

THE SENATE

Friday, December 13, 1991

The Senate met at 9 a.m., the Speaker in the Chair.
Prayers.

SENATORS' STATEMENTS

GOODS AND SERVICES TAX

Hon. Royce Frith (Leader of the Opposition): Honourable senators, on December 13, 1990, the 12th day before Christmas, the government, in contravention of the rules and traditions of this chamber and in breach of the provisional rules unanimously adopted last fall, forced the GST legislation to receive third reading. Now, one year later, it cannot even be argued that the end justified the means.

When speaking to second reading of Bill C-62, the then Minister of Finance Michael Wilson said of the proposed Goods and Services Tax:

I believe that in the months following January 1, 1991 when the cut and thrust of partisan debate on this issue has calmed down, when controversy has subsided, when Canadians can see our economy even more vibrant and growing, they will conclude, as I have, that this is the right policy for the right reasons at the right time.

That was January 29, 1990, at pages 7562 to 7563 of *Hansard*. I was quoting Michael Wilson. No doubt you recognized the intonation.

As millions of Canadians prepare for a bleak Christmas, I challenge the government leader to repeat Mr. Wilson's words that the GST was "the right policy for the right reasons at the right time." I doubt, incidentally, that he will. He will no doubt find a way to blame Mr. Louis Saint-Laurent or some other Liberal for what happened.

I challenge him to find evidence to show that the economy has become "more vibrant", to quote Mr. Wilson, in the past 12 months. As for Mr. Wilson's prediction of a growing economy, the only growth Canadians have seen since January 1, 1991, is that in unemployment, bankruptcies and plant closures. All of those have grown.

I urge the government to admit publicly what all Canadians know—and this confession will be good for their souls—that the GST was the wrong policy for the wrong reasons at the wrong time.

Some Hon. Senators: Hear, hear!

COMPUTER SOFTWARE INDUSTRY

INFRINGEMENT OF COPYRIGHT—PROPOSED LEGISLATION

Hon. Nathan Nurgitz: Honourable senators, I have a brief statement to make with respect to an unrelated matter.

It has come to my attention that a serious economic and ethical issue exists in the field of computer software sales. I understand that this problem is present in most large Canadian urban centres, but my familiarity with it obviously centres on my home city of Winnipeg.

As you will know, most of the popular computer software packages are produced by non-Canadian firms, largely resident in the Silicon Valley of California. In Canada, they are sold by distributors or retail stores, although the copyright remains with the American producer. Computer software, however, is unique in that it can be stolen, or unauthorized copies can be made, without any additional equipment being purchased or without any loss from the quality of the original.

Recently, a number of stores in my home city of Winnipeg have opened which rent popular computer software programs. A program which costs \$700 to buy may rent for \$7 for a weekend. During the weekend, a copy or many copies may be made which are of the same quality as the original \$700 item. Needless to say, this creates serious difficulties for honest merchants of computer software programs. I understand that there have been occasions when a customer has taken an hour or so of a computer software salesperson's time to learn and explore a program, only to announce that there was no reason to purchase the program since he could rent it down the street and copy it down.

Over a year ago, the United States of America passed the Software Rental Amendments Act of 1989, prohibiting the rental of commercial software without the express permission of the copyright holder. I understand that this has gone a long way towards resolving the problem in that country. For jurisdictional reasons, it may be difficult to duplicate that legislation in Canada.

I would therefore like to serve notice that early in the new year I intend to bring in a private bill criminalizing the rental of software without reasonable precautions being taken that copyright will not be infringed.

One option that I have asked staff to look at is an amendment based on section 327 of the Criminal Code of Canada dealing with the theft of telecommunications services. Such an amendment would read as follows:

327.1 (1) Every one who, without lawful excuse, the proof of which lies on him, rents or offers for rent, any computer software under circumstances that give rise to a reasonable inference that the computer software is or is intended