appeared in the article is certainly a far cry from what it appeared to be on first blush.

I must admit, honourable senators, that it takes some careful referring back and forth and cross-referencing to understand how these panels operate. But, leaving aside the complicated specifics, I was appalled when it dawned upon me what the essence of Mr. Ritchie's argument was. His argument not only exposes the inherent weaknesses of the panel system but it states that in the final analysis the sole protection in the way of an erosion of social programs in Canada is a five-member panel of lawyers, at least two of which are American, and whose conclusions are unpredictable, to say the least. If they are independent binational panels, they will decide according to their own likes.

We have heard Mr. Ritchie before the committee and I would regard him as a very authoritative commentator. His analysis clearly proclaims to me that the government has dealt away its role as the sole protector of social programs. Parliament no longer stands as the guardian of social programs forged over the years after long debates and bitter opposition. The supreme guardian now for Canadians is the binational panel. "Don't worry," says the Deputy Trade Negotiator, "because the binational panels are bound to find in a way that you would like," but I am not convinced.

I want to make one or two further points about dispute-settlement, because even today the Leader of the Government in the Senate said that the dispute-settlement mechanism was a shield, was the protector, raising in my mind the same line of argument used by Mr. Ritchie. I have raised serious concerns previously today about the dispute-settlement process.

As you know, the Prime Minister made a big deal out of this section. He said in his speech to the House of Commons last August:

> Most fundamentally and importantly, the agreement will replace the politics of trade with the rule of law.

I have dealt with Article 1903, which deals with changes to antidumping and countervailing duty laws, and I have already explained the problems that I foresee in that area. I turn now to Article 1904, which provides a procedure for the review of final antidumping or countervailing duty orders. As honourable senators know, these final orders would emanate from the United States ITC or the International Trade Administration of the U.S. Department of Commerce. After the order is made, one of two possible courses of action is followed, depending on the order. If the final order is not in Canada's favour, then Canada can demand a review by a binational panel whose findings are binding. Ironically, problems arise if the final order is in Canada's favour. Such an order would mean that the American plaintiff, presumably a producing company, would have lost its case before the American authorities.

At this point the best possible course of action for the plaintiff to follow is to wait 30 days, after which the binational panel review cannot be requested. The plaintiff would then do as it had always done before the existence of the FTA; that is, it would appeal the final order before the U.S. Court of Appeal.

Canada has lost all control over the events. Obviously there would be no reason for Canada to request a panel review in the 30-day period since it would have won its case. Similarly, the U.S. government would clearly not want to appeal the ruling of its own ITC or ITA before the panel. In all cases where final orders are in Canada's favour it loses control and, indeed, appears to have lost any alleged advantage. It is disappointing to observe that any final order revised as a result of a judicial appeal cannot be reviewed by a panel. Canada has no right of appeal.

I am prepared to have others who have more expertise than I tell me that I have made a mistake along the way. But if I am right, think for a minute of the consequences of this procedure with a Canadian social program as an example. After an American court had ruled, based on American law, that a Canadian social program was a subsidy, Canada would have no recourse whatsoever but to suffer the consequences of a trade penalty. That is how I have approached the question of social programs, and I believe that I am covering the terrain which was laid before us by Mr. Ritchie, and I would like to get some answers.

• (1600)

Honourable senators, as far as I am concerned, the Free Trade Agreement will become the law of Canada. As I have already said, that does not mean that it is all over; it is the beginning of an important future process. Therefore, I want to say a word about looking ahead rather than looking back and refighting the election campaign.

Honourable senators, I have dealt with a number of features of this bill, but there are others that will require scrutiny in committee. Personally, I deplore many of these features of the legislation, let alone the way in which the agreement was negotiated. The time has come to look forward, to prepare for its implementation and to bring to account those responsible for its operation.

Senator Murray accused me on September 15 last of failing to weigh the costs and benefits of the agreement or its advantages or disadvantages to the nation as a whole. Well, that was a strange complaint coming from the spokesman for a government that has been addicted to generalities and prone to advertising excessive benefits, to avoiding explanations and to remaining silent on the costs.

The Free Trade Agreement as it is now is not more than half a design. The other half still has to be negotiated, and, I presume, paid for. Yes, one day we will be in a better position to weigh the costs and benefits, but that will be when the design is complete, when the full house will have been built. In the meantime the government has set for itself an impressive agenda. It will be entering phase two of its negotiations, along with other ancillary negotiations, with the United States. The real issue before us now does not concern the balance of the agreement. The real issue is whether the government will live