protect the environment; and, two, providing that the minister has the concurrence of the minister responsible for the activity.

In regard to the first condition, the bill does not specify that regulations protecting the environment under another act must be in place, only that the potential for regulating in such a manner exists. This raises the possibility that pollution by a federal agency could continue unabated and the Minister of the Environment would be prevented from acting because someone else had the potential to regulate the activity under a different piece of legislation.

● (1600)

Regarding the second condition, ministerial concurrence in the bill as it is written gives the minister responsible for the polluting activity the legal right to prevent regulations that protect the environment from being adopted. This escape clause should be removed or softened to demonstrate that the Ministry of the Environment has the authority to regulate federal pollution and protect the environment, without relying on the good will of the polluter.

Let me read from the bill. Clause 54(1) states:

> Where no other Act of Parliament expressly provides for the making of regulations that result in the protection of the environment and apply to federal works or undertakings or federal lands, the Governor in Council may, on the recommendation of the Minister and with the concurrence of the Minister of the Crown who has the administration and control of or duties and functions in relation to those works, undertakings or lands, make regulations applicable thereto for the protection of the environment.

This problem could be solved if the first three lines of clause 54(1) were to read, "Where no regulations are made under any other Act of Parliament expressly provide for the protection of the environment . . .", or words to that effect.

Regarding the concurrence requirement, either it should be deleted or it should be changed to say that the minister may seek the concurrence of the minister responsible, but it should not make concurrence a mandatory step in the regulatory process.

On the subject of federal-provincial consultation, another area of concern relates to subclause 34(1) of the bill. On November 24 of last year the minister, appearing before a committee in the other place, stated, "Under the new amendments, the federal government is not compelled to consult with the provinces before taking action." But subclause 34(1) reads:

> Subject to subsection (3), where an order has been made to add a substance to the List of Toxic Substances in Schedule I, the Governor in Council may, on the recommendation of the Ministers after the federal-provincial advisory committee is provided an opportunity to render its advice under section 6, make regulations with respect to the substance, including regulations providing for or imposing requirements respecting—

And then it goes on.

My concern here is that this provision unnecessarily limits the minister by making the opportunity to render advice mandatory. While I am not opposed to consultation—in fact, in many cases it is desirable in order to avoid overlapping regulations, it would be far preferable to make this consultation discretionary. This would also be consistent with clause 6 of the bill.

I would now like to turn to the question of equivalency. In an attempt to sell the notion of equivalency, the Minister of the Environment told the Legislative Committee in the other place that several criteria would be used to measure equivalency.

In the *Minutes and Proceedings* of the committee, Issue No. 14, page 7, the minister said, and I quote:

> Equivalency will be assessed against several criteria. Firstly, the provincial environmental quality standard or release limit must be at least equal to the federal standard. It must at least match it; if it exceeds it, all the better, whether prescribed in a licence or a control order or a regulation.
>
> Secondly, for the above purpose, measurements and test procedures must be comparable for the federal government and the individual province concerned. Thirdly, the provincial standard must be enforced in a fair and predictable manner, consistent with the principles of the Canadian Environmental Protection Act, its enforcement and compliance policy in particular. Fourthly, penalties under the equivalent provincial measure must be comparable to those specified in CEPA.

Unfortunately, none of these criteria found their way into the legislation. If equivalency provisions are to be a fact of life, the public should at least have the reassurance that the yardsticks used to measure equivalency are spelled out in the legislation, and not in flexible policy statements made by ministers.

In addition, a number of environmental groups have suggested that the equivalency agreements should be publicly reviewed prior to signing to ensure that the public interest and the environment will be protected through such an agreement.

I believe that the solution to these deficiencies is to incorporate the four criteria for the determination of equivalency—as spelled out by the minister to the committee—into the bill and also include some form of public review of equivalency agreements as they evolve, rather than after the fact.

Lack of legally entrenched criteria is not the only difficulty with the problem of equivalency. As my friend and colleague, Senator Robertson, pointed out in her eloquent remarks in this chamber on May 17, 1988, there will be one agreement per province per regulation.

Senator Robertson also indicated that a "blue ribbon panel" of experts has been assembled to identify a priority list of 50 substances out of the thousands in the marketplace.

Think about it for a minute. What the government is proposing is potentially as follows: a starting list of 50 priority substances multiplied by perhaps dozens of regulations per substance times ten provinces. If there were, say, 24 regulations per substance, this would work out to 12,000 interprovincial equivalency agreements. This will be a massive patch-