of injectable drugs poses a direct risk of infection with HIV and other viruses such as hepatitis, through the sharing of contaminated syringes. The absorption of drugs through techniques other than injections poses an indirect risk, to the extent that it may lead to unprotected sexual relations and to the consumption of injectable drugs. The incidence rate, which is the rate of new HIV cases, is very high in certain Canadian cities. It is 10 per cent in Vancouver, the highest in the Western World, and 7 per cent in Montreal and in Ottawa. It is even higher in certain regions of the country, including among aboriginals. The World Health Organization estimates that there is a risk of a general epidemic when the infection rate among injectable drug users reaches 10 per cent in a given region.

The situation is so serious in Vancouver that a motion was brought forward at the end of 1998 by Libby Davies, the NDP member for Vancouver East, after the state of health emergency to which I referred earlier was declared in her riding. Her motion called on the federal government to cooperate with the provinces in order to implement clinical, multi-centre heroin prescription trials for injection to opiate users, including protocols for rigorous scientific assessment and evaluation, as is already being done to varying degrees in Switzerland, in the United Kingdom and in certain German and Australian cities. There will soon be such a program in place in Spain as well.

Honourable senators, let us look now at the application costs of Canada's drug policy. This war against drugs does not only have negative consequences on the lives of thousands of Canadians. Drug abuse also involves considerable costs to our society. The use of illicit drugs was responsible for the death of 732 Canadians in 1992, which represents 0.4 per cent of Canada's total mortality rate for that year. Forty-two per cent of those committed suicide, 14 per cent died from opiate poisoning, 9 per cent died from cocaine poisoning, and 8 per cent died from AIDS contracted through intravenous injection. In that same year, 1992, the use of illicit drugs was responsible for 7,100 cases of hospitalization and 58,000 days of hospitalization, half of which were the result of a psychosis caused by an assault or by cocaine abuse.

Let us turn to the economic cost for Canada. All in all, drug abuse cost Canadians more than $18.4 billion in 1992, that is $649 per capita or 2.7 per cent of Canada's gross domestic product. The economic cost of the drugs themselves is estimated at $1.37 billion, or $48 per capita. These estimates include $823 million in loss of productivity due to morbidity and premature deaths, $400 million in drug enforcement and $88 million in direct health costs.

It is important to point out that, although drug use is involved in many crimes, its role is not clear. Users get their supply from a lucrative and violent market where crime is ever present. The use of illegal drugs contributes to the rise of crime and therefore to law enforcement costs. It is one of the motivators of crimes against property and violent crimes perpetrated to ensure control over a territory, like what we have seen recently in Quebec, with the biker wars in Montreal and Quebec City.

Canada has had three opportunities to put an end to some of the individual and collective consequences of trafficking and use of illegal drugs that I have just mentioned.

First, in 1969, the Le Dain commission held serious consultations on the negative impact of the Canadian drug policy at that time. Since the commission focused mainly on the non-medical use of drugs, it concluded that hundreds of thousands of Canadians found guilty of prohibited drug possession saw their personal freedom restrained for the rest of their life because of a criminal record.

The commission also concluded that the huge police resources used to fight prohibited drug trafficking and consumption were mainly aimed at young people. Under the circumstances, the Le Dain commission recommended that sanctions against drug users be gradually eliminated, that the use of marijuana be decriminalized and that control methods other than criminal justice sanctions be used.

That was almost 30 years ago. However, former commission chairman Gérald Le Dain is still convinced that its recommendations are as valid today as they were in 1971, even though at that time there was no legislative follow-up of any kind on its recommendations. According to this former dean of the prestigious Osgoode Hall Law School at the University of Toronto and former Justice of the Supreme Court of Canada, politicians are the only ones to blame for not having taken initiatives on this issue at the beginning of the 1970s. In 1998, in an interview with *The Edmonton Sun*, Mr. Le Dain said, and I quote:

[*English*]

> It was a hot potato for all the parties and they didn't want to run any risk. The position adopted by the politicians was to do nothing. We saw at the hearings the public was worried about their kids. The public saw those current laws as a tremendous injustice.

[*Translation*]

A bill to decriminalize the possession of cannabis, Bill S-19, was rejected in 1975. During the 1970s, the number of convictions for possession of cannabis grew from less than 1,000 to over 40,000 a year.

Second, in 1978-79, a Health Canada report, kept secret up till the end of last year, recommended that the federal government decriminalize the use of marijuana. This report, as you can imagine, was shelved by the department.

With the advent, in the 1990s, of new legislation on narcotics, we could have dealt with some of the problems left by previous legislation and benefited from other countries' experience. However, the new Controlled Drugs and Substances Act was fundamentally prohibitionist and, far from dealing openly with the drugs issue, it reinforced prohibition.

The problems arising out of the criminalization of drug users, out of its economic and social costs and out of the non-decreasing supply have still not been dealt with. Therefore, both human and financial costs resulting from illicit drug use remain needlessly high, whereas the costs created by the criminalization of illicit drugs use keep increasing in a regular, foreseeable but avoidable way.

With regard to my motion of June 2, you will agree, honourable senators, particularly when reading the document handed out to you, that this situation is intolerable.

• (1910)

It cannot go on like this indefinitely. For this reason, on June 2, I brought forward in this house a motion requesting that a special committee of the Senate be struck to reassess Canada's anti-drug legislation and policies. This committee will carry out a broad consultation of the Canadian public to determine the specifics needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more prevalent. It will also develop proposals to disseminate information about Canada's anti-drug policy and, finally, it will make recommendations for an anti-drug strategy to be implemented Canada-wide, a strategy under which all levels of government will work closely together to reduce the harm associated with the use of illegal drugs.

I would now like to say a few words about the report of the Senate Committee on Legal and Constitutional Affairs on Bill C-8 that I just mentioned. On June 13, 1996, the chair of the Standing Senate Committee on Legal and Constitutional Affairs, the Honourable Sharon Carstairs, tabled the committee's report on Bill C-8, respecting the control of certain drugs and other substances. In that report, the committee members, including myself, recommended some amendments to Bill C-8. Thank God, and this shows how much of a problem we had, we succeeded in allowing the growing of hemp for commercial purposes in Canada. After an extensive debate in the House of Commons and in the Senate, we finally understood that we were quite stupid to continue to prohibit this substance, which has nothing to do with the Indian hemp referred to when we talk about marijuana. This shows that many prejudices and myths I will now refer to existed back then, prejudices and myths that, I hope, do not exist anymore.

After a review that lasted over three months, the committee report proposed several amendments to Bill C-8, but mostly stressed that to carry out a proper study of the principles and provisions contained in the bill it was necessary to complete the inadequate technical, moral and sociological information provided by officials from the health and justice departments, and other agencies involved in the development of Canada's narcotics control policy.

In order to fill this gap, the committee proposed to set up a joint committee of the House of Commons and the Senate to scrutinize every national drug act, policy and program. The first part of my motion is a carbon copy of the committee's recommendations regarding the mandate of such a committee.

As you know, since we tabled our report, no committee of this kind has been put in place to answer senators' legitimate concerns. The Canadian population also needs complete and non-partisan information on this complex issue. And yet, the situation in this matter keeps on changing.

Let us look at the change in the situation in the area of illicit drugs. In the past three years, a number of clinical studies have been done in order to scientifically measure the physical and psychological effects of using cannabis and of methadone substitution treatments. For the first in its history, the Quebec College of Physicians officially spoke out in March in favour of the use of methadone to reduce the risks of infection and the spread of AIDS and hepatitis among intravenous drug users.

On March 17, 11 experts from the prestigious National Academy of Science Institute of Medicine in United States published the results of a study commissioned by the White House director of drug control policy. The report concluded that there was definite potential for the use of marijuana for medical purposes. In November 1998, seven American states organized referendums during mid-term elections in order to seek public approval for measures to relax extremely strict regulations on the use of cannabis in the treatment of patients. Six states, with the exception of the District of Columbia, approved the proposed measures.

On April 21, the Canadian Association of Chiefs of Police recommended to the federal government that possession of small quantities of drugs, including heroin, be decriminalized but not legalized. The most encouraging aspect of the position taken by the association is that it recommends the people of Canada and the federal government take an approach that would treat all matters pertaining to the consumption of drugs as a public health matter.

That was being said three years ago. We were saying exactly this three years ago. Finally, little by little, things are moving forward. It would be vital therefore according to the association that a Canadian drug control policy be developed that would lead to the development of treatment for the real problem created by the consumption of drugs both for society and for drug users. Such a policy would incorporate a damage reduction strategy in an effort to avoid worsening the problem by trying to ease it. According to the heads of the association, the justice system and punishment are not the only solution to the problem of the consumption of illegal drugs, and the resources allocated would be better used in the fight against drug trafficking and organized crime. This position was supported by the RCMP.

In recent years, a number of court rulings concerning the right to use cannabis for medical purposes have tested Canada's drug control policy. You are undoubtedly aware of the case of Jim Wakeford, a Toronto resident with AIDS who uses marijuana to quell his nausea. Until very recently, he was trying to get Health Canada to exempt him from the provisions of the Controlled Drugs and Substances Act that make it a crime to possess marijuana. On May 11, the Supreme Court of Ontario ruled that Mr. Wakeford was constitutionally exempt from the provisions of the legislation and thus permitted to grow and smoke marijuana for medical purposes.

Similarly, in 1997, Judge Patrick Sheppard acquitted Terry Parker, an epileptic who used cannabis for therapeutic reasons, of charges of possessing and growing the drug. He had been found guilty of trafficking and sentenced to one year on probation. In his ruling, Judge Sheppard said that the Narcotic Control Act and the Controlled Drugs and Substances Act were too broad, that they were unconstitutional, and that they violated the Canadian Charter of Rights and Freedoms.

In addition to challenging the law and the right to possess marijuana, all these rulings are also, and above all, aimed at introducing into the debate an element of compassion and respect for the right of the individual.

I would like to say a few words about the motion moved by Bloc Québécois member Bernard Bigras. This motion was recently introduced and voted on in the other place. Naturally, it captured the interest of parliamentarians. Mr. Bigras, the Bloc Québécois member for Rosemont, called on the federal government to undertake all necessary steps to legalize the use of marijuana for health and medical purposes. The motion had the support of a number of associations, including the Fédération de l'âge d'or du Québec, and the Compassion Club of Toronto, which supplies marijuana to those with serious and painful illnesses. It was passed by the House of Commons on May 25. In response to the results of the vote, the Minister of Health, the Honourable Allan Rock, announced that the federal government would move quickly to begin clinical testing of the health benefits of marijuana, which may result in the use of cannabis by those with AIDS, cancer, epilepsy or multiple sclerosis being decriminalized within a few years. I think that we should congratulate the minister on his action.

How do Canadians perceive the use of illegal drugs? On the other hand, despite these recent developments in the use of narcotics, the public's attitude and perception have not, generally speaking, really changed. Prejudices against those who take narcotics remain extremely strong. They are not new. They go back to 1908 when the Canadian Parliament passed the Opium Act. The new Opium and Narcotic Drug Act of 1911 dealt with opiate type drugs and cocaine, and marijuana was added to it in 1923. Since then, prohibition of narcotics and international regulations established by the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances have increased prejudices even more against users of illicit drugs.

Who, among us, has not heard that those individuals are criminals who steal in order to buy drugs, that they are social drop-outs who should be put behind bars? Some people are even shocked by the needle exchange and bleach distribution programs in prisons. Even though the goal of these programs is to control the spread of AIDS and hepatitis among inmates, which have reached an alarming level in correctional institutions, a significant part of our society refuses to admit that drug consumption is a health problem. Such an attitude can be explained in part by the fact that our governments, whatever the level, fail to provide objective information on the true effects of drug consumption on individuals and on society as a whole.

Surprisingly, our leaders, who stoutly defend their repressive policies against drug users by in seminars and information brochures, are unable to explain why those policies do not give concrete results. Those who, in the past, have dared to advocate a different, less conventional approach to those issues have seen their credibility questioned.

It is true that, in the absence of scientific evidence, most people go along with these prejudices. These prejudices are being reinforced daily by the legislation, the courts, police action, and the media. However, these entrenched prejudices did not prevent economists, physicians, lawyers, and political scientists from studying the harmful consequences of drug use and of the fight against drugs.

They have seriously questioned a number of our society's preconceived ideas on this issue. Each year, new detailed studies are being added to the literature on the subject. A wide consensus is emerging on the need to review our anti-drug policy. In the future, research studies could be convincing enough to eradicate myths and prejudices in our political elite, interest groups and our whole society concerning the benefits of this fight against drugs. Marijuana is a good example.

In that sense, we are experiencing a change in attitudes toward the drug control policies and their impact. Lots of things have changed over the years, even if we do not have all the information available to make a good assessment of the situation. Canadians are beginning to realize that the hefty sums being invested in the fight against drug use and trafficking are not yielding the expected results. There is a need for more information on the negative impact of drug use, on experiments being tried in other countries in this area, and on cheaper alternatives to reintegrate into mainstream society a segment of our population that is marginalized at this time.

Given these facts, and in order to promote healthy debate on this whole issue, I asked Diane Riley, in September last year, to make a comprehensive examination of Canadian drug control policy. I can assure you that Ms Riley is one the leading Canadian experts in this area. She also has an excellent reputation abroad.

When I met her, I gave her the following mandate: to give an overview of the narcotic drug consumption situation in Canada, particularly among young people, the disadvantaged and the aboriginal people, and of the economic and social cost relating to it; to explain how legislation on legal and illegal drugs works in Canada; to present the terms of international conventions that Canada must follow in its own drug control policies and to ascertain if Canada directly met these terms when it amended its legislation by passing, in 1996, Bill C-8 on the use of marijuana, methadone and heroin for therapeutic uses; to study the link between drug use and respect for human rights as defined in the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights, particularly with respect to the use of narcotic drugs such as marijuana, methadone and heroin for medical purposes; to present the experiments conducted in other countries like the United Kingdom, the Netherlands, Switzerland, France, the United States, Germany and Australia, to fight drug use in their communities and develop harm reduction policies; to examine drug use in Canadian penitentiaries and verify whether prisoners have access to treatment and syringe exchange programs, in conformity with their fundamental rights; to explain thoroughly the workings of the strategy for reducing wrongdoings and list the options that Canadians have available to them to reduce the negative impact of drug use in society; and finally, to develop alternatives to improve the current drug use control system in Canada.

As you can see, the mandate that I gave to Diane Riley for the production of this document was aimed at bringing additional information on some points identified by the Standing Senate Committee on Legal and Constitutional Affairs when it examined Bill C-8.

I can say today that this comprehensive study, one of the most complete ever done for the general public, will allow members of the Senate and Canadians to better understand the real effects of drug use and its impact on our society and on the future of this country.

I should point out that besides Diane Riley's work, I asked — the Research Branch of the Library of Parliament to analyse and comment on Canada's international obligations under the main international conventions concerning control and use of narcotic drugs. International treaties included in the analysis are the International Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1998. Canada has signed these three treaties. The in-depth analysis compared the obligations enshrined in these international documents with the Canadian legislative provisions adopted accordingly, particularly those of the Controlled Drugs and Substances Act. The very surprising conclusions of that study are included in Ms Riley's document.

For example, during debate on Bill C-8, the government contended that the bill would allow Canada to meet its international obligations respecting the three treaties I just mentioned. That could therefore justify the repressive approach of Bill C-8.

The Single Convention of 1961 requires countries to impose criminal sanctions for possession. More recently, Canada signed the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which requires countries to treat the possession, buying and cultivation of narcotic drugs for personal use as criminal offences. However, that obligation is subordinated to the principles enshrined in the constitution of each country.

Therefore, the Canadian government could justify departing from the prohibition policy by stating that criminalization goes against the fundamental principle of moderation in our criminal justice system. The other obligation, that of criminalizing the personal use of drugs, only applies when possession is contrary

to the provisions of the 1961 convention. In short, these conventions explicitly provide for exceptions to prohibition. They also allow signatory countries to have them amended or to terminate them. On the basis of certain particular considerations, Canada could use one of these two options to review its drug policies.

I refer you today to the document prepared by Ms Riley to support my remarks in the Senate and to provide you with a complete tool that will better prepare you to take part in the debate on these issues. I hope it helps you analyse the drug control policy from a different point of view.

We must stop using repression and criminalization to deal with our society's problems stemming from drug use. This approach can only make the unbearable situation of drug users even worse. Instead of increasing their chances of becoming contributing citizens, our current policies often have the effect of further marginalizing them. An example of that is the failure of the repressive strategy in the United States. In 1996, our powerful neighbour spent $16 billion in its war against narcotics. What were the results? More than 90 per cent of narcotics produced abroad and destined for the U.S. market escape detection by U.S. customs officers. Drugs are everywhere, including in the schools; they destroy the lives of thousands of individuals and undermine the social cohesion of large urban centres.

Fortunately, the situation is not that serious yet in Canada. However, with passage of Bill C-8, our policy is increasingly similar to the policy of our neighbours to the south.

The time has come to redefine our outlook on the problems caused by drug use and its effects on the health of individuals. We must change our frame of reference and understand that we will not eliminate drug use by throwing drug addicts into prison. The billions of dollars involved in the criminalization process would be better spent on fighting drug dealers and organized crime. From now on, when we develop drug control policies, we must consider the problem as a public health issue, just as we do for tobacco and alcohol abuse. These policies must, as much as possible, be based on respect for the rights and freedoms of each of our fellow citizens.

On this very sensitive issue, Canada is now at a crossroad — just ask the Minister of Health, he knows. On the one hand, we can choose to keep on using the punitive approach described in Bill C-8. In that case, we give up defending the rights of individuals suffering from serious illnesses who use cannabis to ease their pain. We also give up the fight for the rehabilitation of drug addicts and the protection of our social environment. On the other hand, we can admit that we made a mistake — not only us but a lot of parliaments also made mistakes — when we evaluated this serious social problem, and that we are doing everything possible to find alternative solutions to punitive measures.

The committee I am proposing will give us the opportunity to hear from lawyers and physicians as well as from experts used to working with drug addicts. We will be able to listen to what Canadians have to say on this issue and rely on their suggestions in order to recommend changes to Canadian drug control policies so that they truly reflect our social values based on human rights, compassion, mutual aid and dialogue.

I want to conclude by quoting Milton Friedman, winner of the Nobel Economy Prize. In a letter to the director of drug control policies in the White House, Mr. Friedman stated:

[*English*]

> The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish. Drugs are a tragedy for addicts. But criminalizing their use that converts tragedy into a disaster for society, for user and non-user alike. Our experience of the prohibition of drugs is a replay of our experience with the prohibition of alcoholic beverages. Postponing decriminalization will only make matters worse, and make the problem appear even more intractable.

[*Translation*]

I wish you all a good reading of this document. I hope it will give you food for thought and urge you to directly take part in the debate I have launched.

Hon. Marcel Prud'homme: Honourable senators, I must say that I am a little puzzled by the speech of my good friend. There is so much truth in what he has said. On this issue, I am utterly conservative.

[*English*]

On this issue, I wish to be sure that we are doing the right thing, because I have seen too much. It is all very well for some of you who live in high-class surroundings where you have no daily contact with the people who are more affected. However, I live in a place such as that, where my sister must pass the broom every morning in back of my own bedroom in order to clean up the syringes. I am careful. However, I am not afraid to study. There is no doubt.

[*Translation*]

I believe that the committee should be struck. If I am convinced, I will become one of your best supporters. With all these people you are thinking of summoning, with all the reactions this could cause, could you consider reviewing the immediate political reactions to any liberalization in Canada, in terms of our contacts with the United States and of our common borders? Would they let people from our country in or vice-versa? That is one of the many concerns I have. I believe in this study, but one must be very conservative and very cautious.

All is not black and white, but with respect to the underlying issue, we could use this as a starting point.

Senator Nolin: Let me first say that I deliberately avoided this particular mandate. When the Opium Act was enacted in 1908, we were reacting to what was going on in the United States. We always reacted to what the Americans did.

During the Second World War, commercial cultivation of hemp — that is now allowed in Canada — which was prohibited up to that time, was authorised for strategic reasons. It was immediately prohibited once again after the war, because the Americans were convinced that it should not be pursued.

I deliberately chose not to include a review of U.S. policies in the mandate. I can assure you that when I talk about policy review, that includes the way we react to U.S. policies and the way they react to ours.

I wanted to make a more polite reference in the mandate that I will ask you to approve and, in due course, we will look at international laws that concern it. I will not hide the fact that our American neighbours have a lot of influence when it comes to formulating international treaties, especially those on drugs.

The answer to your question is yes. It is a cornerstone of the examination we will undertake. I am not trying to convince Canadians that we are right, that they know nothing or that they are wrong. We must help Canadians. We must especially help Canadian politicians look clearly at the situation of heroin users in order to see what may be done.

You mentioned the shooting galleries located near to where you live. These are not found just in Montreal, but in Ottawa, as well. We must stop putting our heads in the sand like the Americans. Yes, indeed. Are we going to force Canadians to accept what we think is good for them? No. We must do this together, and this includes our colleagues in the other House. We proposed to them that a joint committee be set up for Bill C-8, and they paid no heed. We gave them three years. Now that is over with. I have waited long enough.

I will try to convince you in the coming months that we have waited long enough. We owe this to Canadians. We will stop fooling ourselves that our prejudices are good. In Switzerland, they had the same problem we do. They began giving heroin to users in special centres, where doctors, nurses and social workers were in attendance to try and solve their problems. The problems of heroin users concern society as a whole.

The day heroin is made available to users, they stop stealing for it. Better yet, we help them find jobs. It is not too much to ask politicians and parliamentarians, who are supposed to be wise, to consider such solutions. This is the sort of thing I am inviting you to do.

Senator Prud'homme: I have a supplementary question. If I said to you that, without a thorough study of organized crime, it would be difficult for us to come up with a solution, what would you say?

Senator Nolin: There is no doubt that we are going to have to come up with a solution. And the way to do that is by going after illegal drug users. This goes hand in hand with the issue of suppliers. This is another difficult area, because there will not be many witnesses willing to tell us what is going on. As I mentioned in my notes and as Ms Riley's document points out, we are going to have to examine the financial aspect. I mentioned a few figures, but this is such a large market that, if it were to cease operating overnight throughout the world, it would be tantamount to an economic disaster.

You cannot take $400 billion out of circulation overnight without shaking up the world economy. The document addresses this. If the Senate agrees to strike a committee, we will have to examine this situation. My focus of interest is not traffickers. It is users, those who keep this illegal, underworld production line going. My interest is ultimately in those users who die. They are a danger to the Canadian social fabric. They have to supply their habit and they are prepared to do whatever it takes to achieve that end. This is the problem facing us. When Switzerland began supplying users with heroin, traffickers had to find another livelihood.

[*English*]

Hon. Jerahmiel S. Grafstein: Honourable senators, I am curious about an inherent contradiction between Senator Nolin's comments on this motion and Senator LeBreton's comments earlier today with respect to Bill C-82.

Liquor is a form of drug. Hash, marijuana and others are forms of drugs. One is somewhat regulated, another is tightly regulated and prescribed. Is there not an inherent contradiction between the proposition that Senator Nolin is putting forward and that of Senator LeBreton?

The object of Senator LeBreton's desire is for zero tolerance when it comes to conduct emanating from a drug, namely, alcohol. On the other hand, Senator Nolin is moving exactly in the opposite direction by saying, "I do not want to get into zero tolerance, I want to go in the other direction. I want to examine the cause, rather than the effect, of drugs."

I raise that as a philosophic point. There seems to be an inherent contradiction between the two senators who sit beside each other.

Senator Nolin: Honourable senators, Senator LeBreton is not trying to prohibit the use of alcohol. She wishes to prohibit the use of alcohol and driving. I, too, want that. There is a difference.

My proposition is to look the subject squarely in the face. We have never done that; we have never looked at drug users face to face. These people are Canadians and have fundamental rights. We need to address this problem because their problem is our problem.

• (1950)

I beg to differ with you on that point. There is no contradiction in our positions. I am sure that the technology exists to detect when a driver is impaired by either alcohol or drugs. That is another piece of the puzzle needed to solve some problems. People are speeding while under the influence of drugs. They are jeopardizing lives, just like those who drink and drive. I believe that our positions are complementary.

We used to have prohibition on alcohol. Almost 70 years ago, the government decided that it would be lucrative to remove that prohibition. I am not suggesting that the government should do that with drugs, but it should acknowledge the problem and do something about it. It is not a problem of criminality but a public health problem. We owe that to Canadians.

I owe it to my three children to look at that problem very seriously, because they will be confronted with it. We need to study it with all of our combined wisdom. It is a grave health problem.

Senator Grafstein: I appreciate the senator's response. However, I believe that alcoholism is also a grave health problem. I have been told that alcoholism is as serious an illness as drug dependency. Therefore, some may be concerned that if we focus on zero tolerance, we will lose track of the root causes of that unhappy social conduct.

I will be very interested to hear the testimony before the committee that studies the bill which Senator LeBreton introduced, because it contains a fundamental question. I have detected a growing desire in the country to move toward zero tolerance for socially undesirable conduct. Yet, Canada probably has the highest incarceration rate in the Western World, and the problems accelerate. We have a serious conflict of social policies. I hope that your study, and the reference of Senator LeBreton's bill to the committee, will help us decide which way to go.

Senator Nolin: We already have zero tolerance in the matter of illicit drugs, but we still have a big drug problem in Canada. We are spending billions of dollars trying to cure that problem, yet we are not succeeding. Perhaps we do not understand the problem. Zero tolerance is fine if you have the proper techniques to enforce it. We already have all the penalties in the Criminal Code, but we are not curing the problem.

We need to redefine the problem. We are asking questions which other jurisdictions started to answer 25 years ago. Perhaps we should look at the answers they have found.

On motion of Senator Carstairs, for Senator Kenny, debate adjourned.

[*Translation*]

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE INFORMATION, ARTS AND ENTERTAINMENT MEDIA— DEBATE ADJOURNED

Hon. Marie-P. Poulin, pursuant to motion of June 10, 1999, moved:

> That the Senate Standing Committee on Transport and Communications be authorized to examine and report upon the information, arts and entertainment provided by the traditional and modern media to Canadians, given the changing nature of mass communications and technological innovation;
>
> That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and
>
> That the committee presents its final report no later than June 15, 2000.

[*English*]

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

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to have an explanation for this venture. I should like to know how much it will cost, and the parameters of it.

Senator Poulin: Honourable senators, since Senator Nolin spoke at length about his study, and since this study will not cost any money at this time, I did not think I would be called upon to give an explanation. However, I would be pleased to explain the theoretical framework.

As you probably know, the Standing Senate Committee on Transport and Communications has spent quite a bit of time looking at the evolution of new technology and the convergence of traditional and new media and its impact on four areas: human resources, national identify, the diversity of our culture, and the new strategic alliances in terms of commerce.

We have concluded that our country is ready to be well positioned in this technological revolution. The industry has asked the committee to study the quality, the quantity, the balance, and the objectivity of information that is now available to Canadians from coast to coast within this new convergence of technology. Over the summer, we will be developing the theoretical framework for the appropriate study.

On motion of Senator Kinsella, for Senator Forrestall, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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