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THE HONOURABLE DANIEL HAYS
SPEAKER

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THE SENATE

Wednesday, April 24, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

SITUATION IN MIDDLE EAST

Hon. Lucie Pépin: Honourable senators, we are being constantly bombarded by images of incredible violence from the Middle East. They lead us to really wonder how, despite much mediation, such a worrisome situation can have come to pass. It is all the more worrisome because the conflict is at risk of spreading further in the region, and the humanitarian, geopolitical and other impacts of such a situation are easily imagined. Acts of vandalism here and elsewhere against members of the Jewish and Arab communities, carried out against the background of the crisis between Israel and Palestine, are foreshadowings of great danger.

Both parties feel their actions are legitimate. Be that as it may, no one can be unmoved by the sight of these innocent victims who daily pay the price of a situation they neither desired nor caused.

Comments are constantly being made about the complex and sensitive nature of this situation. This is indeed the case, but excess caution can easily progress to irresponsibility.

In my opinion, the fundamental issue is not taking sides, but rather taking a position, in compliance with the rules of international law.

In the aftermath of World War II, the international community, in its desire for peace, set out principles, defined common values and set up institutions to bring about a world at peace. Our country's support for those values led us to contribute very actively within the UN to the prevention of conflicts and to the building and consolidation of peace. We have, moreover, always had a world reputation as a peace-loving country, not a warring one. We must take great care to safeguard that reputation.

We must also continue to nurture the determination to see a peaceful international environment, the very reason the UN was created. Nowadays, unfortunately, we are seeing this shared determination fade. The proof is the ho-hum attitude with which UN Security Council resolutions, especially those having to do with the Middle East, are greeted.

We must take a greater interest in these resolutions. We must also stop this pernicious and dangerous game of implementing such resolutions selectively. It is important to our credibility, as an international community, to be able to participate in the resolution of crises.

In the case of the Middle East crisis, our government must offer its good offices to get both parties to accept the idea of an interposition and response force. Canada can and must play this role. This international presence would have the merit of easing tensions and creating the conditions for a peaceful resolution, in the long term helping the belligerents to break free of this vicious cycle of violence.

The road toward peace is perhaps a long one, but it is by working together that we will be able to help the Middle East out of this terrible situation.

[*English*]

THE ESQUIMALT AND NANAIMO RAILWAY

Hon. Pat Carney: Honourable senators, on May 15, 2002, British Columbians may lose one of our greatest connections to our Canadian history: the Esquimalt and Nanaimo Railway. Vancouver Island was transformed forever from the moment the final spike of the E & N Railway was driven into the ground, in 1886, by Sir John A. Macdonald himself. The railway was an important element in the development of Vancouver Island. It provided access to the Island's forest and mineral resources, which increased employment, population growth and the expansion of towns and Island settlements.

The E & N was originally built by the coal mining Dunsmuir family, who wanted an overland route to Esquimalt for the coal to fire ships' boilers. In 1905, the Canadian Pacific Railway, the precursor of today's VIA, acquired this island railway with a "great swath of grand land," according to one account in the provincial archives.

The E & N, however, is more than romance and history for British Columbians. Many of us believe that this railway has a major role to play on Vancouver Island. Courtenay Mayor Ron Webber, who has served as mayor for 12 years and councillor for 18 years, told me that the potential loss of the E & N would derail a powerful tool for the Island's economic development, particularly tourism.

I recently rode the E & N from Victoria to its terminus at Courtenay and back. A sign on Courtenay's railway station says: "Welcome to the Comox Valley, Canada's Recreation Centre." There is skiing on Mount Washington; recreational boaters can access the world's most beautiful coast; festivals and concerts fill the summer's agenda; there are golf courses galore; and the marvellous museum at Cumberland reflects the dramatic and often tragic experience of miners, including Japanese, Chinese, Black Canadians and others, in the coal mines of the area.

People told me that, at present, the E & N runs the wrong way at the wrong time. A revitalized, properly managed railway would be of great benefit. If VIA Rail, facing declining rail traffic, cancels the sturdy little railway, maybe the corporate inheritors of those original land grants should give them back to the Island communities, which include Aboriginal and non-Aboriginal, to compensate them for the loss of the E & N rail service.

Currently, a one-month's stay of execution has been granted. I understand that the federal government has agreed, through VIA Rail, to provide enough money to keep the service going until the May 15 deadline. I do not believe this time extension meets the needs of the municipalities and organizations trying to find a workable plan for the survival of the E & N. If the federal government wants to be a part of this success story, we hope it will continue to financially assist and support a solution which ensures that the survival of the E & N, which is part of B.C.'s past and present, continues to be in our future.

CANCER AWARENESS MONTH

Hon. Yves Morin: Honourable senators, April is Cancer Awareness Month. One in three Canadians will be diagnosed with cancer in their lifetime. Cancer is the second leading cause of death in Canada. Lung cancer, the most preventable of all cancers, remained the leading cause of cancer for both men and women in 2001. Prostate cancer in men and breast cancer in women are the second most common cancers, with colorectal cancer the third most common cancer for both.

[Translation]

We cannot change our hereditary factors for cancer. However, many forms of cancer can be prevented through simple measures, such as a smoke-free atmosphere, a diet rich in fruits and vegetables, and daily physical exercise.

• (1340)

[English]

The Canadian Cancer Society, its staff and 100,000 dedicated volunteers provide support for those suffering from cancer. Their work focuses on prevention and control of cancer, particularly on reducing tobacco use, on the promotion of a healthy diet and on regular physical exercise.

The society is also part of the nationwide effort to find a cure and eradicate cancer. It funds research of all types of cancer and contributes \$40 million annually to its research partner, the National Cancer Institute of Canada. Together with the Institute of Cancer Research of the Canadian Institutes of Health Research, under the leadership of Dr. Phillip Branton, cancer research is carried out from coast to coast.

Honourable senators, last October, the National Institute for Research on Cancer in Genoa, Italy, ranked Canada first in the world in terms of impact on cancer research over a five-year period, based on scientific papers produced.

[Translation]

Honourable senators, this being Cancer Awareness Month, I am pleased to pay tribute to the remarkable work being done by the 100,000 Canadians who are tirelessly devoting themselves to the eradication of this terrible disease.

[Senator Carney]

Some Hon. Senators: Hear, hear!

[English]

NATIONAL VOLUNTEER WEEK

Hon. Catherine S. Callbeck: Honourable senators, I rise today to draw your attention to volunteerism in Canada. This week is very important, as it is National Volunteer Week. It gives us an opportunity to reflect on and pay tribute to those who are moved to support other citizens in their community by voluntary contributions of both time and money.

Reflecting on volunteerism, I wish to draw your attention to a recent study conducted by Statistics Canada. In the most recent National Survey on Giving, Volunteering and Participating, Statistics Canada showed that the average annual number of hours contributed per volunteer in Canada has increased since 1997. Unfortunately, the estimated percentage of Canadians who volunteer has declined in all provinces, except Prince Edward Island.

I should like to urge all Canadians to become volunteers and to commend those who are currently volunteering. Volunteers are vital and they contribute to our society in so many ways. They coach and mentor youth, provide services for the elderly, ill and those in need. They work as advocates and educators for important issues, such as the environment and family violence. Volunteering is a wonderful way to give back to and become involved in one's community.

Honourable senators, let us join together to thank and celebrate volunteers across Canada and to urge people to join the volunteer community. Canada is a stronger and better place because of the work of volunteers.

POEM ON ARMENIA BY CHARLES AZNAVOUR

Hon. Shirley Maheu: Honourable senators, today being April 24, I should like to read a poem written by Charles Aznavour. It is called "They Fell."

They fell that year
They vanished from the earth
Never knowing the cause
Or what laws they'd offended
The women fell as well
And the babies they tended
Left to die, left to cry
All condemned by their birth.
They fell like rain
Across the thirsty land
In their hearts they were slain
In their God still believing
All that pity and pain
In that season of grieving
All in vain, all in vain
Just for one helping hand.
They fell like flies
Their eyes still full of sun
Like a dove in its flight
In the path of a rifle
That falls down where it might
As if death were a trifle

And to bring to an end
 A life barely begun.
 And I am of that race
 Who died in unknown places
 Who perished in their pride
 Whose blood rivers ran
 In agony and flight
 With courage on their faces
 They fell into the night
 That waits for every man.
 They fell like tears
 And never knew what for
 In that summer of strife
 Of massacre and war
 Their only crime was life
 Their only guilt was being
 The children of Armenia,
 Nothing less, nothing more.

It is signed "Charles Aznavour."

INTERNATIONAL DAY OF BOOKS FOR YOUNG PEOPLE

Hon. Landon Pearson: Honourable senators, thank you very much for the opportunity to finish the statement I was making yesterday about books and young readers.

Honourable senators, the books we will be celebrating next year will be primarily literary works, and today I wish to promote the liberating power of art. There is plenty of good non-fiction produced for children in Canada on all kinds of subjects, such as popular science, history and how to do practically anything. However, generally speaking, these books do not reach the imagination in the way literature does. Yet, it is by touching the imagination of the child that a good book can penetrate and light up the soul to make the difference, as Emily Dickinson once wrote, "where the meanings are." If it was a Frenchman who coined the phrase "the Republic of Childhood," it was a Russian artist, not surprisingly, who wrote about the role of art and literature in "the ecology of the human soul" and reminded us that a small child's soul is not shaped by the scientific fact that the earth is round, but by wonder and delight at its infinite and varied possibilities.

RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

Hon. Marcel Prud'homme: Honourable senators, I wish to echo the comments made by Senator Maheu on today's commemoration. I dedicate this to our friend Senator Setlakwe, whose ancestors were Armenian.

Honourable senators, Senator Maheu's resolution has been on the Orders of the Day for 14 days now. I am most concerned, even though I was told yesterday not to worry. If we do not deal with this motion, it may well be dropped from the Order Paper. There is no need for me to discuss the Armenian question. Senator Kolber will take care of that. This is as important to the Armenian people as the terrible Holocaust during the last world war. One must never be afraid to stand up.

One never should be afraid to stand up to denounce horrors and tragedies like genocide and the Holocaust. It is written in our Christian Bible, in the Old Testament and in the Koran, that one must never be afraid to be a witness of the past or a witness of what develops in front of one's eyes. That would include, of course, the situation in the Middle East. However, I do not want to mix the two together.

Honourable senators, it is my wish that we will take action very soon. I am in the hands of Senator Maheu and Senator Setlakwe, and I hope that honourable senators will understand the immense meaning of this anniversary. It is not a question of asking for repair, as we have done in the past. Honourable senators all know that Prime Minister Trudeau was reluctant to make any kind of repair, and the repair that was done by Prime Minister Brian Mulroney concerned the Japanese.

I hope that action will be taking place, and the sooner the better, so that we can vote on this resolution and that action can continue under the able sponsorship of both Senator Maheu and Senator Setlakwe.

ROUTINE PROCEEDINGS

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETING OF ORGANIZATION FOR SECURITY AND
 CO-OPERATION IN EUROPE, PARLIAMENTARY
 ASSEMBLY, FEBRUARY 21-22, 2002—REPORT OF
 CANADIAN DELEGATION TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association, to the Organization for Security and Co-operation in Europe, Parliamentary Assembly, OSCEPA, first winter session in Vienna, Austria, February 21 and 22, 2002.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING
 SITTING OF THE SENATE

Hon. E. Leo Kolber: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at 3:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

Some Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Would the honourable senator explain why he needs this special permission?

Senator Kolber: Honourable senators, the Competition Commissioner is appearing before our committee and, if we cannot hear him today, I do not know when we will next be able

to do so. This sitting of the Senate may continue beyond 3:30 p.m. today.

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

Senator Lynch-Staunton: I will grant leave, but I am tempted not to because, if the committee cannot hear from the witness today and cannot do so for a long time, it would delay a bill of which we are not too supportive.

The Hon. the Speaker: From the preliminary comments of Senator Lynch-Staunton, I gather leave is granted.

Hon. Consiglio Di Nino: Honourable senators, I too do not wish to withhold leave, but I find this inappropriate in light of the time allocation motion. We have been shut down from debate and closure has been invoked. We are in the process of being guillotined and there seems to be no interest on that other side to hold a full debate on the bill.

Although I will not withhold my approval for leave, I should like my position put on the record, that I think it is inappropriate to ask for leave when a closure motion is on the floor of this chamber.

The Hon. the Speaker: I have heard reservations but I have also heard that leave is granted, honourable senators. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

NATIONAL DEFENCE

COMPENSATION FOR DENT IN SUBMARINE PURCHASED FROM UNITED KINGDOM

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. Could the government advise this house whether or not it has asked the government of the United Kingdom to pay for the dent in the submarine?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is a Canadian submarine. I would presume, since we have taken full ownership, we would not renege on our contract and expect them to pay the damages.

Senator Kinsella: Honourable senators, I wish to ask a supplementary question.

Does the principle of *caveat emptor* operate in the matter of leasing submarines from the British government? I wonder if the Leader of the Government in the Senate could advise us, first: Does the government have an estimate as to the cost of the repair to this damaged submarine that we have leased from the United Kingdom?

Senator Carstairs: Honourable senators, I have to apologize to the honourable senator. I have just given him the wrong information.

Senator Kinsella: Again.

Senator Carstairs: Apparently, we will be seeking compensation for any repairs that will be required. Honourable senators, we have an excellent relationship with the British government and I presume that, in this case, they will honour any obligation to which they should subscribe.

Senator Kinsella: I wonder whether the honourable senator could advise this house as to how many millions of dollars the opposition in this place has just saved the Canadian taxpayers.

Senator Carstairs: I have no idea since the dent, as the honourable senator knows, was discovered only recently, and I do not think we have arrived at any cost estimates to this point.

Honourable senators, while I am on my feet, I want to clarify several things that came up yesterday to make sure you have accurate information. Senator Meighen asked me a question with respect to the medals that have been recommended, apparently by some field officers of the United States. They have apparently forwarded recommendations to Washington. To this point we have not received any recommendation, but I wish to assure honourable senators that, should we receive such a recommendation, the honours will be granted to the appropriate soldiers.

The other clarification is for Senator Forrestall, who raised an important question yesterday. The honourable senator raised the whole issue of numbers with respect to those serving in Operation Apollo. The numbers apparently can only be attributed as rumours at this time.

BANKING, TRADE AND COMMERCE

HOUSE OF COMMONS REPORT ON BILL TO AMEND COMPETITION ACT AND COMPETITION TRIBUNAL ACT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Chairperson of the Standing Senate Committee on Banking, Trade and Commerce.

The question to Senator Kolber relates to the release of a report from the other place concerning matters that speak to some of the content of Bill C-23. My understanding, in reading the executive summary of that majority report by the House of Commons committee, is that it is suggesting that the government abandon its attempt to deal with Bill C-23 as it is presently before the honourable senator's committee.

Will the committee be looking at the content of that report that has just been released?

Hon. E. Leo Kolber: Honourable senators, that is a good question. I had the report fully vetted early this morning. I have gone over the report with the researcher. This morning I spoke with the chairman of the House committee that issued the report. The honourable senator's interpretation of the report is not what he meant, apparently.

In order to straighten things out and clarify matters, I have invited the chairman of the committee, on behalf of my committee, to meet with us *in camera* tomorrow morning at eleven o'clock to explain exactly what he thinks was in the report, what it said, and to give members of my committee a chance to question him.

My understanding is that they believe that there are long-term flaws in some of the clauses, but they think it is necessary to pass them as a temporary measure in the event that, in a couple of years, we can get an update on the statute and make changes. In fact, so far, that is the position of our committee.

• (1400)

I do not know what the final position will be, because I can only speak for a few fellow senators and myself on the Liberal side. However, I am told this is what the outcome will be. We will see.

We are also meeting with the Competition Commissioner today.

Senator Kinsella: I wish to extend my thanks to the distinguished Chair of the Standing Senate Committee on Banking, Trade and Commerce for that information. I am delighted to hear that the committee will be meeting with the chair of the committee from the House of Commons on this matter.

Did I hear Senator Kolber suggest that the meeting would be *in camera*? If so, given that this is a public document and that the hearings that the committee conducted would have been held in public, would it not be more appropriate to have that meeting in public?

Senator Kolber: In response to the honourable senator, I do not agree, although I am willing to reconsider.

The honourable senator must understand that in this particular bill are certain parts that people glibly say they do not like. However, the fact is that those sections exist in the original Competition Act. We are dealing with amendments to that act, and they must be carefully reviewed.

There is a limit to what we can do. Some elements were enacted into law two years ago and are not before us.

FOREIGN AFFAIRS AND NATIONAL DEFENCE

FOREIGN/DEFENCE POLICIES REVIEW

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate.

The government has let it be known that it intends to carry out a foreign policy and a defence policy review. A number of questions are thus raised. First, will there be two reviews, one on each subject, or will there be one review, embracing both elements? Second, what is the timeline for the review? Third, what will be the role of the House of Commons committees on foreign affairs and defence, and the Senate committees on foreign affairs and defence?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his questions.

As honourable senators are aware, the Minister of Foreign Affairs is proposing that foreign and defence policies reviews take place. However, no decision of the kind the honourable senator is suggesting have yet been made.

In other words, I cannot answer whether there will be one or two reviews, because I do not think that decision has been made. In addition, the decision as to the actual participation level of House of Commons committees or Senate committees has not been determined.

I can inform the honourable senator that I have advised the minister that I would anticipate that senators would be very much engaged in such a review.

Senator Roche: I thank the minister for that answer and I appreciate that the final decisions have not been made.

Would the Leader of the Government keep in mind the recommendation in the report of the Standing Senate Committee on National Security and Defence, now before the Senate, that in the case of such reviews foreign policy reviews should precede defence policy reviews? The idea embodied in the report of that Senate committee could be carried forward in the decision-making process.

My supplementary question deals with public input. I appreciate that no final decision has been taken. I would ask that my next question be taken as a representation.

Will those non-governmental organizations that are deeply involved in the implementation of Canada's policies in such fields as disarmament and arms control, international development, and human rights, have an opportunity to contribute their views during the government's review?

Senator Carstairs: As has been indicated, no decision has been made with respect to the structure of the two reviews, whether it will be a foreign policy review first, followed by a defence policy review, or whether the two reviews will take place concurrently. However, I will remind the Minister of Foreign Affairs of the recommendation in the Senate report. In addition, I will bring forward the honourable senator's recommendation that NGOs with great experience in both defence and foreign affairs be invited to provide their input.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to interrupt Question Period to draw your attention to the presence in the gallery of guests from the Parliament at Westminster, the Rt. Hon. Lord Williams of Mostyn, Leader of the House of Lords, and, with him, the High Commissioner of the United Kingdom to Canada.

On behalf of all honourable senators, I bid you welcome to the Senate of Canada.

HUMAN RESOURCES DEVELOPMENT

FRAUDULENT USE OF SOCIAL INSURANCE NUMBERS

Hon. Roch Bolduc: My question is for the Leader of the Government in the Senate.

Several years ago, the former Auditor General, Denis Desautels, wrote a report about the problem of handling social insurance numbers. He outlined the curiosity of lax security procedures. In one case, a man obtained 72 social insurance cards using the identities of dead children. Another scam artist used bogus SINs to file 25 Employment Insurance claims, totalling \$450,000.

Mr. Desautels pointed out that 300,000 people were aged 100 years and older while, in reality, the census said there were about 3,000 people in that age range.

Today we learned that the federal government has identified 200,000 dead Canadians with active social insurance numbers. Could we receive an assurance from the minister that this matter will be addressed?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Bolduc is aware not only of Mr. Desautels' report on this matter at an earlier time but also of the federal government's ongoing efforts. Some things have been done. The investigations, for example, have increased to 7,000 per year. Earlier, they were running at about 2,500 a year.

One of the identified problems, though, has not entirely been solved. While we ask Canadians, as part of their reporting procedures on a death in the family, to either return the social insurance number or to let the government know that the person has been deceased, that is frequently not done. We are now looking at ways in which to eliminate those Social Insurance numbers as quickly as possible.

[Translation]

Senator Bolduc: These social insurance numbers are used for the purposes of employment insurance, pensions and several other benefits. If there are five or six systems that are linked by the SIN, the head of the network, this becomes worrisome. We are not talking about errors in 2 or 3 per cent of the cases, but between 200,000 and 300,000 errors. This is a lot! It undermines confidence somewhat.

The same phenomenon is occurring with people who enter into Canada, apply for refugee status and then disappear without a trace. There are 27,000 refugee claimants we have lost track of in Canada. We are still looking for them. We do not know if they are still in Canada or if they have gone back to their country of origin. We must pay attention to this; the number is considerable. The government needs to improve its monitoring. New technologies should allow for progress on this front.

[English]

Senator Carstairs: Honourable senators, I hope Senator Bolduc is not becoming somewhat morbid in his old age, because the questions he has asked in the chamber this afternoon have been about dead people.

As far as what is going on in the department, Mr. Desautels first identified this serious problem in 1998. Since then 5.6 million SIN cards have been identified. Of that amount, 275,000 dates of birth have been corrected, and 101,000 SIN holders have been identified as deceased. The Auditor General has reported that good progress is being made and we must continue to make that progress.

Hon. Terry Stratton: Honourable senators, we have approximately 200,000 folks who are identified as deceased. Do these folks have the right to vote?

• (1410)

Senator Carstairs: If the Honourable Senator Stratton filled out his own income tax form, as I proudly did, I am sure he would have noticed a little "yes" box on that form making him an automatic voter should he have chosen to check the box. I am not sure how a dead person could put their little mark on that one.

Senator Stratton: I have gone through the experience recently and others, potentially, could have as well. Would the leader not agree with that? One could check the little box by accident and therefore vote on that person's behalf at the next federal election, potentially 200,000 times.

Senator Carstairs: Presumably that person would also be paying the income taxes for 200,000 people, and I am not sure anyone would wish to do that.

Senator Stratton: I have taken the analogy a little far, yes.

CAPE BRETON DEVELOPMENT CORPORATION

NEGOTIATIONS ON REOPENING DONKIN MINE— REQUEST FOR UPDATE

Hon. John Buchanan: Honourable senators, I have a question for the Leader of the Government in the Senate. I want to make sure I am heard because it is a question involving Nova Scotia. I know that the Leader of the Government in the Senate will be very pleased to answer it in a positive and correct way, even though she lives in Western Canada, as she is really from Halifax, Nova Scotia.

Senator Stratton: Too many Atlantic senators here.

Senator Buchanan: I will bring up the question of the Cape Breton Development Corporation. We are all well aware of it, as is the senator to my right, who was the Minister of Energy not that many years ago.

Senator Carney: Her name was Pat Carney, not John Crosbie.

Senator Buchanan: Senator Pat Carney, not John Crosbie. What was I going to ask?

Senator Rompkey: Tell us where Senator Carstairs was born again.

Senator Buchanan: Right in the south end of Halifax. When I was elected premier, one of my first visits was to her father. He called and asked me to come down to see him, so I went down and had lunch with him.

As honourable senators may know, there is an application at present by the Nova Scotia Power Corporation for a rather large increase in power rates in Nova Scotia. The major reasons they are giving for the increase are, first, the cost of U.S. coal delivered to the power plants in Cape Breton, and second, the exchange rate, which is hurting them.

The problem is that we have millions of tonnes of coal in the ground in the Donkin seam in the Sydney coalfields. Senator Rompkey is well aware of that because we visited the Donkin mine, which is not open, but there are brand new tunnels.

Could the minister obtain an up-to-date report on any negotiations — and I believe there have been some — between the Cape Breton cooperative group and the federal government and Devco regarding the Donkin mine in the Sydney coalfields?

Millions of tonnes of coal could be mined at the rate of about 1 million to 1.5 million tonnes a year, which would go a long way toward supplying the needs of the Nova Scotia Power Corporation. Also, it would be paid for in Canadian dollars, which is cheaper than continuing to buy U.S. coal.

I would like a comprehensive report on what is going on at present and how close we are to opening a new mine in Cape Breton to supply good thermal coal.

Hon. Sharon Carstairs (Leader of the Government): I thank Senator Buchanan not only for his question but also for some of my family history. I think it is important that I correct some of that family history. I was not born in the south end of Halifax. I was born at and returned to 381 Quinpool Road, which is in the west end of Halifax. I went to Oxford Street School and St. Agnes School. Is there anything else the honourable senator would like to know?

In terms of the question, of course I would be very pleased to obtain an update for Senator Buchanan on any negotiations that have taken place.

FISHERIES AND OCEANS

GOVERNMENT ACTION TO PROTECT GROUND FISH STOCKS FROM FOREIGN OVERFISHING

Hon. Ethel Cochrane: Honourable senators, according to media reports, our groundfish stocks are on the verge of a complete collapse. While conservation is a priority for Canada, that is not the case for many other countries. While Ottawa has closed our ports to Estonia and the Faeroe Islands, both of these countries fish shrimp, and at the present time our shrimp stock is healthy.

What action is the federal government taking now with regard to countries like Russia, Spain and Portugal that have traditionally fished our groundfish stocks, such as cod and flounder?

Hon. Sharon Carstairs (Leader of the Government): First, I reject the premise of the honourable senator's question that our groundfish stocks are near or have achieved complete collapse. It is simply not true. The fish stocks in this country, particularly in the Atlantic fishery, have certainly been under stress for a great number of years. The conservation policies that have been put into effect by her government and our government hopefully will achieve success in the long term, although probably not for some years to come.

The government is continuing to develop a strategy with regard to that fishery. As the honourable senator well knows, the government has passed very strenuous rules with respect to how to deal with vessels that are overfishing. We have not had the full cooperation of other organizations, but we are working to achieve that. I was delighted by a recent press release from the Premier of Newfoundland in which he clearly indicated that he would work extremely closely with the federal government because not doing so would not be in the interest of the Newfoundland fishery.

FINANCE

ALLOCATION OF FUNDS TO RURAL AREAS

Hon. Leonard J. Gustafson: My question is directed to the Leader of the Government in the Senate. The resources of Canada have yielded great benefit for Canadians, whether it is fisheries, mining, agriculture, forestry, or oil and gas. Yesterday, the Minister of Finance suggested that we put more money into the big cities of the country. Yet, at the same time, we have very serious problems in rural development.

Does the honourable leader not think that it would be possible to leave some of that wealth in the rural areas? The resources of this country come from the rural areas, but it seems that we are pouring all of them into the most urbanized areas of the country while neglecting the rural areas and lands of this great country.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think it is of value to Canada and the Canadian people to pit urban dwellers against rural dwellers. As a primarily urban dweller, I think that the rural community in this country has serious problems that need to be addressed. I also think, as an urban dweller, that there are serious urban problems that need to be addressed, and I do not think we should pit one against the other.

Senator Gustafson: It is not a matter of pitting one against the other. The problem is that when resources are taken from the rural areas and left with the federal government, it takes about four times as much money to administer than if they had been left with the municipal or the provincial governments.

• (1420)

I am suggesting that the honourable senator make an inquiry into the importance of leaving some of those funds with the rural communities. For instance, our roads are going to pieces in the Prairie region and across the country. If you take that revenue and put it into the central government, by the time that gets back to the rural areas there is nothing left. It is all used up in administration.

Would this not be an advisable way to approach some of these problems, not pitting rural against urban, or urban against rural, but simply doing the sensible thing in certain situations?

Senator Carstairs: Honourable senators, I think we could have such a study. Perhaps it is something that the honourable senator's particular committee would like to examine. However, the reality is that the resource policy in this country leaves the majority of the resources with the provincial governments.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Lorna Milne: Honourable senators, notwithstanding rule 58(1)(a), I ask for leave to move:

That the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit today, Wednesday, April 24, 2002, at 4:30 p.m., even though the Senate may then be sitting, for the purpose of receiving evidence from the Minister of Justice and the Attorney General of Canada and his officials during its consideration of Bill S-41, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

[Senator Gustafson]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: I have a happy task, honourable senators, and that is to introduce pages visiting from the House of Commons.

Lauren Wihak of Regina, Saskatchewan, is pursuing her studies at the Faculty of Social Sciences at the University of Ottawa. Her major is criminology.

Welcome.

Andrew Carricato, of Sault Ste. Marie, Ontario, is enrolled in the Faculty of Social Sciences at the University of Ottawa and is majoring in political science.

Welcome.

[Translation]

ORDERS OF THE DAY

NATIONAL HORSE OF CANADA BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-22, to provide for the recognition of the Canadian horse as the national horse of Canada, and acquainting the Senate that they have passed this bill without amendment.

[English]

CRIMINAL LAW AMENDMENT BILL, 2001

MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons, which reads as follows:

ORDERED, —

That the amendments numbered 1(b) and 2 made by the Senate to Bill C-15A, to amend the Criminal Code and to amend other Acts, be now read a second time and concurred in; and

That a Message be sent to the Senate to acquaint Their Honours that this House disagrees with the amendment numbered 1(a) made by the Senate to Bill C-15A, to amend the Criminal Code and to amend other Acts, because the amendment could exempt offenders from criminal liability even in cases where they knowingly transmit or make available child pornography.

ATTEST

William C. Corbett,
The Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

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

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like us to deal first with Motion No. 1 and then revert to the Orders of the Day as they appear in the Order Paper.

FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

BILL TO AMEND—THIRD READING— MOTION FOR TIME ALLOCATION ADOPTED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved, pursuant to notice of April 23, 2002:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of third reading of Bill C-35, to amend the Foreign Missions and International Organizations Act;

That when debate comes to an end or when the time provided for the consideration of the said motion has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the said motion; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

He said: Honourable senators, I would like to look briefly at the history of Bill C-35. This bill went through first reading on December 5, 2001. Second reading was moved by the Honourable Senator Graham, who made a speech on December 10. The Honourable Senator Stratton then took the adjournment and he spoke on this legislation on December 14. The bill was then referred to the Standing Senate Committee on Foreign Affairs.

• (1430)

At committee stage, the members met on three occasions to consider the bill: February 5 and 20, 2002, and March 12, 2002. The committee reported the bill without amendment on March 13, 2002.

The debate on third reading was initiated by the Honourable Senator Graham on March 14, 2002. Senator Corbin also spoke on adjournment of the debate and the debate was then deferred to a subsequent session by the Honourable Senator Stratton.

You will no doubt recall that, at that time, the Honourable Senator Stratton indicated that he agreed to have Senator Corbin speak. However, he also wanted to maintain the opposition's privilege, whereby the second speaker normally is given 45 minutes. Of course, there was agreement on this.

On April 17, 2002, the Honourable Senator Stratton spoke on Bill C-35, proposing an amendment that was defeated on April 18, 2002. Another amendment, by the Honourable Senator Andreychuk, was defeated on April 23, 2002.

Honourable senators, the opposition has had ample time to get organized and present its arguments and amendments. Moreover, there were seven sitting days when the opposition said nothing. It did not take advantage of these opportunities to debate the bill.

The motion I am proposing allocates another six hours of debate. I invite honourable senators to support this motion, which will enable the government to dispose of Bill C-35 while giving honourable senators time to pursue the debate on it.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, that is a pretty weak argument for an item that, as far as we can see from reading the bill, does not require a decision this very day. Perhaps the Deputy Leader of the Government could indicate what in the bill requires that time allocation be imposed. What does the government need today that it cannot wait for until our amendments have been dealt with?

[Translation]

Senator Robichaud: Honourable senators, this bill has been before us long enough for the official opposition to have had time to consider it. It was considered for a certain length of time in committee. It was reported without amendment. More time passed during which the opposition could have again debated this bill and put forward amendments. In fact, it did so on two occasions. This procedure allows senators to put forward other amendments. There is provision for at least six hours of debate allowing the opposition to put forward and argue these amendments.

[English]

Senator Lynch-Staunton: The point is not that we should be grateful to the deputy leader for allowing us six hours. The point is, why is he allowing only six hours of debate on this bill? What in this bill is so important that the government must have it passed today? What would happen if it passed only next week?

All we are hearing is that we have had enough time. How can the government say that the opposition has had enough time? It is not for the opposition to work on government-imposed deadlines. It is the job of the opposition to analyze bills and bring what it thinks are improvements to them, and not within a time frame imposed by the majority.

I wanted to hear that an international conference is being held in Alberta in the middle of June and that certain aspects of this bill are essential to prepare for the conference in the proper way, considering the threats to which all international conferences of this magnitude are subjected.

What provision or clause in this bill says that it must be passed today? What is wrong with tomorrow, next week or the end of the month? I only want to know what it is. The government should convince us that they need to have this bill passed today. Do not tell us that we have had enough time. It is not for the government to tell the opposition they have had enough time. It is for the government to convince this house that the immediate passage of the bill is essential and that the opposition has been obstructing it purposefully. That is the argument that should allow for the approval of time allocation, not a whimsical, discretionary decision that we have had enough time. That is arrogant and unacceptable. Tell us what is in the bill.

[Translation]

Senator Robichaud: Honourable senators, I was not expecting the Honourable Leader of the Opposition to agree to a time allocation motion. I could turn around and ask him: Why not now? Why not today? The government obviously has a legislative agenda. In order for this process to be concluded and for this bill to proceed, we have tried to convince the Leader of the Opposition to reach an agreement to have the bill passed at third reading. That agreement was not forthcoming. Since we believe that reasonable time has been allowed for consideration of this bill, we wish to move ahead to the final stage, third reading of Bill C-35.

[English]

Senator Lynch-Staunton: If the Order Paper were heavy with government business, that argument might be acceptable. However, there is no government business on the Order Paper. There is one bill, to which Senator Beaudoin will speak on Thursday. All the other bills are in committee. It should be an embarrassment to the government to say that because their priorities are such, they shall dispose of this bill according to their own deadlines. What else will we do on government legislation this week? There is nothing to do.

• (1440)

I return to my question for the last time. What is in the bill that requires the government to have it today, or tomorrow at the latest? What clauses, if not given Royal Assent within 24 hours, will severely affect preparations for the G8 meeting in Alberta in June or any other activity? I want to know. We read the bill again this morning and we have found no such thing.

[Translation]

Senator Robichaud: Honourable senators, the Leader of the Opposition presented part of the argument. We were saying that the current legislative agenda is not overwhelming. We could have

dealt with this bill a long time ago. It is not as if honourable senators from the opposition had been buried under an avalanche of bills that would have prevented them from considering this bill. I think that the argument made by the Honourable Leader of the Opposition justifies our moving forward.

This is the only legislation before us, so why not deal with it now? After all, we must move forward with the legislative agenda; otherwise, we are wasting our time here.

Senator Lynch-Staunton: Honourable senators, we do not want to hold up the government's legislative agenda. On the contrary, if there ever was an opposition that cooperated with the government to achieve this goal, it is definitely this one. Compared to the role the opposition played under the Conservative government, with all the trouble there was, not to mention the infamous debate on the GST, it must be said that the respect currently shown for this institution and for the will of the majority was lacking back then. I am beginning to believe that we may have made a very generous contribution.

Today, we are told that we must proceed with the government's legislative agenda. We fully agree, but why impose closure? Why further frustrate the 30 senators who form the minority and who are facing the 62 senators who make up the majority, not to mention that there are still seven vacancies? It seems as though the more you are, the more impatient you get.

We have two or three amendments to move during the six hours allotted, if we must. It would have been wiser for the government to accept that this bill is not such a priority that it needs to be wrapped up today. We could have debated it for a few days, particularly since we are still waiting to hear from the government in response to our amendments. There is an embarrassing silence coming from the government side.

Senator Stratton moved an amendment that would benefit both Houses of Parliament. This amendment stipulates that the Minister of Foreign Affairs would be required to table an annual report on the implementation of the legislation to ensure that there was no abuse. We know that this is a bill that lends itself to abuse.

Then, unanimously, in an extremely embarrassing silence, the Liberals rejected this proposal. Yet this was a proposal that would strengthen the role of Parliament in the bill's implementation. It was rejected without explanation and, in my opinion, this is an embarrassing situation for the government, and particularly for the Senate.

We will be moving other amendments. I will come back to the amendments. I would ask the sponsor of the bill, who has since been silent — as well as the leaders — to answer. They could explain why they do not support the amendments, if that is indeed the case, and if they do support them, vote accordingly.

[Senator Lynch-Staunton]

Senator Robichaud: Honourable senators, I never questioned the cooperation of the opposition leaders, which is well appreciated. We have a very good working relationship, which adds to the non-partisan nature of this institution.

When the Leader of the Opposition says that there were amendments moved, I must inform him that one of those amendments was already considered in committee and defeated at the time. I do not see the point in giving the same speech over and over. I therefore invite honourable senators to agree to this motion.

[English]

Hon. Terry Stratton: Honourable senators, I should like to get my two cents in here, somehow. When this matter was in committee, we heard from Minister Graham.

The Hon. the Speaker: I am sorry to interrupt the honourable senator, but this particular item of business is a motion. The time limit for speeches is 15 minutes. Senator Robichaud's time has expired. I take it the Honourable Senator Stratton is making a new intervention.

Senator Stratton: When the minister was before the committee, there was a debate on the bill and questions were asked. I asked the minister if he would consider an amendment regarding reporting to Parliament the activities of the minister in that particular area. He rejected my suggestion outright. That was the extent of it. There was no amendment put forward.

To give honourable senators some history on this matter, I was absent for two weeks from this chamber, having said that I would speak upon my return. However, I missed that by one day.

Senator Robichaud: The most important day of the year.

Senator Stratton: I still do not understand the urgency as to the one day. Since I have been back, this urgency has risen. Forgive me, honourable senators, for I had to be away for those two weeks. It is understandable, such things happen. We, in this place, accept those things.

The Deputy Leader of the Government did not answer the question put forward by our leader. What is in the bill that gives rise to such urgency? The honourable senator has still not answered that question.

Does the honourable senator's muteness on that specific issue mean that there is nothing in the bill? Is that what I am to assume?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Robichaud cannot answer the question since the Speaker has indicated that his time has expired.

It is quite true that Senator Stratton was away for two weeks. I indicated to the leadership at that time that this was an important bill, that the government wished us to move forward with it and, since we did not have a heavy legislative agenda, in the grand spirit of cooperation we agreed that the honourable senator, being the sponsor, should speak to the bill upon his return. What we did not agree to was that no other senator on that side would speak to the bill.

Senator Lynch-Staunton: Since when?

Senator Carstairs: There were two weeks in which we were under the impression, clearly indicated because no one opposite chose to speak, that no one opposite wished to speak to the bill. I think that was a logical assumption to make. We were under the impression that Senator Stratton would return and, upon his return, he would introduce immediately an amendment to the bill. However, that is not what happened. The reality is that, for two weeks, the other side chose not to say anything about this bill.

There are orderly processes that are followed in parliamentary traditions. I do not think that there is any speedup on our part for this bill. We have again agreed to six hours of debate. We think that debate should begin as soon as possible so that all senators who have something to contribute can do so.

• (1450)

Senator Stratton: I assume from the muteness of the side opposite on the specific question that there is nothing in this bill that would lead to its urgent passage. Is that what you are telling us by your muteness?

Senator Carstairs: If one were to follow that logic, Senator Stratton, we would never pass anything.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to participate in the debate on the motion that is before the house. We need to understand the process that is involved when time allocation, the guillotine or closure is imposed, as it speaks to the parliamentary process and the dynamic within the chamber. I think the record sustains the views advanced on process in terms of the amendments brought forward at third reading as soon as the critic on this side rose and spoke on the legislation. The circumstances of the timeline in which that took place have been explained.

Honourable senators, the use of time allocation by the majority in a legislative chamber is not something that we should take lightly — that neither the majority nor the minority should consider lightly. After all, "time allocation" effectively means, in very polite words, cutting off debate. It is shutting people up. It is interfering with the right to speak, the right to express opinions. The term "Parliament" is all about a house in which we speak — "parler." This is the nature of the institution in which we all have the privilege to serve.

I know from a management standpoint how difficult it is to manage a legislative agenda. I have great empathy with the Deputy Leader of the Government in his efforts to manage the legislative agenda given to him by his principals. The debate here has to be about the application of a provision that is in the rules and how it impacts upon the rights of honourable senators to participate freely in open debate. This is the issue.

I would like to demythologize the closure technique. We can all look at Erskine May or Beauchesne. Indeed, our rules describe fairly distinctly the mechanism of closure. I will leave that aside for a moment and turn to the issue. What is it that the government is closing down? You are closing down the right of honourable senators to participate in the debate. That is what we must focus on.

What has been the nature of the debate at third reading of Bill C-35? Just a moment ago, the Honourable Leader of the Government gave her view as to how she saw debate. I got the impression, from what she was saying, that debate is when the government gets up and makes a statement, and then the opposition gets up and makes a statement. It is not that sterile. In fact, it ought not to be sterile. In a debate, we listen and use some of the other senses that we have. For instance, as I listened to Senator Stratton the other day, he said something I did not realize about the bill. I was not on the committee. After that I read the bill very rapidly and realized that he had raised a new and valid point.

Honourable senators, it is only after we hear what senators say in the chamber that we know whether or not we wish to rise and participate in the debate. Hopefully, we do not come in with fixed texts where we get up in a sterile, mechanical kind of fashion and simply read. This is a speaking chamber. This is not a lecture hall or a reading hall; this is a debating hall; this is Parliament.

Whether it is a member on the government side making an intervention or one of my colleagues in the opposition, such as Senator Stratton, I am listening to what they are saying. When they bring new data to bear on the public issue contained in the bill, I then may wish to join that debate. That is why, when a senator moves an amendment, we all have the right to rise and participate in the debate on the amendment, because it is a new issue or an issue that adds to the general issue of the bill. This is what it is about.

For the government to suggest that they waited for the opposition critic to get up and speak and in so doing close the debate is not right. We are listening to what honourable senators are saying about the amendment. If we are not, we should not be here. We should not be voting on bills if we have not read the bills. We should not be voting on amendments, as was well pointed out the other day by Senator Gauthier and Senator Corbin, if we do not have the amendment or the motion in both official languages before us. This is a place where we do not simply talk; we also reflect.

Honourable senators, I think that the closing down of a debate speaks to the heart of democracy. It speaks to the heart of this kind of an institution, which is a place where we discuss. The content has to modify the process. When the process is being utilized to close down the examination and the debate on the content, we have to look very carefully as to whether or not there

has been sufficiency of time. I do not believe that there has been sufficiency of time to complete the third reading debate. We have come a long way: we have come from first reading to second reading debate, to committee, report of committee, and we are at the last stage. We are not at the early stage of a bill. We need a few more days.

In terms of the process, when the Deputy Leader of the Government has discussions with the Deputy Leader of the Opposition, sometimes it is not easy for either of us, particularly the Deputy Leader of the Opposition, to know precisely when something will finish. If in the midst of a debate new ideas are coming up, it would be rather presumptuous and quite wrong to give, with all due diligence, a commitment that the debate must close at a certain time. Something new may come up, as has come up at the third reading stage of Bill C-35.

Based on the experience we have in this place, I would guess that we need just a few more days and this debate will be all over. I would go so far as to say probably by next Wednesday or Thursday. However, I cannot say with great certainty because we all know that it is safer to speak as a historian than as a prophet, although we do our best. I acknowledge that, in respect of the motion we have before us, the steps have been followed according to our rules, but whether it is justifiable is another issue. I do not believe it is justifiable. Therefore, I will vote against the motion.

• (1500)

Hon. Consiglio Di Nino: Honourable senators, I, too, wish to join in this debate. We have heard presentations by my colleagues. One that impressed me was Senator Lynch-Staunton's questioning of the Deputy Leader of the Government when he asked, in essence, "Give me a good reason. What is the benefit to Canadians to rush this bill through and to suspend the normal operation of the Senate?" Senator Robichaud did not give us a good reason. I am assuming that he does not have one.

What are we talking about here? We are talking about a bill that, in itself, suspends certain normal practices of our country. This bill extends diplomatic immunity beyond treaty-based organizations and beyond normal diplomatic missions.

I guess that this particular authority is needed from time to time. I do not doubt that there is some use for it. However, this is an important issue dealing with the admission to Canada of certain people under a blanket authority. Have we done sufficient analysis of those people? Serious questions must be raised, including the ability of this chamber and the Parliament of Canada to have a level of comfort that someone will be supervising this measure. That is what Senator Stratton's suggested amendment addresses. It was dismissed out of hand not only by the minister but also by this chamber.

The issue we are talking about, honourable senators, is serious. Do we suspend the normal operation of this chamber because the government says that we have had enough time to study the bill? We have suspended the normal business operations of the chamber as far as debate is concerned, and yet we have given authority for two committees to sit while the Senate sits. I spoke about the committee on which I am presently serving, the Standing Senate Committee on Banking, Trade and Commerce,

and about my concerns. While there is a closure motion and while we are being restricted in our normal operations, we are saying that it is business as usual as far as two Senate committees are concerned. I think that is inappropriate, and one of these days, if I am able to do so, I will bring forward a motion stating that we should stop that practice. However, that is another issue. Presently, we are debating the motion to withdraw the right of debate on this issue.

Honourable senators, there are 30 Conservative senators, not all of whom are able to participate. We are limited now to 15 minutes of time per speaker. If all of us wanted to speak, it would only amount to six hours of debate.

Senator Tkachuk: That is too much for them.

Senator Di Nino: What is this charade? By its omission, the government has agreed that it is not an important issue, sufficiently so to suspend the rights of members of this chamber — at least, that is the way I read it.

What is the hurry? The government says, “If not, why not today? There is not much business.”

Perhaps I can speak for this side of the chamber. We have had some discussions with senators opposite. Because of the limited number of senators on this side, we do have a busy agenda. Some of us are juggling a number of different responsibilities. Frankly, we do not have as much time as we would like to have, particularly in the chamber, to effectively and efficiently do as good a job as we would like to do if we had 50 members. The Prime Minister should do something about that, and honourable senators opposite should tell him that.

We do have other responsibilities to juggle. This is our problem, not that of the other side, but we should put on the record that we are not sitting around doing nothing. As a matter of fact, most senators on both sides of this chamber are busy 12 to 14 hours every day that we are here. That is an answer to Senator Robichaud. The workload of the opposition side is a little heavier than it is for the government side because we are fewer in number. Nevertheless, we must cover the same committees and issues, and we must attend the chamber as well. Democracy does not work without a strong opposition.

Withdrawing the right of senators to debate an issue, for whatever reasonable period of time to fully satisfy the members of this house, is wrong. It was wrong when other governments did it and it is wrong when this government does it.

Together with my colleagues who have spoken — and I trust every colleague on this side, honourable senators — I will, with my vote, record my objection to this action.

Hon. Tommy Banks: May I ask a question of the Honourable Senator Di Nino?

The Hon. the Speaker: Will Honourable Senator Di Nino take a question?

Senator Di Nino: Absolutely.

Senator Banks: By way of instruction, the honourable senator has just said that if every member opposite spoke in opposition to this bill, it would take six hours. Six hours is the amount of time that is proposed in the motion. Who else would speak in opposition so that the debate would take more than six hours?

Senator Di Nino: Senator Banks is making the point I am making. Assuming that none of us had any other responsibilities or carriage of areas that we were responsible for on behalf of the chamber, we could all speak at once. That does not happen. We are all involved in other legislation, in committee work, in reviewing committee reports and in other responsibilities. If this debate proceeded in a normal course, as colleague Senator Kinsella said, in the next two or three days it would be finished anyway. Since there is no urgency, why put us through this acrimonious time allocation debate, which adds no value to the relationship in the chamber?

Senator Banks: I understand that the honourable senator has many things to do, just as we do, but the motion does not say that the Senate will sit for another six hours. It says that the Senate will debate this bill for a further six hours, which could be two hours a day for three days, one hour a day for six days or three hours a day for two days.

Senator Stratton: No, it is today.

Senator Di Nino: Senator Banks' question is not only valid, but one in which I take good faith. What we are talking about is the difference between pushing this bill through quickly, when there seems to be no reason not to allow for the normal process to take place in the Senate, and withdrawing the rights of all senators to do things that we should be doing in the course of normal business. The opposition has neither the strength nor the tools to hold up this bill for very long.

My leader has said that it is not our intention to hold up this bill.

• (1510)

This bill is not one with which we can play political games. It is not one from which we will look for advantage in one form or another. There are issues here that we think are important. We have said that we should allow the normal process to proceed. In two, three or four days, it will probably be finished. It will not make a difference to the government agenda.

The Hon. the Speaker: If no other senator wishes to speak, then it is my duty to put the question.

I see no one rising.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: There is uncertainty in my mind as to the vote, so I will put the question in this form.

Honourable senators, will those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: With two senators rising, it is my obligation to call in the senators. It is a one-hour bell.

Hon. William Rompkey: Honourable senators, I propose that we have a 20-minute bell.

The Hon. the Speaker: Honourable senators, a suggestion has been made that a variation from the rules take place. Is there agreement to that?

Senator Stratton: The rule is one hour.

The Hon. the Speaker: Call in the senators. The bell will ring for one hour.

• (1610)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Adams
Austin
Bacon
Baker
Banks
Biron
Carstairs
Chalifoux
Christensen
Cook
Cools
De Bané
Fairbairn
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Hervieux-Payette
Hubley

Joyal
Kenny
Kirby
Kolber
Kroft
LaPierre
Losier-Cool
Maheu
Mahovlich
Milne
Morin
Pearson
Pépin
Poulin
Robichaud
Rompkey
Setlakwe
Sibbeston
Taylor
Tunney—41

NAYS THE HONOURABLE SENATORS

Andreychuk
Atkins
Beaudoin
Bolduc
Buchanan
Cochrane
Comeau
Di Nino
Eyton
Gustafson
Johnson
Kelleher

Kinsella
Lynch-Staunton
Meighen
Murray
Nolin
Oliver
Prud'homme
Rivest
Roche
Stratton
Tkachuk—23

ABSTENTIONS THE HONOURABLE SENATORS

Nil

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEETING DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Michael Kirby: Honourable senators, the Standing Senate Committee on Social Affairs, Science and Technology has had a witness waiting since 3:30. With leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit while the Senate is sitting today, and that rule 95(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Senator Prud'homme: I am not sure.

The Hon. the Speaker: I will put the question again. Is leave granted, honourable senators?

Hon. Senators: Agreed.

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

Motion agreed to.

• (1620)

FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Graham, P.C., seconded by the Honourable Senator Pépin, for the third reading of Bill C-35, to amend the Foreign Missions and International Organizations Act.

Hon. Consiglio Di Nino: Honourable senators, I am pleased to participate in this debate on Bill C-35.

As we continue our third reading debate on Bill C-35, I should like to point out some of the flaws we feel are contained in this bill. Both Senators Stratton and Andreychuk from our side have pointed out the powers given to this government under the bill, and there are areas of concern to them.

I will provide examples. First, Senator Stratton reminded us that Bill C-35, notwithstanding what has been suggested by our colleagues opposite...

The Hon. the Speaker: Senator Di Nino, I am sorry to interrupt you. I ask all honourable senators that if they have conversations they must conduct, please do so beyond the chamber. Some of us are having difficulty hearing Senator Di Nino on this important topic.

Senator Di Nino: Honourable senators, as I was saying, Senator Stratton informed us that this bill had not received sufficient scrutiny, particularly in the community.

This bill will grant greater diplomatic immunity to a greater number of people. As we have heard, Bill C-35 extends diplomatic immunity beyond treaty-based organizations and normal diplomatic missions to any intergovernmental organization of two or more countries. In effect, at any conferences held in Canada, such as the G8 to be held in Kananaskis this summer, those coming from different countries will be given diplomatic immunity. This is waiving the normal agreements or covenants we have with these different states on the granting of diplomatic immunity to our diplomats.

Senator Andreychuk highlighted one of our concerns when she spoke on April 18, 2002. At page 2641 of the *Debates of the Senate*, she quotes the committee testimony of Mr. Matas:

We have concerns that these people are being granted ministers permits, and indeed they are. According to testimony of Joan Atkinson, Assistant Deputy Minister, Citizenship and Immigration Canada, a number of people

who are alleged to have committed crimes against humanity were given a minister's permit at the last francophone summit.

The question we raise is: Will this issue be looked at when granting immunity to a group of people? Will we be as careful as we should be? Bill C-35 makes it easier for such people to get in. Instead of going through the process of a minister signing a permit, the bill would, in effect, give what Senator Andreychuk referred to as a blanket grant.

Honourable senators, those are some of the reasons why we are concerned about giving this bill due scrutiny. We are dealing with extraordinary powers. We on this side are concerned about a statute giving such increased powers to government and the police with no mechanism to ensure accountability. We have seen nothing in the bill — and if those opposite have I wish they would inform us — telling us that actions would be reviewed, that there would be oversight of those allowed to enter and that there would be some supervisory action of these new powers on the part of the government or government agencies.

As has been pointed out under this bill, persons may be admitted to Canada who may not otherwise have qualified for admission. This should give us all cause for concern, certainly cause to pause and reflect.

Honourable senators, the RCMP are being given increased powers to deal with potential demonstrators at international meetings. This bill allows the police to designate the area in which protesters are to be located. There is every possibility that without specific guidelines this power could be abused. There is an ever-present possibility of political interference of the type condemned by Justice Hughes in his report on the APEC inquiry.

What is missing is an agency to monitor the activities that will take place under this bill. There must be some form of accountability, someone to whom complaints and concerns can be brought regarding the activities undertaken pursuant to this bill. We, on this side, have tried to find an appropriate body as some form of suggested resolution to this concern we have. In canvassing for such an oversight body, we on this side believe that we should give the responsibility to the Public Complaints Commission against the RCMP. We understand that this body is monitoring activities created under Bill C-36, the anti-terrorist legislation. This body exists. The chair, Ms Shirley Heafey, has asked for increased funding to deal with the anticipated increased workload of this commission.

Honourable senators, our suggestion is that the power be given to that commission, and in that vein I should like to move an amendment to Bill C-35 to accomplish that. I have copies of the amendment in both official languages, and I ask the pages to distribute them.

MOTION IN AMENDMENT

• (1630)

Hon. Consiglio Di Nino: Honourable senators, I move, seconded by the Honourable Senator Atkins:

That Bill C-35 be not now read a third time but that it be amended, on page 7, by adding after line 13, the following:

“10.2 (1) If the Royal Canadian Mounted Police intends to carry out responsibilities under section 10.1 in relation to an intergovernmental conference, it shall notify the Royal Canadian Mounted Police Public Complaints Commission of its intention, and the Commission shall monitor the activities performed by the Royal Canadian Mounted Police in carrying out its responsibilities.

(2) After each conference in relation to which the Royal Canadian Mounted Police Public Complaints Commission has monitored activities under subsection (1), the Commission shall submit to the Solicitor General of Canada a report on the activities performed by the Royal Canadian Mounted Police, and the Solicitor General shall cause the report to be laid before both Houses of Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.”

I look forward to the support of all honourable senators for this amendment.

Hon. B. Alasdair Graham: Honourable senators, I should like to say a few words on the amendment that has just been moved. I should comment on the reasons the government would not support the amendment which is currently before us. I might also say a word about amendments that were moved earlier by Senator Stratton and Senator Andreychuk.

The Honourable Senator Di Nino raises concerns about the scope of police powers provided for in the bill. This bill will clarify, in statute, the responsibility of the police to provide the necessary security and protection to ensure proper functioning at international events. It is important that the duties and responsibilities that we confer on the police at such international events are clearly set out in our laws.

The police have the duty to keep the peace at these events, to protect persons, including internationally protected persons, from harm and to protect persons engaged in lawful demonstrations from unlawful interference.

The government took the opportunity to examine the issue in careful detail when the bill was before the House of Commons and again when it came before the Standing Senate Committee on Foreign Affairs. I assure all honourable senators that the bill is not intended to, in any way, hinder peaceful protest.

There are, of course, limits on the measures that can be used by the police. These limits are found in the Criminal Code and in the Charter. For example, police are liable if they use excessive force. As well, any security measures taken by the police will still have to satisfy Charter requirements that they are necessary, reasonable and proportionate in the circumstances. In other words, any police measure that limits a Charter right must be justifiable in a free and democratic society.

As has been said, Canada will soon be hosting the G8 summit in Alberta. In preparing for this event, we will need to take all necessary steps to ensure that this meeting can take place in safety to protect our visiting world leaders and, indeed, to protect our own citizens.

Repeated reference has been made to Senator Stratton's amendment that would, I believe, have added a statutory requirement for an annual report to Parliament. I will outline the reasons the government believes such a report is not necessary.

Bill C-35 contains proposals to make several administrative amendments to modernize and improve the existing act.

Senator Lynch-Staunton: According to you.

Senator Graham: That is according to me, according to the government and according to the experts that we heard in committees of both this and the other place. Bill C-35 does not represent a major new development in Canadian law that would justify an annual report.

Honourable senators, the Minister of Foreign Affairs noted, in his appearance before the Foreign Affairs Committee:

...Parliament passes a lot of laws, which are all subject to the scrutiny of Parliament at all times.

The minister also stated that he is accountable to answer questions in regard to his responsibility before the House and committees, including the Standing Senate Committee on Foreign Affairs. The minister responsible for the Royal Canadian Mounted Police is similarly accountable.

If the Honourable Senator Stratton's request for an annual report is driven by a concern about not knowing when orders are passed under section 5 of the act, I should like to point out that these orders are published in the *Canada Gazette*.

Senator Lynch-Staunton: Which is widely read.

Senator Graham: I am sure that Senator Lynch-Staunton reads the *Canada Gazette*. If he would like me to get him a subscription, I would be very happy to do so. All honourable senators should have that in their possession.

With respect to immunities, the government has put in place a policy requiring careful monitoring and record keeping on foreign diplomatic behaviour amounting to alleged criminal misconduct. The chief of protocol of the Department of Foreign Affairs has been instructed to prepare a detailed quarterly report on diplomatic misbehaviour to the deputy minister of Foreign Affairs. These quarterly reports are available to any member of the public under the Access to Information Act.

• (1640)

With respect to concerns related to the activities of the RCMP at international conferences, it was noted in committee that the goal of the particular amendment is to give clarity to the already existing authority of the RCMP; and it is not expected to change the way in which the RCMP approach security for international conferences.

Several oversight mechanisms are already in place to monitor the implementation of Bill C-35. These include the minister's performance reports, Parliament, the courts, the Auditor General and the Privacy Commissioner. As for the activities of the RCMP, the RCMP Public Complaints Commission conducts independent inquiries into complaints about the RCMP.

Honourable senators, in my view, there are sufficient and adequate structures already in place for this legislation without creating another reporting requirement.

I would be remiss if I did not say something about the amendment proposed by the Honourable Senator Andreychuk. Her amendment would have limited the effect of the immunity granted under section 5(1) of the Foreign Missions and International Organizations Act. I am sure the proposed amendment was put forward with the best of intentions. However, the idea was raised in committee and, as all honourable senators know, it was rejected.

There are a number of reasons why the amendment was rejected. First, although much of the discussion has been about non-treaty bodies, this is the statute that Canada uses to satisfy its treaty obligations to international organizations. Thus, our treaty obligations to the United Nations or the International Civil Aviation Organization, for example, call for the granting of immunity from civil and criminal jurisdiction in Canada in certain circumstances, and we are obliged to grant it.

Second, and perhaps more important, the interplay between immunities and international law relating to war crimes and crimes against humanity is one of the most complicated areas of international law, as Senator Andreychuk would know because of her past experience. It was the subject of lengthy negotiations concerning the International Criminal Court, and Canada has dealt with it in that context.

The Crimes Against Humanity and War Crimes Act provides that no one may claim immunity, under common law or by statute, from arrest or extradition in Canada, if they are subject to a request for surrender by the International Criminal Court or by any international criminal tribunal that is established by resolution of the Security Council of the United Nations, as listed in a schedule to the act. Currently, that means the international tribunal on the former Yugoslavia and Rwanda.

The proposed amendment, while well-meaning and well-intentioned, ignores the complex structure put in place in those negotiations. For example, it mixes two very separate issues — civil and criminal law.

Immunity is part of international law, as the International Court of Justice has reminded us in the recent case, *Congo v. Belgium*. This was not a case dealing with international organizations, but it is useful to examine it for its ruling on the immunity of foreign ministers and other senior government officials from the jurisdiction of the courts of other countries.

In this case a Belgian court issued an arrest warrant for the Congo foreign minister for war crimes. The International Court of Justice ruled that Belgium had violated international law relating to immunity and that the warrant had to be removed. The law under which it was issued may have to be amended. Perhaps some had hoped that the court would have come to a different conclusion in that case.

However, Canada must obey international law.

I should add that, in that very case, the International Court of Justice noted that immunity is not impunity. The court affirms that the International Criminal Court and the international criminal tribunals have jurisdiction over such crimes and their perpetrators.

As honourable senators are aware, Canada has implemented the Rome Statute of the International Criminal Court through the Crimes Against Humanity and War Crimes Act.

If a foreign official is accused of such crimes, of course, in the normal course of events, Canada is unlikely to invite that official to an international conference in Canada. However, in certain circumstances, there is a need to talk to controversial officials in order to deal with important international issues. If Canada chose, for example, to host a peace conference to resolve an armed conflict, the presence of all players would be required and, at the very least, desired. When the United States was negotiating the Dayton agreement, which formed the basis of ending the war in Bosnia, the United States invited representatives from all parties, including those who were the aggressors. In seeking peace, sometimes the most important person to talk to is the person threatening peace. If we want to deliver improved human rights, sometimes we have to work to change the views of those who seem to threaten human rights. The presence of such individuals is always subject to the Crimes Against Humanity and War Crimes Act.

Where difficult issues of immunity arise, the involvement of international tribunals, such as the International Criminal Court, becomes critical. Canada, through the paramountcy of the Crimes Against Humanity and War Crimes Act, has ensured that we can respond to the need to fight impunity while fulfilling our obligations in relation to immunities and our goal to play an active and meaningful role in world affairs.

The Hon. the Speaker: I see Senator Stratton rising to ask a question. I must advise the honourable senator that Senator Graham's 15 minutes have expired.

Senator Graham, will you take a question? If so, is the honourable senator asking for leave to take it?

Senator Graham: I would be very happy to ask for leave to take a question, in particular from Senator Stratton.

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

Hon. Senators: Agreed.

• (1650)

Hon. Terry Stratton: Honourable senators, with respect to my amendment, Senator Graham has said that the RCMP Public Complaints Commission will handle these questions. From what I understand — and perhaps Senator Graham could refresh my memory if I am mistaken — if we were to have pickets at an event such as the G8 meeting at Kananaskis, the RCMP would decide where the picket line would be. The concern is that that is not the way it should be. Negotiation should take place between the RCMP and the people who want to protest. As in the APEC inquiry, Mr. Justice Hughes said quite clearly in his interim report that the people who want to protest should be visible, and they should be able to be quite clearly heard.

Here, we have a situation where there is an essential conflict. On the one hand, the RCMP — and if I were them I would do the same thing — wants protesters tucked away in a corner, as was the case in British Columbia. On the other hand, the protesters should have the right to protest, to be visible, and to be heard by those people against whom they are protesting.

Honourable senators, we want to prevent a recurrence of what happened at the APEC conference where we end up with protesters being tucked away in a corner, and the conflict that evolved as a result of that.

Is Senator Graham aware of any change in the RCMP operations whereby that negotiation will now take place and a judgment or a decision, independent of both the RCMP and the protesters, will be made?

Mr. Borovoy of the Canadian Civil Liberties Association said that decision should be made by the minister responsible. My understanding is that that has not taken place. I should like to know how a potential conflict would be resolved in that fashion, namely, to allow the protesters to be seen and heard and yet ensure the security of those people being protested against.

Senator Graham: I thank the Honourable Senator Stratton for his question. It leads to many possible answers.

I well remember Mr. Borovoy of the Civil Liberties Association and his comments. He likened the situation to a contest, almost like a baseball contest, where the protesters had to get as close as possible.

Senator Stratton: No, they wanted to get as close as possible.

Senator Graham: Yes, they wanted to get as close as possible to make their point. He spoke about stress points. Mr. Borovoy did not want the umpire — in this case, I believe he was referring to the RCMP — to interfere excessively. He has a point. However,

remember that someone must be responsible for the security and protection not only of the people participating in, for example, the G8 conference, but also of the citizens who live in that particular area and the people who are there for peaceful protest purposes.

Senator Stratton mentioned Commissioner Hughes and how he dealt with this issue in his interim APEC report. Commissioner Hughes concluded that security perimeters based on security concerns are neither inconsistent with, nor inappropriate, under the Charter. Specifically, Commissioner Hughes noted in his interim report that:

...the police may enlarge a security perimeter for non-security reasons to the extent necessary to ensure that the venue remains suitable for the purpose of the event.

In the *Knowlton* case, the Supreme Court of Canada said that the establishment of a security perimeter in the immediate proximity of the entrance to a hotel in Edmonton during a visit of Premier Kosygin was necessary and reasonable in light of the need for police to keep the peace and prevent crime. The court took notice of the fact that the official visit of a head of state or a highly placed dignitary is an event that often involves a real or apprehended threat to the peace. Consequently, it requires that appropriate and reasonable security measures be taken by the host country.

I would point out that the RCMP will have prime responsibility. However, the members of the RCMP and those responsible must assess the situation. It may be that a perimeter fence will not be necessary at all. I wish to repeat that: It may be that a perimeter fence or a security line will not be necessary at all.

You talk about negotiations with potential protesters. It may well be that the RCMP will talk to potential peaceful protesters.

Perhaps I should go further, honourable senators, if I may. The RCMP cannot do all this work by itself. They will consult with each police force to determine which police force will be responsible for which sphere of activity. For example, the municipal police might be responsible for patrolling the highways; the provincial police might be responsible for maintaining law and order and access to the perimeter, if there is a perimeter; and the RCMP would be responsible for the protection of what is referred to as important persons, and so on, and security for the proper functioning of such an event. Each police force would make decisions in its area of responsibility.

However — and I wish to emphasize this — the RCMP would have the overall lead and responsibility in ensuring that whatever police action takes place, each sphere of activity is geared toward ensuring the protection of those in attendance and the proper functioning of that particular event.

Senator Stratton: That still leaves the RCMP in full charge. It leaves them completely in control. The concern we have is the potential for political interference such as took place at APEC. The honourable senator must share that concern, having experienced APEC meetings.

Nothing that Senator Graham has said alleviates that concern on the part of the protesters. If the RCMP wish to set the protesters off in a corner, they can do that. That is the concern that has not been addressed.

Senator Graham: I am offering my own opinion here, honourable senators. We have all learned some painful lessons from the APEC conference in Vancouver and from the APEC inquiry. It would be my hope that those responsible for the perimeter — if a perimeter is necessary — would talk to those responsible citizens who want to engage in a peaceful protest.

Senator Di Nino: Honourable senators, during closure debate, we may wish to dispense with the 15-minute extension unless many senators wish to participate. It makes for a much better exchange of thoughts and ideas.

• (1700)

Senator Stratton: It is called debate.

Senator Di Nino: I was quite intrigued by the response of Senator Graham to Senator Stratton. I will ask a question or two in regard to the same issue.

We have learned some lessons. I, too, share Senator Graham's hope that these lessons would lead to a different kind of result, not only in Kananaskis for the G8, but at future events of that nature.

It is appropriate, also, to say that all honourable senators in this chamber have much respect for the difficult task that police forces have in dealing with emotions running rampant and participants who may not have totally honourable motives. Police have a tough job. We should respect that and support them to the degree that we can.

Having said that, we will continue to have incidents where things get out of hand. We are dealing with human beings and emotions do get out of hand. This is why we create organizations such as the RCMP Public Complaints Commission. In a perfect world, as described by Senator Graham in his commentary, we would not need Justice Hughes' APEC inquiry or an RCMP complaints commission.

Honourable senators, we should speak to Canadians about transparency, the need for accountability and the presence of an independent oversight of the actions of particular police forces and other bodies. Would Senator Graham not agree that my amendment would go a long way toward satisfying public concern that there be an oversight body?

Sometimes — and I stress that, because it does not happen often, but it does happen — police could react strongly, certainly not intentionally, but under the heat of the day or in response to unreasonable actions by others. Would Senator Graham not agree that the public would be given a certain amount of comfort knowing that there is an oversight body responsible for making

sure that inappropriate actions would at least be reported to appropriate authorities, including Parliament, without having to go through something like the APEC inquiry again?

Senator Graham: Honourable senators, I thank the Honourable Senator Di Nino for his participation, comments and expressions of concern.

I have said that we have all learned lessons from the APEC incident and the inquiry. At this time, I want to express my confidence in the RCMP. I am sure that all honourable senators would agree with the assertion that the RCMP is the finest police body in the world.

A number of statutes other than the RCMP Act already deal with various authorities of the RCMP or the RCMP commissioner. Some of the examples include the Firearms Act, the Criminal Records Act, the DNA Identification Act, the Witness Protection Program Act, the Young Offenders Act, the Northwest Territories Act, the Customs Act and the Excise Tax Act.

Finally, the primary responsibility for the RCMP in respect of internationally protected persons is found not in the RCMP Act but in the Security Offences Act, which has as its main focus the prosecutorial authority of the Attorney General of Canada.

I know the concerns that honourable senators opposite are expressing, and I believe that they have legitimate concerns. Under the circumstances and with this particular piece of legislation, we must place our trust in the Royal Canadian Mounted Police.

Hon. John Lynch-Staunton (Leader of the Opposition): In support of the amendment, I will quote pertinent extracts from a speech given in March of this year by Shirley Heafey. She is Chair of the RCMP Public Complaints Commission.

The extracts I will quote are not taken out of context. I commend the speech to all honourable senators. It is an eloquent and certainly informative assessment of the problems the complaints commission will have with these new laws that are coming in and bills being composed that will place a burden on a civilian oversight commission such as this one.

Ms Heafey starts off by speaking about the APEC commission report and the activities in Vancouver at the time:

Poor planning, inadequate communication, poor training and limited understanding of existing law resulted in an unacceptable response by the RCMP to legitimate protest.

In her speech, she also refers to the events in New Brunswick regarding the closure of a school. As honourable senators will recall, the RCMP was very excessive in its activities.

...these events show that, even at the best of times, overzealous use of the extraordinary powers vested in the police can undermine our confidence in our police forces....

On the one hand, we feel the need to give more power to the police to protect our security in the face of the increased threat of terrorism. On the other hand, we firmly support the rule of law and the rights guaranteed by our laws and our Constitution. That is why the challenge facing the RCMP and other police forces is so great. The police need to make *extraordinary* efforts to prevent abuse of these *extraordinary* new powers.

I am quoting from Ms Heafey's speech of March 26, 2002.

...now, civilian oversight agencies must try to understand the extent and intended application of these new powers, often without the usual assistance of the courts.

Later in her speech, Ms Heafey says the following:

The RCMP may have greater powers, but the agency with oversight responsibility does not.

She points out that under the CSIS Act, the Security and Intelligence Review Committee does have powers. She calls those powers "a large arsenal of oversight tools," and she lists the tools. She points out that the CPC, the Commission for Public Complaints, does not have similar powers. That commission only receives complaints. As she says, it is complaint-driven.

In effect, as an oversight body under its present mandate and under all the legislation touching on terrorism directly and indirectly, presented and passed before Parliament, the complaints commission is really toothless. It does not have the powers.

Honourable senators, Ms Heafey's conclusion is in part answered by Senator Di Nino's amendment. I will end by again quoting Ms Heafey.

The RCMP has expanded powers and new tools to intervene with force in the lives of civilians; shouldn't the CPC have expanded powers of oversight?

She continues:

The CPC requires additional powers and additional resources to restore balance — to balance the new powers and resources given to the RCMP for the purpose of combatting terrorism.

Here we have probably the most experienced person in the activities of this commission pleading to Parliament and saying, "If you want me to play a role in this for the protection of civilians, do not just limit me to waiting for complaints."

• (1710)

As she points out in her speech, many people who would be affected unfairly by certain legislation may not know of the existence of the complaints commission, and/or be afraid to lodge a complaint. There are many citizens and non-citizens in this country who come from countries where fear of the police is endemic and have that fear instilled in them. We heard such testimony when we were doing the pre-study on Bill C-36.

As Ms Heafey says in her speech:

I may hear about such incidents, I may be aware of them. They may be drawn to my attention, but unless there is a formal complaint lodged, I cannot do anything about it.

Senator Di Nino's amendment partly corrects that. At least it goes in the right direction, if only partly. That is why it answers the chairperson's anxiety over her inability to fulfil Parliament's expectations as laid out by the Minister of Justice at the time, and the Solicitor General before our committee and elsewhere. If the amendment is passed, hopefully it will act as a disciplinary measure over the RCMP and other forces which, at the moment, is non-existent or practically non-existent.

Senator Di Nino: May I ask a question of the honourable senator?

The Hon. the Speaker: Will you take a question, Senator Lynch-Staunton?

Senator Lynch-Staunton: Yes.

Senator Di Nino: The honourable senator probably told us this, however I did not catch when and where the speech was given.

Senator Lynch-Staunton: It was given by the Chair of the RCMP Public Complaints Commission to the Canadian Institute for the Administration of Justice on March 26, 2002.

Senator Di Nino: I was wondering if she had appeared before the committee.

My question is: Did I understand correctly that she neither has the legislative authority nor the resources to be able to do much of a job unless and until some member of the public makes a complaint? Even then, it seems she does not have sufficient resources to do a full job.

Senator Lynch-Staunton: That is absolutely correct.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, what I must say may sound as if I do not support the motion that is before us. However, I intend to support the motion.

Now that I have your attention, this amendment makes reference to proposed section 10.1 of the bill. On page 6 of the bill, that proposed section states:

10.1 (1) The Royal Canadian Mounted Police has the primary responsibility to ensure the security...of any intergovernmental...

That is a clear indication to us that there will be other players, I would assume other security actors. While the RCMP has the primary responsibility, there would be the local police people, the military, no doubt, et cetera.

That being the case, I understand and support the principle of the amendment. The question in my mind is that the Royal Canadian Mounted Police Public Complaints Commission, as stated in the RCMP Act, can only examine complaints against persons who are employees under the act. I vividly recall this, because honourable senators reviewed this issue carefully during the APEC scandal. There may be a difficulty that no doubt someone could clear up. It may not be a difficulty if it is clear we are saying that Parliament wishes to give the RCMP Public Complaints Commission this authority.

That is why, honourable senators, many of us were so much opposed to the decision of the government not to have a special inquiry into the tragedy of APEC. It was totally ingenuous on the part of the Solicitor General of the day to allow himself to be used as a pawn by those who called the shots in the Langevin Building by saying, in answer to questions that were being raised at the time in the other place, "Oh, there is no problem, Jean Carle was not involved, the Prime Minister is not involved. At any rate this will all be examined by the public complaints commission of the RCMP." The Solicitor General would know that the RCMP Act says explicitly that it cannot examine complaints against persons who are not employees of the RCMP. As we all recall, Jean Carle and other actors who were in play at the time were employees in the Langevin Block, not employees of the RCMP.

It seems to me that we must be aware of this as we continue to debate this amendment.

Senator Di Nino: I was somewhat surprised when the honourable senator got up and said he was, perhaps, not supporting my amendment. It can happen, it has happened before.

Senator Tkachuk: You are sensitive.

Senator Di Nino: I wish to ask my colleague if he has any doubt whatsoever that this body has the authority to, in effect, give the authority to that commission to, in effect, allow it to do the job that we are asking it to do.

Senator Kinsella: I am confident that we have the authority to make that decision. That is why I indicated I would be supporting the amendment. However, I felt it was important that I explicate the fact that this would be a power involving persons who are beyond the primary responsible actors, namely, the RCMP.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to enter this debate on the amendment Senator Di Nino has put forward. Before I do so, I should like to thank Senator Graham for entering into the debate, for putting some of the issues forward and for extending the debate liberally to include the amendments that were made previously. Those amendments were put forward seriously and they demand to be taken seriously.

I also wish to commend Senator Corbin, as I had intended when I last spoke but I ran out of time. He did enter into what I think is one of the most fundamental issues, that is, the ability,

particularly of young people in Canada, to be able to express themselves on issues that they believe are important. They often do so in a form of protest. As long as it is reasonable and lawful, I believe it must be encouraged. I thank Senator Corbin for putting those comments on the record.

• (1720)

This debate should be taken seriously by all senators. We spoke last week about the Charter of Rights and Freedoms and said that it is a unique instrument in Canada, one in which we take pride. I was pleased to see so many senators stand up to speak to the Charter of Rights and Freedoms. It is just that kind of instrument in Canada that allows individual citizens certain protections, one of which is to speak their minds freely. That is something that many other countries do not allow.

In Canada, we have the right to express disagreement with our own government and to express disagreement with other international issues, particularly when those international issues are being discussed at a conference in Canada. It is a right and, as such, the government has the responsibility to provide a reasonable forum for protest and for that expression of opinion. As we so rightly said, the Government of Canada may be presenting the majority point of view, but it is equally important that individuals who represent minority points of view be heard in this country. Often, their only means of being heard is to protest and to protest reasonably. Therefore, to have an impact, they must get close to the decision makers who are on our soil, be they national or international figures.

Section 10 has been debated here. It was the subject of an amendment I put forward and is now the subject of one by Senator Di Nino because the APEC inquiry pointed out that it is a question not of the right to security for those who go to a conference or the right to protest by those who wish to express their opinions but how we balance those rights. It is a question of proportionality.

Mr. Borovoy testified before the committee. He has monitored this area for many years. The police traditionally have had the role of guarding and giving security to conference-goers. They give as much of what they learn in their police work to the protection and security of those who are part of a conference. We have traditionally had law and order in this respect, which is the responsibility of the Royal Canadian Mounted Police.

Bringing Indonesian President Suharto into Canada to attend the APEC conference proved to us that we can have highly political, volatile situations in this country. All of a sudden, the security interests of Mr. Suharto rubbed up against the right to protest in an environment that previously had been uncontentious. While there had been protests in the past, they were protests often against Soviet leaders and against cultural exchanges with Soviet personalities. Those protesters protested in a very defined way and often received government support. We were not in favour of communism and the repressive means that they utilized. We often bent over backwards to ensure that information and security was given to the protesters as well as to the conference goers.

In the APEC conference, the government was keen on ensuring a successful conference. Their overriding concern seemed to be trade initiatives. The government was concerned that Asian markets were open to Canada so that there could be future job creation for Canadians. That weighed heavily on the government, as they stated often at that time. The traditional look given to the protesters got lost in this need to be seen as a key player on a trade front and the need to have our fair share of trade in Asia.

Consequently, the role of the police became impossible. As the pressures to have a successful APEC conference escalated, the protesters wanted to get closer and closer to say that trade is not the only foreign policy issue but that human rights are very important and that other issues need to be addressed.

The protesters, by and large, had a valuable lesson. We know that some of them were perhaps careless with their responsibilities. However, that does not relieve the government from handling both the protesters and the conference delegates fairly. It is a question of proportionality.

Traditionally, the RCMP have looked at security. How can they, at every international conference, know the nuances of the issue sufficiently to be able to weigh all the other rights under the Charter against security?

The APEC conclusions by Commissioner Hughes — I apologize for calling him Judge Hughes before, but I remember him in his previous capacities — pointed out that the RCMP rebuttal to how it handled APEC was that the officer said, “I thought I did what was reasonable in the circumstances.” That reasonableness was found wanting. The reasonableness for the officer at that time was almost like saying, “Let us secure the conference and secure the site to ensure that nothing wrong happens.”

I have sympathy and respect for the RCMP because they have a very onerous role that changes in the dynamic. Surely, as a primary responsibility, all that they need to handle is security. However, the bill goes on to include proposed section 10.1 and then proposed subsection (2) where the RCMP are supposed to weigh all other competing rights — not during an emergency, but long before that — to determine security parameters and what is reasonable or necessary for protesters and property owners. Surely that goes beyond their training and their responsibility and, more importantly, their capacity to handle situations that occur.

Honourable senators, it is unfair to have put back into the bill proposed clause 10.1(2) in exactly the language that Commissioner Hughes said was found wanting. There is no reflection in this bill about what went wrong at APEC and how we correct it. We simply go on as if nothing unusual happened at APEC. That is inappropriate.

Someone other than the RCMP must weigh in on this matter. It could be political figures, but it has been pointed out that they have not always been correct. It could be the government giving

more guidelines to the police as to how they define reasonableness and not leave it to common law. That is not in the bill, nor is it contemplated at this point.

My amendment stated that due notice should be given prior so that the police can define it, and then if protesters or other Canadians do not feel it is correct, they can go to the courts with a Charter challenge. That amendment was not accepted here. Certainly there was no debate on the matter, and it was systematically disposed of. Thus, we are left wondering if someone else can assist the police. I understand Senator Di Nino's amendment states that the police should not be tasked with interpreting the entire Charter and these competing rights alone and then be judged later. I believe the APEC inquiry commissioner made the right findings. However, Parliament should take one further step and ask: Why were the police left with those onerous duties? How do we apportion that responsibility in a more mature democracy? What is the role? Who should bear the role of proportionality?

• (1730)

In his amendment, Senator Di Nino pointed out that perhaps the complaints commission has that role. I do not know if that is correct, but at least there would be the signal that someone would be monitoring the situation and would take pre-emptive action. As was pointed out, it is small comfort to protesters who believe sincerely that they have a message to impart. That message may be about violations of human rights, about atrocities around the world, or about inappropriate behaviour or movement of international organizations.

It is cold comfort for those people to appear before the courts later and be told, “Yes, your Charter rights were violated. Yes, the proportionality was inappropriately skewed in favour of security over freedom of expression and freedom of protest.” The event will be gone and the moment will be gone. Surely, in our society, we want people to be able to act freely, openly and in a timely fashion. “I told you so” is cold comfort.

In that vein, I want to express why I believe Bill C-35 is so important and not just a simple bill. It is important that we not have perpetrators of genocide, crimes against humanity and terrorism on our soil for any purpose. It is of no benefit to any conference to have these people. In hindsight, we now look at Mr. Milosevic and say, “Did we deal with him?”

I made a point in my speech and I will make it again: It will never preclude someone who may be involved in a peace process, who may be a despicable figure and an aggressor in our eyes, from coming to Canada. That individual will not have been charged or convicted. We may allege that they are perpetrators, but that is not sufficient to keep them from our soil; nor do we want to keep them from our soil. Any peace negotiations would surely include those people, and we have had them before. That is what APEC was about. We all know that the previous President of Indonesia was a despicable figure. The Prime Minister knew that when he invited him. However, the President of Indonesia was not a convicted perpetrator, and he was not even alleged to be in any court process. This was simply an opinion that we had of him.

The Hon. the Speaker: I am sorry to advise the Honourable Senator Andreychuk that her 15 minutes have expired.

[Translation]

Senator Andreychuk: Your Honour, may I have leave to finish that thought?

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

Hon. Senators: Agreed.

Senator Andreychuk: Honourable senators, the point is that we do not want convicted perpetrators in Canada, whether it is for a peace process or otherwise. If they come here, it will be for their own ends. If they are in that category, we should not deal with them. That is exactly what the International Criminal Court and international law are all about. To bring people here and grant them immunity because there may be a process to which they may contribute positively represents a misunderstanding of the situation. If we invite those whom we may think may have been involved in a wrongful act but we have no proof and we have not taken action, they would not be trapped; and they could come and possibly serve a useful purpose.

Honourable senators, I believe that this is a fundamental issue and that this bill cannot be set aside quickly. Someone needs to monitor this situation. In our debate on the Charter of Rights and Freedoms, there was much discussion in the other place and elsewhere that the courts are too activist. Again, we will place the court in an activist position. We, as parliamentarians, have a role to play and should play in ensuring that the laws we pass have appropriate safeguards and aspects to preclude forcing citizens to fight for their rights before the courts, thus turning courts to a more activist position.

The next 20 years should show some activism from parliamentarians to create a balance and deal with the proportionality of rights and not absolute rights.

NATIONAL SECURITY AND DEFENCE

SUBCOMMITTEE ON VETERANS AFFAIRS AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Michael A. Meighen: Honourable senators, in my capacity as Chairman of the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence, I wish to say that we had a meeting scheduled for 5:30 p.m. today. A number of witnesses from the Department of National Defence are in attendance.

I therefore move, with leave, that the committee be allowed to proceed with its meeting, even though the Senate may be sitting, notwithstanding the rules of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATION ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Graham, P.C., seconded by the Honourable Senator Pépin, for the third reading of Bill C-35, to amend the Foreign Missions and International Organizations Act;

And on the motion in amendment of the Honourable Senator Di Nino,

That Bill C-35 be not now read a third time but that it be amended, on page 7, by adding after line 13, the following:

“10.2 (1) If the Royal Canadian Mounted Police intends to carry out responsibilities under section 10.1 in relation to an intergovernmental conference, it shall notify the Royal Canadian Mounted Police Public Complaints Commission of its intention, and the Commission shall monitor the activities performed by the Royal Canadian Mounted Police in carrying out its responsibilities.

(2) After each conference in relation to which the Royal Canadian Mounted Police Public Complaints Commission has monitored activities under subsection (1), the Commission shall submit to the Solicitor General of Canada a report on the activities performed by the Royal Canadian Mounted Police, and the Solicitor General shall cause the report to be laid before both Houses of Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.”

Hon. Roch Bolduc: Honourable senators, Senator Di Nino has explained to us the necessity of overseeing the actions of the RCMP. I acknowledge the professionalism of our police force.

The situation we have before us here is a rather more delicate one. This is not a bill to facilitate police searches in connection with drug-related activities. The events involved are very specific ones: demonstrations.

I saw on television what happened at the Vancouver and Quebec City conferences. I was more interested in the latter, because it was on home ground, you might say. In Vancouver, they said the abuse came from the police, and also perhaps from the protesters. Let us not have any illusions, they are not all perfect angels.

On occasion, the police force finds itself in situations that are far from easy, particularly when there are hundreds of thousands of people to deal with. Some of them lost their cool in Vancouver. Perhaps, too, certain political figures told them to stir up the protesters a bit, which may have made the police a little overzealous. The incidents in Vancouver stirred up a whole debate in Canada.

In Quebec City, I felt the police forces were relatively reasonable.

• (1740)

They built a huge fence, as everyone is well aware. The situation in Quebec City was a complicated one. The old city is not very big, and it was a complex affair to delineate the area. From the experience at Genoa, they knew it would not be easy.

This being the situation, it is possible to make use of external oversight through a commission. This is an attractive solution. I support Senator Di Nino's idea, which has been set out so well by Senator Andreychuk. While allowing a certain margin of discretion to the police — necessary when things happen unexpectedly — it is still possible to have rules defined by the government. After all, the government is the one responsible for these situations in Canada. The government is the one who invited these people. The Prime Minister invited them to Kananaskis. The government has assumed its responsibilities. The government's proposal does not stop there. It is not over and done with once the foreign dignitaries have been invited, taken to Kananaskis, and the discussions on world problems are under way. There is more to it than that. Order must be maintained. We do not know what may happen.

I was a public servant for a long time and when I read the act I was concerned about the degree of discretion granted to administer this legislation. Everyone knows that public servants have some discretion. Such discretion is necessary, but it must be defined, otherwise it is dangerous and it leads to abuse. In every bureaucracy, some measures have a negative impact. One goal is pursued, but another one is achieved. When I read this, I wondered if we could not propose an amendment to clause 10.1(2), which reads:

For the purpose of carrying out its responsibility under subsection (1), the Royal Canadian Mounted Police may take appropriate measures...

This reminds me of so many other circumstances, including in the transportation sector. The expression "appropriate measures" is very broad in scope. I will simply try to restrict these measures by saying that the RCMP may take any measures defined by the Governor in Council as being appropriate. In other words, we would put the responsibility back where it should be, before things happen, before a protest takes place. It is fine to say that a body will monitor the protest. I agree. I will support your amendment. However, I would prefer to have an evaluation criterion before the event takes place.

In this sense, the involvement of the Governor in Council is essential. The government is responsible. It is fully entitled to be. This is not a situation where an adjudication is made by a judicial body. When an operation must be decided by a judicial body, the government must not give orders to that administrative board, whether it be a tribunal, the Public Service Commission or any other body. It goes without saying that the government cannot give them orders. However, here, we are not dealing with an administrative board, we are dealing with an executive and administrative body, namely, the police.

It would not be unreasonable for the government to establish a framework to restrict the actions that may be taken by the police, by defining what is meant by reasonable measures. This is the government's responsibility. The RCMP will apply these

measures. RCMP officers are professionals. They are good people. They will apply these measures to the best of their abilities. However, in situations where public order is involved, the government would tell them what it wants and what is reasonable.

In Quebec City, when the RCMP met the other police forces, some ministers were present. The Mayor of Quebec City knows his city very well. It is his city, and he did not want any damage. He asked that a reasonable perimeter be defined. The decision to put up an 18-foot-high fence in a city such as Quebec City, where everything is so close together, is an important one. Will we leave it to the police?

I will give you an example. There are other measures. I noticed that there were three kinds of people who took part in the demonstrations. There were the professionals from the United States. Obviously, they turned up equipped with helmets as though they were landing on the moon. They were as well-equipped as the police. They were masked; their faces could not be seen. They had iron bars. I tell the police to hit them, and there is no problem. These are professionals and that is how they must be attacked.

Alongside them were ordinary people, onlookers. There were also students. We know that 18 to 20-year-old students want to learn about public life. They took the bus to Quebec City. There were 700, 800, 1,000 of them. They arrived in the city. It was their first demonstration. They had probably been worked up by their professors. There are always left-leaning professors in our schools who want to challenge things, it does not matter what, including all the governments of the world. The students arrived by bus and they wanted to protest against something. When they saw the group of professionals battering the fence — these people really went at it — they did one of two things. The timid ones held back; this was war. Others joined in. That is what happened. Clearly, it finished up with some people taking a bit of a beating. People said the police had been too violent.

If these unfortunate situations are to be avoided, the government must assume its responsibilities and define what it means by reasonable measures to be taken by the police or the RCMP.

MOTION IN AMENDMENT

Hon. Roch Bolduc: Honourable senators, I move:

That Bill C-35 be not now read a third time but that it be amended

(a) in clause 5, on page 6, by replacing lines 35 and 36 with the following:

"Canadian Mounted Police may take any measures defined by the Governor in Council as appropriate in the circumstances, including controlling, limiting"; and

(b) in clause 8, on page 8, by adding, after line 35, the following:

"13.1 The Governor in Council may make regulations to define, for the purposes of subsection 10.1(2), measures that are appropriate in specified circumstances."

[English]

The Hon. the Speaker: Honourable senators, there is before us an amendment on which we have not yet called the question, and we now have a further amendment. Our normal practice is to dispose of each amendment before moving to the next amendment. Is it agreed that we deal with the amendment currently before us before moving to Senator Bolduc's amendment?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I believe there is an agreement that we follow the other practice that is common in this place, that is, that we stack the amendments.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we would certainly agree to giving more time to the honourable senators of the opposition in order to allow them to give their speeches on this bill and move their amendments. The vote will take place after the time allocated for debate.

[English]

The Hon. the Speaker: I should put the amendment to the chamber before proceeding to questions, further debate and the next amendment. That is my understanding of the practice of stacking amendments.

• (1750)

Although we are proceeding with leave, I take it from Senator Kinsella and Senator Robichaud that the opposition and government have agreed.

Is leave granted to proceed, honourable senators?

Hon. Senators: Agreed.

[Translation]

Hon. Eymard G. Corbin: Honourable senators, I have a question for Senator Bolduc. Obviously, I would have preferred to examine the text without the amendment, but I believe I understand better since His Honour reread the amendment. Senator Bolduc proposes that the government define, through regulations, limits to the police powers under the legislation. This would replace the current text, which refers to necessary measures, which are in fact unlimited measures that range from the sublime to the ridiculous. This is the specific part of the bill that concerns me.

I would like to congratulate Senator Bolduc for having moved this amendment. There are some serious problems with the law as it now stands, when it comes to democracy in Canada.

Senator Bolduc provided a fairly good description of the situation that took place in Quebec City. Is Senator Bolduc aware that the NFB produced a film on the events in Quebec City? They hired 15 or so filmmakers who followed some 15 people for the duration of the conference. All of the police forces involved opened their doors to the filmmakers, both during the run-up to the conference and during the action. Only the RCMP refused to grant access to the filmmakers.

Once again, this is symptomatic of a certain police mentality. I do not wish to attack the RCMP. They operate in what are sometimes very difficult circumstances, but this was a perfect opportunity for them to show the general public how these events are planned and how they prevent pig-headed protesters from scuttling everything, during what is often a legitimate public protest. Has the honourable senator seen this film?

Senator Bolduc: Honourable senators, I understand that some room for discretion needs to be left when operating in such challenging circumstances. After all, there are a thousand people coming to make a fuss, pushing, shoving, and there you have the police on the other side, and not everybody is a perfect angel. That room for police discretion must have a framework. It seems to me that this framework must be spelled out. The police are dealing with people who are not criminals but members of the public, and the public is made up of all kinds of people. There were the professional rabble-rousers from the United States I have already referred to, and then there were reasonable people, including some students at their very first protest, who therefore lacked experience. Therefore some framework is necessary. In other words, the government must assume its responsibilities and must provide some limits for potential actions by the police.

I would like to make an aside, which may not be apposite. Senator Corbin has said that the RCMP did not provide access. In my opinion, when security is involved, particularly the security of heads of state, the RCMP cannot be asked to tip their hand. They, too, need to have secrets.

[English]

As we often say, the secret is the trade sometimes, and this is a case where it is.

[Translation]

Senator Corbin: Telling the public, either before or during the conference, about the police strategy was out of the question. The film was released several months after the conference. We all received an invitation to watch this film at the National Library a few months ago.

Releasing that information would have given the public a right to be informed about the internal operations of the police. After all, this is not the CIA or the FBI, and we are not a country at war. This was a public conference with a protest that was meant to be a peaceful exercise. There are always troublemakers. I have always wondered how we let these people enter the country or, if they are already in, why we cannot catch them before the event? Why wait?

Senator Bolduc: I do not want to defend the government, but these people have not yet been found guilty when they arrive in Canada. They intend to come and make some noise. There is a difference between these people and those who go to a hockey game in Montreal, or those who travelled to England or Belgium to attend soccer or rugby tournaments. It is difficult for customs officers to decide that this person can enter the country, but not that one. We have a hard time with "Mom" Boucher, so you can imagine with these people.

[English]

The Hon. the Speaker: I am sorry to interrupt. I wish to inform honourable senators that Senator Bolduc's time has expired.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in the early 1960s, the police forces in Montreal, which were then made up of some 30 municipalities, were integrated into one under a regional government called the Montreal Urban Community. An administrative body was created, called the Public Service Commission, to prepare the budget, negotiate labour contracts and to see that the integration of the police force was done with the least disruption possible.

The reason I mention that is that I sat on that commission representing the City of Montreal for a number of years. The one thing that we tried to avoid, and I think avoided successfully, was to interfere in the operations of the new police department. We were involved in things such as promotions, but always on the recommendation of the police chief. As far as I know, there was no favouritism. It was done on merit, based on the recommendation of the head of the police department.

I mention this because I was shocked, like many Canadians, at the report from the APEC inquiry, the Hughes commission, in which he faults a then member of the Prime Minister's Office for unconscionable interference in the operation of the RCMP who were then trying to establish a perimeter area, the location of the fence, in cooperation with the University of British Columbia and had to have their plans changed because of the direct interference of Mr. Jean Carle.

I wish to quote a few extracts from the commission's report:

Mr. Carle wished to create a retreat-like atmosphere for the leaders' meeting. He vehemently opposed the location of the Thompsonsett-Pavlich line.

Sergeant Thompsonsett was with the RCMP, Professor Pavlich was with UBC, and both men had agreed to a line behind which the protesters had to stay.

• (1800)

He opposed the location of the Thompsonsett-Pavlich line which, in accordance with the licence agreement, was established by UBC and the RCMP to meet the RCMP's security concerns and UBC's concerns that the protesters be able to see and be seen by the APEC leaders.

I am satisfied that Mr. Carle demanded that the size of the demonstration area be reduced in order to accomplish its own agenda and I reject his explanation that the reduction was necessary to ensure the safety of the protesters.

Along the same lines, Justice Hughes said:

Mr. Carle had, in my judgment, inexcusably thrown his weight around on this occasion. His expression of concern for public safety was a spurious one that I reject.

There is also a section entitled, Government Interference, in which it is stated:

Having said that, I am also of the view that the RCMP's conduct in removing the tenters was directly attributable to the actions of the federal government. It was Mr. Carle of the Prime Minister's Office who, through Mr. Vanderloo of ACCO, directed the RCMP to remove the protesters, apparently out of a concern about potential vandalism. However, Supt. Thompsonsett, the man in charge of security,

was less concerned about potential vandalism than that removing the protesters might lead to more serious security problems.

The federal government had no authority to make decisions which may have compromised an RCMP security operation, particularly given that such decisions, although consistent with the Licence Agreement and the *Criminal Code*, were unjustifiably inconsistent with the *Charter*. I am satisfied that, in this instance, the federal government, acting through the Prime Minister's Office, improperly interfered in an RCMP security operation.

This report has been before the Prime Minister and the government since it was tabled some weeks ago and has been ignored completely. There has been no apology or explanation. Of course, it leads one to believe that political interference can continue unless some legislation of some sort carries with political interference of sorts some kind of penalty.

I wish to move an amendment to the bill which, I believe, will limit or reduce, if not eliminate, the kind of activities that I have just read from the Hughes report.

MOTION IN AMENDMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Therefore, honourable senators, I move, seconded by Senator Bolduc:

That Bill C-35 be not now read a third time but that it be amended in clause 5, on page 7, by adding, after line 13, the following:

"(5) No member of the staff of a minister of the Crown in right of Canada and no member of the public service of the Government of Canada who is not a member of the Royal Canadian Mounted Police shall advise or instruct any member of the Royal Canadian Mounted Police in the performance of his or her duties under this section.

(6) Any person who contravenes subsection (5) is guilty of an offence punishable on summary conviction and is liable to a fine of not less than fifteen thousand dollars.

The Hon. the Speaker *pro tempore*: Honourable senators, it was agreed prior that the motions in amendment be stacked.

Honourable senators, is the house ready for the question?

Senator Carstairs: Question!

The Hon. the Speaker *pro tempore*: Honourable senators, we will start with the last question first.

Is it your pleasure to adopt the motion in amendment of the Honourable Senator Lynch-Staunton?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Will those honourable senators opposed to the motion in amendment please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Call in the senators.

Is there an agreement as to the ringing of the bells?

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, the rules provide that if a recorded division is demanded, it is automatically deferred to 5:30 p.m. at the next sitting.

[English]

The Hon. the Speaker pro tempore: Rule 39(4)(a) states:

except as provided in sub-paragraph (b) below...any standing vote requested in relation thereto shall be deferred until 5:30 o'clock in the afternoon of the next day thereafter on which the Senate sits.

Therefore, the vote will be deferred until 5:30 p.m. tomorrow.

[Translation]

Senator Robichaud: Honourable senators, if both sides were to agree that the vote will take place tomorrow before 5:30 p.m., it would be possible to do so, with consent of the honourable senators.

[English]

Hon. Terry Stratton: No. It should be a 15-minute bell.

The Hon. the Speaker pro tempore: The bells will ring at 5:15 p.m. tomorrow for the vote to be taken at 5:30 p.m.

Honourable senators, it being past six o'clock, is it your pleasure that we not see the clock?

[Translation]

Senator Robichaud: Honourable senators, the motion we agreed to clearly says that we must consider all questions before us to dispose of Bill C-35.

We have not yet disposed of two amendments and of third reading of Bill C-35.

[English]

The Hon. the Speaker pro tempore: The next question is on the motion in amendment of the Honourable Senator Bolduc:

That Bill C-35 be not now read a third time but that it be amended

(a) in clause 5, on page 6, by replacing lines 35 and 36 with the following:

“Canadian Mounted Police may take any measures defined by the Governor in Council as appropriate in the circumstances, including controlling, limiting”; and

(b) in clause 8, on page 8, by adding, after line 35, the following:

“13.1 The Governor in Council may make regulations to define, for the purposes of subsection 10.1(2), measures that are appropriate in specified circumstances.”

• (1810)

Is the house ready for the question?

Some Hon. Senators: Question!

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

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Will those honourable senators opposed to the motion in amendment please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Honourable senators, the vote will be held tomorrow afternoon, along with the votes on the other motions in amendment.

Senator Lynch-Staunton: Could honourable senators give us a couple of minutes for a conference?

[Translation]

Senator Robichaud: Honourable senators, I believe you would find consent for the divisions deferred until tomorrow to be held at 3 p.m. This includes the first division that was deferred. Therefore, all the divisions having to do with Bill C-35 could take place tomorrow afternoon at 3 p.m.

The Hon. the Speaker pro tempore: All the divisions, including the one on the motion in amendment, which it was agreed earlier will be voted on at 5:30 p.m.

The next question is on the motion in amendment, of the Honourable Senator Di Nino.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[English]

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Honourable senators, the motions in amendment will be voted on tomorrow. To be clear, the bells will ring at 2:45, and the vote will be held at 3:00.

We are now on the main motion.

[Translation]

Senator Robichaud: Your Honour, I believe that you are about to put the question on third reading of Bill C-35, are you not?

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Graham, seconded by the Honourable Senator Pépin, for third reading of Bill C-35, to amend the Foreign Missions and International Organizations. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Eymard G. Corbin: Honourable senators, how can we vote on the main motion when we have not yet disposed of the amendments?

[English]

Amendments can be defeated or adopted. The question, as put, does not mention either. I find that utterly ridiculous, if not strange. At any rate, if Your Honour says it is in the rules, we will follow our rules.

The Hon. the Speaker *pro tempore*: Is leave granted that this main motion be withdrawn and we will vote on amendments tomorrow, and then we go to the main motion?

Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Honourable senators, the main motion, which was moved by Senator Graham, seconded by Senator Pépin, is that Bill C-35 be now read —

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the rules are clear. All votes must be taken at 5:30 tomorrow afternoon. We have stacked amendments. Obviously, depending on whether some of those amendments pass or fail, the third reading vote would change or not change as the case may be. Therefore, it is not necessary to put the question. What is necessary is to clarify that all votes to complete this stage of debate will take place, according to our rules, at 5:30 tomorrow afternoon and, by agreement, at 3 p.m. tomorrow afternoon.

Hon. Laurier L. LaPierre: Honourable senators, this is highly confusing and it need not be all that confusing. After all, we are in the 21st century and we ought to be able to proceed without so much confusion. We were supposed to debate for six hours and at the end of the six hours there was to be a vote. Now we are adjourning until tomorrow in order to start another six hours, at 2:45, 5:30, or 3:00. What is going on?

The Hon. the Speaker *pro tempore*: Honourable senators, there will be votes tomorrow on Bill C-35 with all the amendments that have been stacked. The votes will be at 3:00. The bells will start to ring at 2:45.

Honourable senators, is it agreed that I not see the clock?

Hon. Senators: Agreed.

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I propose that we stand all remaining items on the Order Paper, including Government Business, and that the items maintain their positions on the Order Paper.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): I must now inform honourable senators that the Honourable Senator Kenny wished to move a motion today. Not seeing him in the chamber, I am prepared to agree that all items on the Order Paper that have not been dealt with do stand until the next sitting and be kept in their respective positions on the Order Paper.

The Senate adjourned until Thursday, April 25, 2002 at 1:30 p.m.

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