it, and that the government was quite right in not accepting the proposed amendment.

The second recommendation of the Senate committee proposed that the province where the investment was located or was to be located be given a right of veto over any decision turning down an investment as not being of significant benefit. I did not agree with that recommendation because I thought that it was a constitutional matter and that the federal government had to take the responsibility, and we had been assured that there would be consultation with the provinces at all times and on all applications. Senator Flynn, the then Leader of the Opposition, pressed the matter and at third reading stage proposed an amendment in the Senate to, in effect, approve that recommendation and give veto power to the provinces. I must say that in the 10 or 12 years that have elapsed since I gave my speech, I have not changed my opinion at all. It will be interesting to see whether Senator Flynn, now that his party is in power, is still of the opinion he expressed at that time and will be proposing a similar amendment when this bill comes up for third reading.

The third amendment recommended by the committee was that there be an appeal to the courts from the decision of the minister to recommend to the cabinet that the investment be disallowed because of its not being of significant benefit to Canada. In other words, there should be an appeal procedure to the courts of what was essentially a subjective, political and administrative decision. I thought the government's position was the right one. Senator Flynn moved an amendment to the effect that there should be an appeal procedure to the courts on that subject, and it will be interesting to see if he is still of the same opinion 12 years later.

Senator Steuart: He has mellowed.

Senator Godfrey: The fourth recommendation was that investment companies be, in effect, exempted from the provisions of the bill. I did not agree with that one either.

There was one recommendation which was not accepted by the government, and I was of the opinion at that time that it should have been. I will illustrate it by reading an excerpt from the brief given by the Canadian Bar Association at that time, as it is recorded in *Senate Debates* December 5, 1973, page 1265:

> A major additional safeguard is that any decision by the Government—except on the question of significant benefit—can be brought before the courts.

In other words, they did not believe that there should be an appeal of the minister's decision on significant benefits. The excerpt continues:

> This includes the Minister's judgment on whether the company is foreign controlled and hence subject to the review process; whether an investor has in fact acquired control; whether an acquisition is of a Canadian business; and in the case of the establishment of a new business, whether it is related to an existing operation.

After I gave my speech, the Banking, Trade and Commerce committee met to discuss the bill, and I attended the meeting.

Mr. Gibson, the lawyer for the department, drew the attention of the committee to section 18 of the Federal Court Act which, in effect, gave an appeal from these types of decisions in this type of matter by applying for *certiorari* or prohibition. I remember at the time observing that I had been guilty of something I had always advised the law students in our firm not to do, and that is to rely on someone else's legal opinion. I always told them to do their own research. I had been foolish enough to rely on the legal opinion of the Canadian Bar Association and the Senate Committee on Banking, Trade and Commerce, as I pointed out at the meeting of the committee and later in the Senate, and I was willing to admit I was completely wrong. I actually did not take Mr. Gibson's legal opinion and did some independent research of my own.

• (1420)

However, Senator Flynn was not prepared to admit he was wrong and, in his motion, he still insisted that there was no right of appeal on these technical matters and moved an amendment providing for such an appeal. His amendment was voted down. I would be interested to see whether Senator Flynn has changed his mind in the intervening 12 years on this subject and whether or not he will move a similar amendment to this bill on third reading.

The speakers in this debate so far have pretty well covered the subject, and I do not want to repeat what they have said.

When I was still practising law, I had some experience with FIRA. Even after I retired, I heard many comments and opinions from lawyers about how it operated. I must say that everyone was of the opinion that during the first few years of its operation, the delays in dealing with applications were inexcusable.

I recall, when we examined the original bill in committee, that there were certain time limitations which could be extended and that we received assurances that there would be no undue delays, assurances which were not carried out. Sometimes the delays would be a year long. Sometimes, when undertakings were asked for and the applicant would not agree, they would sit on the application and do nothing until finally, in exasperation, the applicant agreed to give the undertaking.

I believe that FIRA did serve a useful purpose. As Senator Sinclair has pointed out, some of the amendments to the act and the speeding up of the procedures, which were made about three years ago, did clear up most of the objections as to how it was being administered.

As far as the present act is concerned, I agree with Senator Sinclair that the wording does not make such difference. It is cosmetic or window-dressing to try to define the difference between "significant" benefit and "net" benefit. It really does not matter.

What really matters is the opinion of the minister who will be administering the act. The minister is the key person. As long as Mr. Sinclair Stevens is going to be administering it, I do not think any foreign investor will take the act seriously.